

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRIAN DAVID WALLS,

APPELLANT

APPELLATE CASE NO. 2024-001452

RECORD ON APPEAL

GARY H. JOHNSON
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

J. BENJAMIN APLIN
Assistant Attorney General
PO Box 11549
Columbia, SC 29211-1549
(803)734-3727

ATTORNEY FOR APPELLANT

ISSAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit
PO Box 1880
Bluffton, South Carolina 29910
(843) 779-8477

ATTORNEYS FOR RESPONDENT

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE GENERAL SESSIONS COURT
14th JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

vs.

CASE NO. 2016-GS-07-02232 - 234

BRIAN DAVID WALLS,

Defendant.

TRANSCRIPT OF JURY TRIAL
VOLUME I
(PAGES 1 - 114)

TRIAL BEFORE:

THE HONORABLE CARMEN T. MULLEN

DATE:

AUGUST 26, 2024

REPORTED BY:

KYMBERLEE M. WILLIAMS, CSR/RPR

APPEARANCES:**Attorneys for the State:****Sean Thornton, Esq.****Deputy Solicitor**

Jared Shedd, Esq.

Assistant Solicitor

State of South Carolina

Solicitor's Office

14th Judicial Circuit

102 Ribault Road

Beaufort, South Carolina 29902

Attorneys for the Defendant:**Juan Tolley, Esq.****Jacob McFadden, Esq.**

Assistant Public Defender

State of South Carolina

Public Defender's Office

14th Judicial Circuit

1905 Duke Street

Beaufort, South Carolina 29902

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BEAUFORT, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

THE COURT: All right. Ms. Tolley, you have a motion?

He also filed a PCR case. That case is still open. We believe that because that case is still pending, this case for which they are seeking LWOP for should not go forward at this time.

Given the fact that that is outstanding,
there is a possibility that the case would be

1 overturned; that there wouldn't be a conviction
2 for the murder. There would be no reason for
3 there to be a LWOP sentence in this case.

4 THE COURT: Do you want to respond to that?

5 MR. THORNTON: The procedures, as I
6 understand them, would be the LWOP would be
7 vacated. The conviction would stand and he
8 would be brought back for you to resentence.

9 MS. TOLLEY: I guess out an abundance of
10 caution, it would be better to not go forward
11 with that at all, then there wouldn't be a need
12 for him to come back and possibly be
13 resentenced.

14 THE COURT: Ms. Tolley, when was this
15 alleged incident?

16 MS. TOLLEY: December 6, 2016.

17 THE COURT: We are seven years out; is that
18 correct? We will be coming up on 8 in December?

19 MR. THORNTON: That's correct.

20 THE COURT: I think we have waited long
21 enough. I think it's time to try this case.

22 Is there any other basis for a continuance?

23 MS. TOLLEY: That would be the primary
24 reason for the motion to continue.

25 THE COURT: Your motion is denied. I think

1 it's time to get this case tried.

2 Anything else before we go ahead and pull
3 the jury?

4 MS. TOLLEY: Mr. Walls would like to make a
5 statement.

6 THE DEFENDANT: I don't know how long I
7 have to speak right now. I don't want to bad-
8 mouth anybody at all. I personally met Ms. Juan
9 Tolley for the first time in this little room
10 for about five minutes. The first time we met,
11 she tried to get me to take a 30-year plea for
12 something I could never plea to.

13 Since then, we met one more time on the
14 phone. At the time I was injured up the road.
15 I got beaten for over 10 minutes by about 10
16 inmates. I dealt with trauma to my head, broken
17 ribs. I was black-and-blue from the tips of my
18 fingers to the tips of my toes. I couldn't talk
19 without stuttering and getting real nervous and
20 scared. They have me on PTSD medications now,
21 which I haven't had since Thursday once I got
22 here.

23 THE COURT: Do you know what you are
24 taking?

25 THE DEFENDANT: One is called Rimron

1 (phonetic), and the other two -- I do not know
2 the names of them. They were supposedly trying
3 to get the medicine from SCDC for me.

4 THE COURT: And where are you housed at
5 SCDC?

6 THE DEFENDANT: Lieber. An hour and 15
7 minutes away. At that time while we spoke on
8 the phone -- I can understand her frustration.
9 It was hard to deal with me or understand me.

10 I would repeat a lot and stutter. I was
11 always trying to give her advice to try to help
12 me. All of this is tied to a murder. At the
13 time they wanted me to point the finger at the
14 black guy that was involved in the case. I was
15 unwilling to.

16 That is why I ended up taking it trial
17 then, because I was unwilling to point the
18 finger at my children or at this so-called black
19 guy.

20 She was adamant about me not trying to --
21 the level of communication got really hard for
22 us. I agree that she probably had a right to do
23 so.

24 She sent a mental health evaluator to talk
25 to me. It took a while. I was already on

1 medication by the time that the lady -- she was
2 real good. She sat with me until they could get
3 to where there was a level of understanding.

4 Then she had called for me to be able to
5 come back from prison so I could be here so she
6 could have face conversations with me. Once
7 again, I think I aggravated her more than
8 anything while trying to explain how she could
9 help me in some areas.

10 I don't know if I aggravate her, but I felt
11 strongly that I did. I felt cut off a lot of
12 times from conversations. Once again, I was
13 sent back. That is when she did get a
14 continuance.

15 THE COURT: I think I granted that
16 continuance.

17 THE DEFENDANT: I was so grateful, she says
18 -- didn't she get it postponed so that you could
19 get this handled? Isn't that a good thing? It
20 was like she was trying to talk me into
21 accepting her. She was there to help me in any
22 way. The last time we met would have been now.
23 She brought this gentleman with her. Once again
24 now, we are having better conversations without
25 stuttering.

1 THE COURT: I need to call over and find
2 out exactly what it is he is taking and
3 then get it here. I mean, someone get it here
4 today. I appreciate that.

5 I will go ahead and step off. We will be
6 in recess for about five minutes.

7 (Recess.)

8 **

9 **JURY SELECTION**

10 THE COURT: Good morning. I am Carmen
11 Mullen. I am the judge here for this week.

12 I will tell you that the first case is
13 expected to last three, three-and-a-half days.
14 The second trial is half-day. I do not want you
15 to be concerned about this. You have been
16 summoned for a term of Court.

17 First, we will do the general qualification
18 process. After that there are some other
19 exemptions to jury certification I will go
20 through.

21 Then, ladies and gentlemen, I will ask you
22 specific questions directed to this first trial.

23 Is there any member of the jury panel that
24 is not a citizen of the United States? If so,
25 please stand.

1 Any member of the jury panel unable to
2 read, write, speak, or understand the English
3 language? If so, please stand.

4 Is any member of the jury panel because of
5 mental or physical infirmity unable to render
6 sufficient service and you have brought a
7 professional note.

8 Has any member of the jury panel been
9 convicted by a federal or state Court of record
10 for a crime punishable for more than one year
11 and your civil rights have not been restored?

12 Any member of the jury panel a clerk or
13 deputy clerk of Court, sheriff or other
14 commissioned law enforcement officer, probate
15 judge, county commissioner, magistrate or other
16 county officer or employed within the walls of
17 any courthouse?

18 If so, please stand. Is there any member of the
19 jury panel who has previously served on jury
20 duty up here there circuit court on the second
21 floor of this courthouse; not city Court;
22 magistrate court, not federal court during the
23 last calendar year?

24 If so, please stand.

25 Has any member of the jury panel served on

1 grand jury during the last several years?

2 If so, please stand.

3 An exemption does not mean you are not
4 qualified to serve. It means that you choose
5 not to serve. Anyone here who is 65 years of
6 age or older who does not wish to serve this
7 week?

8 THE PROSPECTIVE JUROR: 286.

9 THE COURT: You would like to be excused,
10 sir?

11 THE PROSPECTIVE JUROR: Yes, ma'am.

12 THE COURT: You are excused, thank you.
13 Anyone else?

14 Another exemption concerns prior jury
15 service. No person is required to serve as a
16 juror more often than once every three calendar
17 years. If this exemption applies to you, please
18 stand.

19 THE PROSPECTIVE JUROR: 140.

20 THE COURT: Do you know when you served?

21 THE PROSPECTIVE JUROR. Multiple times.

22 THE COURT: Multiple times?

23 THE CLERK: Yes, he served in 2022 and
24 2023.

25 THE COURT: Sir, would you like to be

1 excused?

2 THE PROSPECTIVE JUROR: Yes, ma'am

3 THE COURT: Thank you for your service.

4 Yes, sir

5 THE COURT: When do you think you served?

6 THE PROSPECTIVE JUROR:

7 THE COURT: You would like to be excused as
8 well?

9 THE PROSPECTIVE JUROR: Yes. Thank you.

10 THE COURT: You shall be excused as well.

11 Thank you for your prior service.

12 Ladies and gentlemen, those of who have
13 served as grand jury during the past calendar
14 year?

15 The next exemption has multiple parts. To
16 apply to be exempted on this basis, you may be
17 exempted from jury service if you have a child
18 under the age of seven and you have legal
19 custody of that child or children. You are the
20 legal caretaker for that child or children and
21 unable to make adequate arrangements for that
22 child or children.

23 THE PROSPECTIVE JUROR: 174.

24 THE COURT: How old are your children?

25 THE PROSPECTIVE JUROR: 7 and 10.

1 I am a stay-at-home mom.

2 THE COURT: I can transfer your service if
3 that will be a better time.

4 THE PROSPECTIVE JUROR: I do have three
5 children.

6 THE COURT: -- with any of the attorneys
7 trying the case, or have ever worked in their
8 offices, or have ever been prosecuted by or
9 represented by anyone in their offices?

10 If so, please stand.

11 Ladies and gentlemen, the allegations in
12 this case, and they are simply that,
13 allegations. The Defendant has been charged
14 with criminal sexual conduct in the first
15 degree, where it's alleged that in Beaufort
16 County on or about December 6th of 2016, that
17 the Defendant engaged in a sexual battery on a
18 K.P. [REDACTED].

19 The next charge is use of a vehicle without
20 the permission in an attempt to deprive. That
21 is, again, in Beaufort County on or about
22 December 6th of 2016, it is alleged the
23 Defendant did, while not entitled to, be in
24 possession of a vehicle, take, use or drive a
25 vehicle without the consent of the owner, in

1 which to deprive her of that vehicle. And,
2 lastly, he's charged with kidnapping.

3 Again, it is alleged that in Beaufort
4 County on or about December 6th of 2016 the
5 Defendant did seize, confine, inveigle, decoy,
6 kidnap, abduct or carry away K.P. [REDACTED]
7 without authority of law. Ladies and gentlemen,
8 those are the charges that are alleged in this
9 case.

10 Now, I am going to read a list of potential
11 witnesses, and I will tell you it is a lengthy
12 list. Ladies and gentlemen, these people will
13 not all testify in this case. They are simply
14 people who may testify, or they may be names
15 that you hear during the trial of this case. I
16 need to know if you're related by blood,
17 connected by marriage, a close personal friend,
18 special friend, or have a professional
19 relationship with any of these people.

20 And I am going to go through the entire
21 list, ladies and gentlemen, and when I finish
22 the list, then I'm gonna start asking you
23 questions. So once you hear a name you know,
24 stand, but please understand you're gonna wait
25 until the very end, and I want you to keep

1 listening, because there might be more than one
2 name that you are familiar with. Ladies and
3 gentlemen, just because you may know these
4 people, or have some kind of a relationship with
5 them, it doesn't mean you are not qualified to
6 serve, it means -- and it depends on whether or
7 not -- what type of testimony they may give, and
8 that's a determination I will make.

9 I need to know who you'all know, and the
10 attorneys are interested in it as well, all
11 right? And so if any of these people are in the
12 courtroom, I'm gonna ask them to stand. K.P. [REDACTED]

13 [REDACTED], Allyson Moreira --

14 PERSPECTIVE JUROR: Katherine Roos.

15 THE COURT: I understand, I'm gonna go
16 through the whole list first, okay? And I
17 appreciate it, just keep on standing.

18 PERSPECTIVE JUROR: I will stand up
19 already.

20 THE COURT: You're exactly right.

21 PERSPECTIVE JUROR: Okay.

22 THE COURT: Yes. Katherine Roos of
23 Bluffton EMS, formerly of Beaufort County EMS,
24 Ashley Hildreth, who works at Beaufort Memorial
25 Hospital, Officer Eric Hayes with Beaufort

1 Police Department, Officer Joel Blackwell with
2 Beaufort Police Department, Officer Hillary
3 Cottingham with Beaufort Police Department,
4 Officer Mikhail Kopylov with Beaufort Police
5 Department, Investigator George Erdel, formerly
6 of the Beaufort Police Department, now with the
7 Fourteenth Circuit Solicitor's Office,
8 Investigator Josh Dowling, formerly of Beaufort
9 Police Department, Investigator Jason Malphrus
10 of Beaufort County Sheriff's Office,
11 Investigator Jennifer Snider of Beaufort County
12 Sheriff, Deputy Wayne Jordan, formerly of
13 Chesterfield County Sheriff's Office, Neil
14 Patel, who works at the Howard Johnson Motel in
15 Beaufort, South Carolina, Justin Norman, who
16 works at a Parker's store here in Beaufort
17 County, Verona Herrera, formerly of SLED, Sarah
18 Zapata with SLED, Courtney Brook, John Priester,
19 K.W. [REDACTED], Travis Walls, X.W. [REDACTED].

20 All right, sir, I'm gonna start with you,
21 give me your number.

22 PERSPECTIVE JUROR: 180.

23 THE COURT: All right, sir, and you stood
24 when I said K.P.'s [REDACTED] name; is that correct?

25 PERSPECTIVE JUROR: Yes.

1 THE COURT: What is the nature of your
2 relationship with her?

3 PERSPECTIVE JUROR: I went to school with
4 her, but also I had worked with her too --

5 THE COURT: All right, sir --

6 PERSPECTIVE JUROR: -- for a matter of
7 time --

8 THE COURT: Stop at this point. Okay.

9 PERSPECTIVE JUROR: -- but yeah, okay.

10 THE COURT: I appreciate that. Sir, I'm
11 gonna go ahead and excuse you from the trial of
12 this case. At this time you can go ahead and
13 leave, although I need you to call back on the
14 juror line Tuesday night after 6:00 p.m., okay,
15 sir?

16 PERSPECTIVE JUROR: Sounds good, thank you.

17 THE COURT: Thank you and give me your
18 number one more time.

19 PERSPECTIVE JUROR: 180.

20 THE COURT: All right, Number 180 is
21 excused. Yes, ma'am, give me your number.

22 PERSPECTIVE JUROR: 149.

23 THE COURT: Who do you know?

24 PERSPECTIVE JUROR: Ashley Hildreth.

25 THE COURT: And what's the nature of your

1 relationship with Ms. Hildreth?

2 PERSPECTIVE JUROR: I work at the hospital.
3 I've worked with her, but we don't work closely,
4 so --

5 THE COURT: Okay, you just know her?

6 PERSPECTIVE JUROR: I do know her, yes.

7 THE COURT: Okay, and how long have you
8 worked at the hospital?

9 PERSPECTIVE JUROR: 17 years.

10 THE COURT: Okay, and can you tell me which
11 department you work in? I apologize, I didn't
12 hear.

13 PERSPECTIVE JUROR: I'm a Care Coordinator.

14 THE COURT: Okay. Thank you, ma'am, and
15 give me your name one more time -- I'm sorry,
16 your number, I apologize.

17 PERSPECTIVE JUROR: 149.

18 THE COURT: All right, I'm gonna ask that
19 you sit tight with us for just a minute, and let
20 me speak with the attorneys, okay?

21 THE COURT: Anyone else standing? Yeah,
22 come on.

23 MR. THORNTON: I'm sorry, Judge.

24 THE COURT: That's okay.

25 THE COURT: Number 149?

1 PERSPECTIVE JUROR: Yes.

2 THE COURT: Ma'am, I'm gonna excuse you
3 from the trial of this case. I need you to call
4 into the juror line after 6:00 p.m. tomorrow
5 night, okay?

6 PERSPECTIVE JUROR: Okay.

7 THE COURT: I appreciate it, thank you.

8 Ladies and gentlemen, one other name I
9 needed to call, I called for you Neil Patel, who
10 is a son that runs the Howard Johnson's Motel in
11 Beaufort. I'm also told that his father works
12 there as well, and may be coming, and his name
13 is Peter Patel.

14 So, again, I want to make sure everyone has
15 both names, on the chance that any of you know
16 either one of them, okay? Yes, sir, give me
17 your number.

18 PERSPECTIVE JUROR: 25.

19 THE COURT: Give me one second. Who do you
20 know, sir?

21 PERSPECTIVE JUROR: I believe they were a
22 previous client of ours.

23 THE COURT: What do you do?

24 PERSPECTIVE JUROR: Architecture.

25 THE COURT: Did you have something to do

1 with their hotel in redesigning it, or --

2 PERSPECTIVE JUROR: Hotel redesign.

3 THE COURT: All right, sir, all they're
4 gonna do is come in here and just perform for
5 good measure.

6 PERSPECTIVE JUROR: Okay.

7 THE COURT: I want to make sure that you
8 feel comfortable with them sitting, and I want
9 to make sure you don't give their testimony any
10 undue influence, because you've done work for
11 them.

12 PERSPECTIVE JUROR: I won't.

13 THE COURT: Thank you, sir, I appreciate
14 that. Anyone else?

15 Ladies and gentlemen, is there anyone on
16 the jury panel that is related by blood or
17 marriage to the Solicitor, Assistant Solicitor,
18 or anyone in their office, and that would
19 include the Fourteenth Circuit Solicitor's
20 Office?

21 If so, please stand.

22 Ladies and gentlemen, I know I've told you
23 very little about this case. I told you the
24 allegations that allegedly this occurred back on
25 December 6th of 2016, involving a K.P. [REDACTED] and

1 the allegations are that it occurred at the
2 Howard Johnson Motel in Beaufort County. Is
3 there anyone here who has any independent
4 information about this case, or has heard
5 anything about this case, either today, or
6 before you came in the courtroom, either in the
7 past, or anything further from that? Anyone?

8 Ladies and gentlemen, is any member of the
9 jury panel, or your immediate family, ever been
10 the victim of a crime, where that crime was
11 investigated by the Beaufort City Police
12 Department?

13 If so, please stand.

14 Ma'am, give me your number, please.

15 PERSPECTIVE JUROR: 355.

16 THE COURT: Yes, ma'am?

17 PERSPECTIVE JUROR: My son.

18 THE COURT: All right, how long ago was
19 that?

20 PERSPECTIVE JUROR: 2012.

21 THE COURT: And you're within the
22 jurisdiction of Beaufort Police Department?
23 Yes?

24 PERSPECTIVE JUROR: That is a great
25 question. With Hilton Head.

1 THE COURT: With Hilton Head, okay. So
2 maybe it was the Beaufort County Sheriff's
3 Office?

4 PERSPECTIVE JUROR: Perhaps.

5 THE COURT: Perhaps, okay. And that was
6 back in 2012?

7 PERSPECTIVE JUROR: Yes.

8 THE COURT: So I'm gonna guess that you
9 don't know any independent officers named that
10 assisted you in any way, do you?

11 PERSPECTIVE JUROR: No.

12 THE COURT: All right, thank you, you may
13 be seated. Yes, ma'am, give me your number,
14 please?

15 PERSPECTIVE JUROR: 328.

16 THE COURT: Okay.

17 PERSPECTIVE JUROR: And I was assaulted in
18 2003, March of 2003.

19 THE COURT: All right, and the
20 investigating agency was the Beaufort Police
21 Department?

22 PERSPECTIVE JUROR: It was the Hilton Head.

23 THE COURT: So that was the Beaufort County
24 Sheriff's Office.

25 PERSPECTIVE JUROR: Yes.

1 THE COURT: All right, ma'am, thank you, I
2 appreciate that. Has any member of the jury
3 panel, or a member of your immediate family ever
4 been a victim of a crime, where that crime was
5 prosecuted by the Beaufort County Solicitor's
6 Office?

7 If so, please stand.

8 Is any member of the jury panel involved
9 with law enforcement, the legal system, or the
10 penal system in such a way that would prevent
11 you from being a fair and impartial juror in the
12 trial of this case?

13 If so, please stand.

14 Is any member of the jury panel employed in
15 law enforcement, or any member of your immediate
16 family employed in law enforcement, or have in
17 the past have been employed by any law
18 enforcement agency? This is you, or your
19 immediately family member, which would be your
20 mother, your father, your grandparents, your
21 children, your grandchildren, and it can either
22 be you or, again, in the past. And this would
23 also include, ladies and gentlemen, the military
24 police, if you served in the military, and were
25 a military policeman at the time, I need to know

1 that as well. So I'm gonna start with you,
2 ma'am, give me your number.

3 PERSPECTIVE JUROR: 131.

4 THE COURT: And was it you or a family
5 member?

6 PERSPECTIVE JUROR: Family member.

7 THE COURT: And who was it?

8 PERSPECTIVE JUROR: My great grandfather
9 was the Township Police Chief.

10 THE COURT: Where?

11 PERSPECTIVE JUROR: Lancaster Township,
12 Pennsylvania.

13 THE COURT: All right, and I'm gonna
14 presume he's passed?

15 PERSPECTIVE JUROR: Yes.

16 THE COURT: Okay, and who else?

17 PERSPECTIVE JUROR: And my dad was a
18 Lancaster Township Police Officer also.

19 THE COURT: All right, thank you, ma'am,
20 you may be seated. Sir?

21 PERSPECTIVE JUROR: From 2008 to 2014 I was
22 an officer with Lexington Police Department in
23 Lexington, South Carolina. My first cousin is a
24 retired Lieutenant from SLED. My father-in-law
25 was a Lieutenant.

1 THE COURT: All right, sir, what was your
2 last position with Lexington Police Department?

3 PERSPECTIVE JUROR: I was a Reserve.

4 THE COURT: Thank you. All right, sir,
5 thank you, you may be seated.

6 Can I get a number? Your number, sir?

7 PERSPECTIVE JUROR: 380.

8 THE COURT: 380, thank you, sir. Yes, sir?

9 PERSPECTIVE JUROR: 217.

10 THE COURT: Yes, sir.

11 PERSPECTIVE JUROR: I was a police officer
12 -- Deputy Sheriff up in the State of New
13 Hampshire for 22 years.

14 THE COURT: When did you retire, sir?

15 PERSPECTIVE JUROR: Ten years ago.

16 THE COURT: And what did you do? What was
17 your last position?

18 PERSPECTIVE JUROR: I was a Sergeant for
19 Court Security.

20 THE COURT: Very good, thank you, you may
21 be seated. Yes, ma'am?

22 PERSPECTIVE JUROR: Good morning, 378. I
23 am a retired detective Lieutenant from the
24 Prosecutor's Office in Jersey.

25 THE COURT: You --

1 PERSPECTIVE JUROR: And my husband also,
2 retired 2nd Lieutenant Township Police
3 Department for 25 years.

4 THE COURT: Thank you, ma'am, you may be
5 seated. Yes, ma'am?

6 PERSPECTIVE JUROR: 23. My father-in-law
7 is a retired Georgia State Trooper, a Captain.

8 THE COURT: Thank you, ma'am, you may be
9 seated. Anyone else?

10 Is any member of the jury panel a member of
11 any organization which has as its primary
12 concern law enforcement or victims' rights?
13 That would include such groups as CAV, Citizens
14 Against Violence, People Against Rape, Mothers
15 Against Drunk Driving, or here in Beaufort
16 locally CAPA? Again, ladies and gentlemen, is
17 anyone here a member of, or a contributor to any
18 of those types of groups?

19 If so, please stand.

20 Give me your number again.

21 PERSPECTIVE JUROR: 131.

22 THE COURT: And what are you a member of,
23 or a contributor to?

24 PERSPECTIVE JUROR: My husband's on the
25 CAPA Board.

1 THE COURT: Thank you, and can you tell me
2 -- I don't want to hear his name, is he
3 currently sitting on a CAPA Board?

4 PERSPECTIVE JUROR: Yes.

5 THE COURT: All right, thank you, you may
6 be seated. Anyone else?

7 Ladies and gentlemen, the next question, if
8 you would like to approach me, what I'm gonna
9 ask you to do is simply stand, and I'm gonna
10 invite you to come form a line over here, if
11 you'd like to speak with me, and I need to tell
12 you it's only relative private, because the
13 attorneys are entitled to know what you have to
14 say, and my Court Reporter needs to take it down
15 for the record, but I understand that you may
16 want to approach me, and not have to announce
17 whatever you need to tell me in front of the
18 entire panel.

19 So I welcome you to do that, but if you're
20 comfortable just keep your seats, I'm sorry,
21 stand, stay right where you are, and if you feel
22 good and you're comfortable, just go ahead and
23 state it, okay?

24 Ladies and gentlemen, the next question is,
25 is there any member of the jury panel, or a

1 member of your immediate family, who has been
2 accused of or a victim of a sexual assault,
3 kidnapping, or use of a vehicle without
4 permission?

5 If so, please stand.

6 THE COURT: All right, ladies, would
7 you'all like to come up and speak with me
8 privately? Yes, or are you -- okay, come
9 around.

10 BAILIFF: Right over here, please.

11 THE COURT: Juror number?

12 BAILIFF: Juror 178, Your Honor.

13 THE COURT: Come on forward.

14 PERSPECTIVE JUROR: Domestic abuse.

15 THE COURT: Okay.

16 PERSPECTIVE JUROR: I just didn't know if
17 that was going to be a conflict, and I just
18 wanted to make sure.

19 THE COURT: And I'm so glad you let us
20 know, that's exactly what I need to know. My
21 question to you is --

22 PERSPECTIVE JUROR: Uh-huh.

23 THE COURT: -- do you feel comfortable
24 sitting in a case where there is an allegation
25 of sexual assault?

1 PERSPECTIVE JUROR: Yes.

2 THE COURT: I'll excuse you from this case.
3 Call the jury line after 6:00 p.m. and it will
4 tell you what to do. It'll probably tell you to
5 call the next night --

6 PERSPECTIVE JUROR: Okay.

7 THE COURT: --. Thank you. Number 178 is
8 going to be excused from the trial of this case,
9 but she is going to be subject to the next
10 trial.

11 (Bench conference.)

12 THE COURT: Norman, I'm gonna go ahead and
13 excuse that last juror. What number is he,
14 again, if you remember?

15 CLERK: 293.

16 BAILIFF: 293, your Honor.

17 THE COURT: 293, where are you?

18 PERSPECTIVE JUROR: Right here.

19 THE COURT: All right, sir, thank you so
20 much, and I'm gonna excuse you for the remainder
21 of the week, okay?

22 PERSPECTIVE JUROR: Thank you.

23 THE COURT: Thank you, sir.

24 THE COURT: Ladies and gentlemen, I've just
25 got a few more questions. Ladies and gentlemen,

1 is there anyone here who knows of any reason
2 whatsoever that they cannot be a fair and
3 impartial juror in the trial of this case to the
4 State of South Carolina and the Defendant, Mr.
5 Walls?

6 If so, please stand.

7 Also, ladies and gentlemen, based on the
8 nature of the allegations, I want to make sure
9 that you'all can be fair and impartial in the
10 trial of this case. You're gonna hear me say,
11 if you're chosen as a juror, that your duty as a
12 juror you are to consider the facts to reach a
13 verdict in this case.

14 The jury is the sole judge of all facts.
15 At the very end of the trial I'm gonna give you
16 the law that's applicable to the case; however,
17 as a juror, your job is to determine the facts.
18 I don't do any of that, I have no opinion. I
19 want to make sure you can do that, given the
20 nature of this case. Is anyone uncomfortable,
21 or not willing to serve and be fair and
22 impartial?

23 All right, ladies and gentlemen, this is a
24 catch-all, do you know any reason whatsoever
25 that you cannot be a juror in the trial of this

1 case?

2 Ladies and gentlemen, after this, all your
3 names are going to be placed into the computer, it
4 is going to draft me a random list. Each side
5 has an opportunity to accept you or excuse you
6 as a juror in the trial of this case.

7 Please understand, ladies and gentlemen,
8 that if you've not been excused up to this
9 point, you are subject to being one of the 15
10 that are gonna try this case. So you can't be
11 chosen, and then say to me, well, I've got an
12 issue or a problem, all right? I just want to
13 make sure everyone understands that. All right.

14 Okay, ladies and gentlemen, I promise to
15 have you out of here by lunch hour, and it's
16 getting time, so is everyone okay? Does anyone
17 need to take a break? No? Very good.

18 So your names are gonna be placed in the
19 computer, it's gonna draft a random list. What
20 I need you to do, ladies and gentlemen, is
21 simply stand in place when your number is
22 called. You do not say or do anything. Each
23 side will have an opportunity to accept you as a
24 juror or excuse you as a juror. If one side
25 excuses you, do not leave, just take your seat

1 and stay with me until we've got an entire jury
2 panel, okay? So is everyone okay? And this
3 might take a couple of minutes. I can let a few
4 of you, if you need to go use the restroom, but
5 I can't have everyone just sit tight.

6 Does anyone need to? What I'm gonna ask
7 you to do though is give your badge to the
8 Deputy in the back, so I can make sure you're
9 all here when we start. Ladies and gentlemen,
10 if you are accepted by both sides, I'm gonna
11 welcome you, and tell you to come forward. I
12 need you to bring all of your belongings with
13 you.

14 You're gonna be directed by the Bailiffs to
15 take a seat, and you are one of my jurors for
16 the trial of this case, all right?

17 So, again, it'll take just a minute. Does
18 anyone need to go use the restroom?

19 CLERK: It's ready now, Your Honor.

20 THE COURT: It's ready now, if y'all are
21 okay? Very good. we're gonna choose two
22 alternates.

23 Strikes are now one and two.

24 CLERK: Juror number 30. What say the
25 State?

1 MR. THORNTON: Please present this juror.
2 CLERK: What say the defense?
3 MS. TOLLEY: Please seat the juror.
4 BAILIFF: Come forward, please, sir.
5 CLERK: Juror 160. What say the State?
6 MR. THORNTON: Please present this juror.
7 CLERK: What say the defense?
8 MS. TOLLEY: Please seat the juror.
9 BAILIFF: Come forward, please, ma'am.
10 CLERK: Juror 321. What say the State?
11 MR. THORNTON: Please present this juror.
12 CLERK: what say the defense.
13 MS. TOLLEY: Please seat the juror.
14 BAILIFF: Come forward, please, sir.
15 CLERK: Juror 164.
16 THE COURT: Juror 164?
17 CLERK: What say the State?
18 MR. THORNTON: Please present this juror.
19 CLERK: What say the defense?
20 MS. TOLLEY: Please seat the juror.
21 BAILIFF: Come forward, please, sir.
22 CLERK: Juror 243. What say the State?
23 MR. THORNTON: Please present this juror.
24 CLERK: What say the defense?
25 MS. TOLLEY: Please seat the juror.

1 BAILIFF: Come forward, please, sir.

2 CLERK: Juror 273. What say the State?

3 MR. THORNTON: Please present this juror.

4 CLERK: What say the defense?

5 MS. TOLLEY: Please excuse this juror.

6 BAILIFF: You can sit down, sir. Thank
7 you.

8 CLERK: Juror 189. What say the State?

9 MR. THORNTON: Please present this juror.

10 CLERK: What say the defense?

11 MS. TOLLEY: Please excuse this juror.

12 BAILIFF: You can sit down, ma'am. Thank
13 you.

14 CLERK: Juror 47. What say the State? 47?

15 PERSPECTIVE JUROR: 47, sorry, Your Honor.

16 THE COURT: I'm gonna tell all the rest of
17 you look at your badge real quick for me.

18 CLERK: What say the State?

19 MR. THORNTON: Please excuse this juror.

20 BAILIFF: You can sit down, sir. Thank
21 you.

22 CLERK: Juror 378. What say the State?

23 MR. THORNTON: Please present this juror.

24 CLERK: What say the defense?

25 MS. TOLLEY: Please excuse this juror.

1 BAILIFF: You can sit down, ma'am, thank
2 you.

3 CLERK: Juror 105.

4 What say the State?

5 MR. THORNTON: Please present this juror.

6 CLERK: What say the defense?

7 MS. TOLLEY: Please excuse this juror.

8 BAILIFF: You can sit down, ma'am, thank
9 you.

10 CLERK: Juror 57. What say the State?

11 MR. THORNTON: Please present this juror.

12 CLERK: What say the defense?

13 MS. TOLLEY: Please swear this juror.

14 BAILIFF: Come forward, please, sir.

15 CLERK: Juror 116. What say the State?

16 MR. THORNTON: Please present this juror.

17 CLERK: What say the defense?

18 MS. TOLLEY: Please excuse this juror.

19 BAILIFF: You can sit down, ma'am, thank
20 you.

21 CLERK: Juror 342. What say the State?

22 MR. THORNTON: Please present this juror.

23 CLERK: What say the defense?

24 MS. TOLLEY: Please excuse this juror.

25 BAILIFF: You can sit down, ma'am, thank

1 you.

2 CLERK: Juror 323. What say the State?

3 MR. THORNTON: Please present this juror.

4 CLERK: What say the defense?

5 MS. TOLLEY: Please excuse this juror.

6 BAILIFF: You can sit down, ma'am, thank

7 you.

8 CLERK: Juror 135. What say the State?

9 MR. THORNTON: Please present this juror.

10 CLERK: What say the defense?

11 MS. TOLLEY: Please seat the juror.

12 BAILIFF: Come forward, please, sir.

13 CLERK: Juror 257.

14 BAILIFF: 257?

15 CLERK: They were not present.

16 347, yes, ma'am.

17 What say the State?

18 MR. THORNTON: Please present this juror.

19 CLERK: What say the defense?

20 MS. TOLLEY: Please excuse this juror.

21 BAILIFF: You can sit down, ma'am, thank

22 you.

23 CLERK: Juror 273, excuse me, 276. What

24 say the State?

25 MR. THORNTON: Please present this juror.

1 CLERK: What say the defense?

2 MS. TOLLEY: Please excuse this juror.

3 BAILIFF: You can sit down, sir, thank you.

4 CLERK: Juror 271. What say the State?

5 MR. THORNTON: Please present this juror.

6 CLERK: What say the State?

7 MS. TOLLEY: Please excuse this juror.

8 BAILIFF: You can sit down, sir, thank you.

9 CLERK: Juror 291. What say the State?

10 MR. THORNTON: Please present this juror.

11 CLERK: Strike for cause?

12 MS. TOLLEY: No strike for cause, Your

13 Honor.

14 THE COURT: All right, welcome, come

15 forward.

16 BAILIFF: Come forward, please, ma'am.

17 CLERK: Juror 242. What say the State?

18 MR. THORNTON: Please present this juror.

19 CLERK: Strike for cause?

20 MS. TOLLEY: No strike for cause, Your

21 Honor.

22 THE COURT: Thank you. Welcome, please

23 come forward.

24 BAILIFF: Come forward, please, sir.

25 CLERK: Juror 292. What say the State?

1 MR. THORNTON: Please present this juror.

2 CLERK: Strike for cause?

3 MS. TOLLEY: No cause.

4 BAILIFF: Come forward please, sir.

5 CLERK: Juror 380. What say the State?

6 MR. THORNTON: Please present this juror.

7 CLERK: What say the defense? Strike for
8 cause?

9 MS. TOLLEY: For cause.

10 THE COURT: Okay, can you come approach,
11 please?

12 (Bench conference.)

13 THE COURT: Come on forward, sir.

14 BAILIFF: Come forward, sir.

15 CLERK: Juror 369. What say the State?

16 MR. THORNTON: Please present this juror.

17 CLERK: Strike for cause?

18 MS. TOLLEY: No cause.

19 BAILIFF: Come forward, please, ma'am.

20 CLERK: Choosing first alternate. Juror
21 150. What say the State?

22 MR. THORNTON: Please present this juror.

23 CLERK: What say the defense?

24 MS. TOLLEY: Please excuse this juror.

25 BAILIFF: You can sit down, ma'am, thank

1 you.

2 CLERK: Juror 346. What say the State?

3 MR. THORNTON: Please excuse this juror.

4 BAILIFF: You can sit down, ma'am, thank
5 you.

6 CLERK: Juror 99. What say the State?

7 Strike for cause?

8 MR. THORNTON: No strikes for cause.

9 CLERK: What say the defense?

10 MS. TOLLEY: Please seat the juror.

11 BAILIFF: Come forward, please, sir.

12 CLERK: Alternate number two, 211. What
13 say the State?

14 MR. THORNTON: Please present this juror.

15 CLERK: What say the defense?

16 MS. TOLLEY: Please excuse this juror.

17 BAILIFF: Sit down, ma'am, thank you.

18 CLERK: Juror 142. What say the State?

19 MR. THORNTON: Please present this juror.

20 CLERK: What say the defense?

21 MS. TOLLEY: Please seat the juror.

22 BAILIFF: Come forward, please, sir.

23 CLERK: Alternate number three, 92. What
24 say the State?

25 MR. THORNTON: Please excuse this juror.

1 BAILIFF: You can sit down, sir, thank you.

2 CLERK: Juror 52. Strike for cause?

3 MR. THORNTON: No strikes for cause.

4 CLERK: What say the defense?

5 MS. TOLLEY: Please seat the juror.

6 BAILIFF: Come forward, please, ma'am.

7 THE COURT: Are there any other matters we
8 need to take up regarding the jury selection
9 process from the State?

10 MR. THORNTON: None from the State, Your
11 Honor.

12 THE COURT: From the defense?

13 MS. TOLLEY: None from the defense.

14 THE COURT: Thank you. Ladies and
15 gentlemen, welcome, as you know, you're my jury
16 for the trial of this case. If you'll just sit
17 tight with me for just a minute, and we'll
18 speak, and I'll send you to lunch, okay?

19 Ladies and gentlemen, for the rest of you,
20 we have a juror line. We put a message on the
21 juror line at 6 o'clock at night and not a
22 minute before, because we never know what's
23 gonna happen the next day. So I'm gonna ask all
24 of you to call back tomorrow night, which is
25 Tuesday night after 6:00 p.m. It's gonna say

1 one of two things, or I guess you could say one
2 of three things, it's gonna say either call back
3 Wednesday night after 6:00 p.m., it may say
4 thank you for your service, you are excused for
5 the remainder of the week, or it will say report
6 back in at a certain time.

7 All right? Just follow the prompt, if it
8 tells you to come back, tells you what time,
9 please come, we're gonna need you here so I can
10 pull a second jury, all right? So, ladies and
11 gentlemen, again, thank you for being here. You
12 are excused until you listen to the message, and
13 know exactly what is expected of you, okay?
14 Thank you.

15 (Unselected jurors exit the courtroom.)

16 BAILIFF: The jury's cleared, the doors are
17 closed, Your Honor.

18 THE COURT: Thank you, Norman.

19 Again, ladies and gentlemen, welcome. As
20 you know, you're my jury for the trial of this
21 case. I'm gonna give you just a few brief
22 instructions before we're gonna break for lunch.
23 Ironically, it is 1 o'clock, which is typically
24 when we break for lunch here at the courthouse.
25 Usually, we will take about an hour and 15

1 minute break, maybe a hour and a half, but today
2 I'm gonna tell you right now that I'm gonna have
3 to give you a two-hour break, and that's because
4 there are pretrial matters I need to attend to
5 in this case, as well as I understand there are
6 a couple other matters that they're bringing in
7 front of me during the lunch hours.

8 So it's gonna be a little longer lunch
9 break. So I'm gonna ask you to be back in your
10 jury room at 3:00 p.m. today, when we're gonna
11 go ahead and begin the trial of this case.

12 As I told you before, what I expect to
13 happen is, you will be sworn in as jurors,
14 you'll hear opening arguments from the
15 attorneys, and then if we can, we would like to
16 put four witnesses up, if possible. We may or
17 may not get through them, that's just fine.
18 Ladies and gentlemen, also I know that when you
19 appeared her today you had no idea what to
20 expect and how long you would be here.

21 I need to know if any of you have to be
22 somewhere particularly at a certain time
23 tonight.

24 Again, we're gonna do this every single
25 day. If you tell me you've got an engagement

1 and you have to be somewhere at 6:00 p.m., you
2 need to tell me what time you need to be there,
3 and how long it's gonna take you to get there,
4 and we will break, all right?

5 Additionally, I am going to go ahead and
6 name juror 292 my Foreperson. Sir, thank you,
7 so I appreciate you accepting that
8 responsibility. When we come back in after the
9 lunch break. I'm gonna ask you to take this
10 front seat for me. The rest of you, ladies and
11 gentlemen, as we come and go from the courtroom,
12 you can move around, that's perfectly fine.

13 The only thing that I'd ask is that my
14 three alternates stay in the back where I can
15 see you. I will tell you, ladies and gentlemen,
16 sometimes we do have things that are on that
17 screen, which are pretty high up there and close
18 for those of you that are sitting here.

19 You are welcome to scoot behind, if you
20 want to, or some of you in the front, if you
21 want to go all the way to the other side, you're
22 welcome to do that as well. I do want to tell
23 my jurors and my alternate jurors that during
24 the age of COVID I would lose jurors almost
25 every time, not necessarily from COVID, but from

1 something.

2 If I lose one of my 12 jurors, I'm gonna
3 put your names in a hat, and I'm gonna draw one
4 out. I say that, ladies and gentlemen, just so
5 you pay close attention, knowing it's very
6 likely you could be a juror in the deliberations
7 of this case, so I need you to pay attention.

8 Additionally, ladies and gentlemen, you are
9 permitted to bring your cell phones into the
10 courtroom, and I have to tell you that is a new
11 edict in the last year the Chief Justice
12 allowed. When you are sitting here in the
13 courtroom, your phones are gonna be back in the
14 jury room in a box, all right?

15 When you go for your breaks, you are
16 welcome to go back and get your phones, you
17 know, return calls, do whatever you need to do.
18 The only thing I have to caution you, ladies and
19 gentlemen, do not look up any information on
20 your Smart phones in regards to the trial, it's
21 not appropriate.

22 You are gonna have everything you need to
23 determine this case right here in this
24 courtroom. It would be highly inappropriate for
25 you to do any outside research. Therefore,

1 you're gonna hear me say every time you break,
2 don't look up anything in relation to what
3 you've heard.

4 Also, you're gonna hear me tell you that
5 you are not to discuss this case with anyone,
6 and that includes each other until you've heard
7 all the evidence, I've charged you on the law
8 that's applicable to this case, and we have sent
9 it to you for your deliberations, and then and
10 only then at the time, as a jury, you may
11 discuss the case.

12 So when you go home over the lunch hour, or
13 you call and talk to a friend member, family
14 member, or colleague, the only thing you are
15 permitted to say is that you've been chosen as a
16 juror in the trial of a criminal case.

17 You cannot say the parties involved, the
18 attorneys involved, the charges, or anything, in
19 regards to this case. And the reason is this,
20 someone's gonna try to tell you something about
21 something, when they know nothing about this
22 case, and it would be highly inappropriate for
23 you to be influenced in any way, therefore, I
24 tell you not to discuss it. You're gonna hear
25 me repeatedly tell you you can't discuss it.

1 I will tell you though at the very end of
2 the trial, once you've reached a verdict, I will
3 tell you that you can go home and discuss it
4 with who you choose to, it's completely up to
5 you; but while you are here, and while we're in
6 this trial, you are not to speak with anyone,
7 including a loved one, all right?

8 Additionally, ladies and gentlemen, if you
9 are on social media, you are not supposed to
10 post, or blog, or do anything that states you
11 are sitting as a juror in the trial of the case.
12 It's an anonymous process, that's why you're
13 being addressed as numbers and not names. I
14 don't want anyone to try to reach out to you in
15 any way, all right?

16 So out of an abundance of caution I tell
17 you don't post anything about being on jury
18 service, don't say anything in regards to being
19 here.

20 Also, ladies and gentlemen, there may or
21 may not be something in the newspaper about this
22 case. Sometimes there are articles written. I
23 am ordering you right now, that you are not to
24 read, watch anything, including doing any
25 independent research about this case. I will

1 tell you, ladies and gentlemen, it is never
2 factual, it's not appropriate, so if you open up
3 the newspaper tomorrow, and you see anything
4 about this case, you are to close it, disregard
5 it not read it, and that includes your family
6 members not reading it to you.

7 Again, if there is something that is on the
8 news, or in the newspaper, I'm going to ask you
9 under oath the next day whether or not you read
10 it, all right? So I just want to make sure you
11 understand the importance of that, and that you
12 not use anything that you may have seen to
13 influence you in any way in regards to this
14 case.

15 I'll remind you, and, again, I'm gonna tell
16 you over and over again, your job is to
17 determine the facts, and you're gonna determine
18 the facts from the testimony you hear from the
19 witness stand, as well as any other evidence
20 that's introduced in the trial of this case. It
21 would be highly inappropriate for anyone to
22 speak to you about it or influence you in any
23 way.

24 Also, ladies and gentlemen, I have to
25 encourage you, and I'm just encouraging you to

1 be on time. I will tell you this is Beaufort
2 County, so we come from all different areas.

3 I can tell you I live in Hilton Head, and I
4 got caught in the wreck that was right at 462
5 this morning, so I was running a little bit late
6 this morning. We certainly understand and
7 appreciate that. If I've got anyone who comes
8 from St. Helena, sometimes it takes a while to
9 get over here as well, from Fripp Island and St.
10 Helena, we understand that.

11 The only thing I'm gonna encourage you to
12 do is try to be on time. I cannot start until
13 all 15 of you are here. So if for some reason
14 you are running really late, and I'm not talking
15 about five or ten minutes, I'm talking about
16 more than that, please call into the Clerk of
17 Court's Office, tell them you are a juror in the
18 trial of Carmen Mullen's case, and just let me
19 know.

20 I'm gonna be worried about you, and I'm
21 gonna be having people looking for you, if I
22 don't hear from you, so that's why I ask you,
23 because at that point I want to make sure that
24 you're fine.

25 With that said, ladies and gentlemen, if

1 you fall ill tonight, let's say over the evening
2 hours, or you feel like you have COVID symptoms,
3 or you've got some kind of issue, I don't want
4 you just to show up tomorrow, because I don't
5 want to expose everybody potentially, but I
6 would ask that if you fall ill over the evening,
7 and you come and you simply just cannot sit in
8 that juror box, you just can't, you're not up to
9 it, call into the Clerk's Office and let us
10 know, that's why we have alternate jurors, all
11 right?

12 I just want to make sure I do everything I
13 can to keep you all safe and as well as
14 possible, okay?

15 Other than that, ladies and gentlemen, I'll
16 remind you again, I think we've covered
17 everything, so if you can be back in your jury
18 box at 3:00 p.m. today, we're gonna go ahead and
19 begin the trial of this case.

20 And, Mr. Foreperson, I'm going to need you
21 to ask the jury when you come back from lunch
22 what time the jury is going to work until today.
23 And I particularly want to know your
24 obligations, if you have to be somewhere at a
25 certain time. If anything that you need to be

1 out of here by let me know, all right? I will
2 tell you that I typically like to work, and I
3 say typically like to work directly at 9:30 or
4 so to 5:00 or 5:30.

5 And I will tell you one day I'm sure we
6 will probably break early. It really just
7 depends on the witnesses and how they naturally
8 breakdown. Sometimes we'll have a witness that
9 may be coming from out of town, and we're gonna
10 start them fresh in the morning, so we'll break
11 early; or sometimes we'll have someone here from
12 out of town that we just want to finish up, all
13 right?

14 So if we just run it that way, and try to
15 stay between 9:30 and 10:00 to 5:00, but, again,
16 we're fluid here, that's how we have to work
17 issues and get these trials taken care of, all
18 right?

19 So, again, thank you, you're gonna go back
20 to your jury room, and I'll get a good phone
21 number for you and your name, and then you are
22 free to go out for lunch.

23 Ladies and gentlemen, if you are not from
24 Beaufort, the bailiffs know the best places to
25 eat. You've got kind of a long lunch hour, so

1 please don't be shy about asking them.

2 Don't be shy about asking them anything.
3 Their sole job here is to take care of the jury,
4 that is what they do, and they actually take
5 care of me too, and they do a great job.

6 So if you need anything, if you have any
7 questions, talk to the Bailiff, and they will
8 take care of you. You'all are excused, I will
9 see you'll back at 3 o'clock, all right?

10 And you'll be returning to your jury room,
11 and they'll tell you how to get there, okay?
12 Thank you.

13 (Jury exits the courtroom.)

14 BAILIFF: The jury's cleared, Your Honor.

15 THE COURT: Thank you.

16 Mr. Thornton, am I hearing the bond motion
17 today?

18 MR. THORNTON: My hope is that we have -- I
19 know for me one bond motion, Judge.

20 THE COURT: Okay.

21 MR. THORNTON: I talked to your new Law
22 Clerk and Jamie about it this morning, it should
23 not take very long, frankly, and --

24 THE COURT: What time are they set for?

25 MR. THORNTON: That is supposed to be 2

1 o'clock, Judge.

2 THE COURT: Okay. So what do we have left
3 for pretrials? And I need to know your
4 preference, if you would like to do them, taken
5 up now, or if you would like to take a brief
6 recess, so maybe you'all get a bite to eat.

7 Ms. Tolley, do you have a preference, or --

8 MR. THORNTON: Judge, you've known me a
9 long time, I don't leave at lunchtime anyway,
10 I'm gonna be right here.

11 I can do it right now, or we can wait.
12 I'll leave it up to you and Ms. Tolley, whatever
13 you'all's pleasure is.

14 THE COURT: Ms. Tolley?

15 MS. TOLLEY: If we can take a quick break,
16 that'd be good.

17 THE COURT: Absolutely. So based on what
18 we have left, I think we've taken care of a lot
19 of our pretrial matters. I want to make sure
20 though before we leave for lunch, have you
21 turned over to Ms. Tolley anything that could be
22 used if Mr. Walls takes the stand, as far as
23 prior convictions are concerned, or any prior
24 data?

25 MR. THORNTON: Yes, ma'am, I don't think

1 there's -- the first question is easy.

2 THE COURT: Okay.

3 MR. THORNTON: Yes, I believe she has --
4 would have had a rap sheet. I can tell you it's
5 two things, he's convicted of murder, and the
6 other one is a contributing to the delinquency
7 of a minor.

8 And although that one was in 2013, he was
9 still on probation, because he actually had a
10 probation revocation on that charge in 2016,
11 which means I still believe it would be within
12 the 10-year window, so those would be the only
13 two that I would have, as far as a prior record.

14 Prior bad acts, you know, I don't know --
15 some of that would depend on what their
16 questioning is, and, frankly, that gets into
17 some of these issues with this other witness.
18 If you are, and this would not be the
19 appropriate time, but just kind of put it in
20 Your Honor's head what I'm thinking --

21 THE COURT: Yes.

22 MR. THORNTON: -- if you were to elude say,
23 for instance, that well, there was other people
24 in the room, or nearby, and surely if they would
25 have seen anything, they would have reported it.

1 However, we have concrete evidence, because, you
2 know, three of those people were convicted of
3 murder.

4 That, you know, that's actually not true,
5 because witness bias, you know, one of the
6 things I would want to go into at that point,
7 would be if they were to, you know, use that
8 allegation would be, no, because Mr. Walls,
9 along with them have actually committed crimes
10 together in the past, which is a really good
11 reason why even if they saw him, or knew, or
12 thought he might be committing a crime now, that
13 they wouldn't say anything.

14 So I don't have any specific prior bad
15 acts. I know -- and I have -- I talked to her
16 a little bit, she's in the back right now, but
17 the victim in the case in her initial interview
18 said something to the effect of, that Mr. Walls
19 told her that the sexual assault was because her
20 dad owed him and his gang money, that Mr. Walls
21 was gang-affiliated.

22 Obviously, you know, I'm gonna, you know,
23 re-instruct her not to mention any of that,
24 anything like that, so that type of prior bad
25 act I'm not seeking to allege. It would just

1 really depend, Judge, we wouldn't get there from
2 my perspective, unless they made, you know,
3 unless -- depending on what their witnesses are,
4 if they get up and say things, or if someone was
5 to put his character into evidence on her side.
6 I don't plan on using any prior bad act evidence
7 that I'm aware of in my case-in-chief.

8 THE COURT: Okay. And, Ms. Tolley, another
9 question for you, just before we just break for
10 lunch, I just want to have a heads-up of what
11 we're looking at, you know, how much time I
12 need, but you have also given me --

13 MS. TOLLEY: I think most of those motions
14 we've already taken care of. I don't think
15 there's gonna be statements he made to the
16 police officers, so that's not an issue.

17 THE COURT: Okay.

18 MS. TOLLEY: I'm not objecting to the DNA.
19 I think I filed a motion with regards to that.

20 THE COURT: What about any ex parte orders
21 you require?

22 MS. TOLLEY: Okay, I told them that we were
23 probably gonna call John Priester, and I did
24 provide an ex parte order for Your Honor, with
25 regard to transporting him.

1 THE COURT: My problem is this, you've got
2 it for Monday, today, at 2:00 p.m., which isn't
3 going to happen, as you well know.

4 MS. TOLLEY: I guess we would have probably
5 the same issue. Maybe he can be brought in on
6 Wednesday.

7 THE COURT: And by 9:00 a.m. Wednesday,
8 would that be --

9 MS. TOLLEY: Can we change it so that he
10 can be here that night, in case we need to
11 address it in the morning, Wednesday morning?

12 THE COURT: All right, what I've done is
13 put this for Tuesday, August 27th by 4:00 p.m.,
14 okay? Because this is for tomorrow, so I'm not
15 sure how you'all are gonna work that out. You
16 said prior bad act --

17 MS. TOLLEY: Not prior bad act, but prior
18 record.

19 THE COURT: Okay, well, he's not testifying
20 yet, so we're not worried about it --

21 MS. TOLLEY: Right.

22 THE COURT: -- okay? So that's not until
23 Wednesday. We're gonna go through your pre-
24 trial motions, I just would like to give you a
25 few minutes right now, get Mr. Walls back as

1 well. And correct me if I'm wrong, it is Walls
2 with an S, sir?

3 MR. WALLS: Yes, ma'am.

4 THE COURT: Thank you. So I just -- let's
5 go ahead, timewise, Mr. Thornton, what do you
6 want to do? You said 2 o'clock for your
7 hearing. I think there might be another bond I
8 have to do then as well.

9 MR. THORNTON: All right, and, Judge,
10 please understand I told the people that I would
11 have to check with you, but I told them 2
12 o'clock to get them here at 2:00. We will do it
13 at your convenience, we have until 3:00. I'm
14 not gonna leave this room

15 THE COURT: Okay.

16 MR. THORNTON: So I will be right here.
17 You know, if you want to just go ahead and break
18 now, and then come back at 2:00, or slightly
19 after, I don't --

20 THE COURT: Let's do that.

21 MR. THORNTON: -- think that these are
22 gonna take very long.

23 THE COURT: Okay, so let's go ahead and
24 let's be back -- if we can break now, and let's
25 be back here a little after 2:00, a few minutes

1 after 2:00. Then we'll go ahead, and we'll
2 start with this, and whenever they're ready we
3 can take a quick break, okay?

4 MR. THORNTON: Yes, ma'am.

5 THE COURT: Okay.

6 MR. THORNTON: Thank you, Your Honor.

7 THE COURT: Thank you. All right. We'll
8 be at ease until a little after 2:00.

9 (Luncheon recess.)

10 **

11 PROCEEDINGS CONTINUED

12 THE COURT: Back on the record in the State
13 v. Brian David Walls.

14 MS. TOLLEY: If it's all right with Your
15 Honor, I will just start one at a time where we
16 think we are with the defense motions.

17 THE COURT: Have you had an opportunity to
18 talk to them to determine his medications?

19 MS. TOLLEY: Yes, ma'am.

20 THE COURT: I don't need you to say what he
21 is on in the Court. I just need to know whether
22 or not we can get those preparations for Mr.
23 Walls.

24 THE COURT: Okay. Motions.

25 MR. THORNTON: Motion to sequester

1 witnesses. Obviously, the State does not have
2 any problems with the caveat that we have four
3 witnesses in the room. I am confident that Your
4 Honor is going to order the sequestration of
5 witnesses. I do ask that Josh Dowling, who is
6 my case officer on the case and my victim in the
7 back of the courtroom that they be allowed to
8 remain, which the rules allow.

9 If that suits Ms. Tolley. Neil v. Biggars,
10 which Ms. Tolley has indicated it's no an issue
11 any longer.

12 This motion is to determine the
13 admissibility prior bad acts of the defendant.
14 I think we have taken care of that, Judge. It
15 is not my intent at this point to bring in any
16 bad acts of the defendant. If I think something
17 has changed or some door has been opened, you
18 know I will not do that until I have asked to
19 approach and we can have a discussion about it
20 at that time.

21 At this time, I do not intend to do that.

22 THE COURT: Thank you.

23 MR. THORNTON: I think this Defendant's
24 motion in limine to determine admissibility of
25 404(b) testimony. I think that is the same

1 thing, and I will give the same position on it.

2 In the Jackson v. Denno, again, at this
3 point I don't believe it is going to be a
4 problem. If at any time it looks like I need
5 to, I can stop and we will do it.

6 We have one that says, defendant's motion
7 in limine to suppress any out-of-court statement
8 of defendant.

9 He certainly made statements to the victim
10 in the case, which I believe are admissible. I
11 do not believe under hearsay, it's not defined
12 as not hearsay by an admission of party
13 opponent. I will tell the court that our
14 intention is to ask the victim what Mr. Walls
15 said to her.

16 THE COURT: All right. Is there anything
17 else you are concerned about?

18 MS. TOLLEY: I am not aware of any other
19 statements.

20 MR. THORNTON: Defendant's, motion to
21 determine the admissibility of the prior
22 convictions of the defendant. I have told your
23 honor what the two convictions are. I believe
24 that under the rules they clearly fall within
25 the rules. They both carry -- both murder and

1 contributing to the delinquency of a minor carry
2 more than a year in prison or the possibility of
3 more than a year.

4 Although the conviction for contributing
5 was outside the ten-year window, he was on
6 probation for it. He got a probation revocation
7 on it in 2016. I believe we have given a rap
8 sheet to Ms. Tolley. My recollection of that
9 rule is that's it's either the conviction date
10 or any punishment after which does include
11 probation.

12 THE COURT: Okay.

13 MR. THORNTON: Those would be the only
14 things that I have, Judge, as far as convictions.

15 THE COURT: Ms. Tolley.

16 MS. TOLLEY: Thank you, Your Honor. May it
17 please the Court. With regard to the
18 contributing to the delinquency of a minor, we
19 believe that that is too remote to be considered
20 by the Court.

21 Rule 609(b) establishes a presumption
22 against the admissibility for a remote
23 conviction, and the State bears the burden of
24 establishing facts and circumstances sufficient
25 to substantially determine that.

1 In determining that, you should also look
2 at the probative value versus prejudicial
3 effect.

4 THE COURT: I will take this under
5 advisement. What is the next motion?

6 MR. THORNTON: Thank you, Your Honor.

7 Your Honor, the next one I have is
8 defendant's motion in limine regarding lay
9 witnesses.

10 MS. TOLLEY: That was just so that they are
11 not going to testify as an expert. They are not
12 going to offer an opinion.

13 MR. THORNTON: I will say that it is
14 entirely likely that the officers that we are
15 calling, which would be today, are going to
16 testify as to the demeanor of the victim. I
17 think that is allowed under lay witnesses. That
18 is one of the few areas that a lay witness can
19 offer an opinion, because it doesn't take any
20 expert -- you can tell if somebody appears to
21 you to be upset or frightened or anything like
22 that.

23 Other than that I am not aware of anybody
24 that is going to offer an opinion as a lay
25 witness.

1 THE COURT: All right. I will allow it
2 that he doesn't go past the extent of what is
3 required for expert testimony.

4 MR. THORNTON: Thank you, Your Honor.

5 Defendant's motion in limine regarding the
6 admission of evidence. It instructs the
7 witnesses in the case not to allude to, refer to
8 in any way bring before the jury photographs,
9 videotape or displays until such time as
10 determination is made by the Court as to their
11 admissibility. I certainly think that is the
12 rule. I don't have any problem following it.

13 I have to show it to the witness first.

14 THE COURT: Lay a proper foundation.

15 MR. THORNTON: Yes, ma'am. Lay a proper
16 foundation. I don't know of any circumstance,
17 Judge, where I have ever admitted anything into
18 evidence until the Court has said it's
19 admissible.

20 MR. THORNTON: Defendant's motion in
21 limine. The last one I have is defendant's
22 motion in limine to produce chain of custody.

23 I believe that through either witnesses or
24 reports or anything we have given a chain of
25 custody. I don't know that we ever did the

1 formal SLED, where they go back and sign
2 everything and everybody identifies the evidence
3 tech where they moved it from Bin A to Bin B.

4 I don't normally do that unless it is
5 asked. I just got these Friday. I think the
6 only really chain in this case as far as
7 physical evidence -- I will ask Mr. Shedd to
8 correct me if I am wrong -- are the DNA samples.
9 My understanding is it was taken by a SANE nurse
10 and sealed, given to an officer who took it to
11 the evidence room and sealed it in a best-
12 evidence bag.

13 Ms. Herrera, who is the serologist,
14 actually gets the kit out and opens it, tests
15 for sperm and saliva. They are positive.

16 She generates a sample for the DNA analyst
17 to look at, and then the DNA analyst analyzes
18 it.

19 Other than that, I am not sure what else we
20 would be -- physical evidence-wise, I think
21 that's either all of it or everything really
22 important.

23 THE COURT: Anything else you
24 want to put in?

25 MS. TOLLEY: Nothing else that I am

1 anticipating.

2 THE COURT: All right. Thank you.

3 Any other pretrial motions?

4 MS. TOLLEY: I think we did ask them about
5 the officers' records.

6 MR. THORNTON: I have no disciplinaries on
7 any of the officers came, back with the
8 exception of Officer Blackwell had one. And I
9 will just tell the Court -- or two. He made the
10 comment to a supervisor, I don't have time for
11 this. He was written up for that. Then another
12 one was there was a school fight, and he was
13 trying to resolve it and write up a report. He
14 just asked them to come see him after class, and
15 that is not their procedure, so he was written
16 up for that.

17 I don't think either ones of those is
18 indicative of lack of credibility, dishonesty.
19 No evidence issues. Nothing like that. I don't
20 think that those could even be gone into, but

21 I did want to bring it to the Court's
22 attention.

23 to me.

24 THE COURT: Ms. Tolley, any response to
25 that.

1 MS. TOLLEY: We just think that that is
2 something very important. If we could see the
3 records, that would be helpful to us in making a
4 determination about whether or not we should
5 even ask them about or follow up on.

6 THE COURT: Okay. Anything else?

7 MR. THORNTON: Mr. Shedd on our behalf does
8 have a motion.

9 MR. SHEDD: The final motion is our initial
10 responding officer, Officer Hayes --

11 we would intend to introduce testimony
12 through him of eyewitnesses that were present on
13 the scene at the Howard Johnson's when he
14 arrived.

15 THE COURT: The clerk is going to swear in
16 our jury, and we will go from there.

17 Is the State ready?

18 MR. THORNTON: The State is ready, Your
19 Honor.

20 THE COURT: Defense ready?

21 MS. TOLLEY: Defense is ready.

22 THE COURT: Very good. Let's bring the
23 jury in and get started.

24 (Jury enters courtroom.)

25 THE COURT: Ladies and gentlemen, what we

1 have to do right now is to have you sworn in as
2 the jury for the trial of this case.

3 I will make a few brief comments and then
4 the attorneys will make their opening
5 statements.

6 (Jury duly sworn and empaneled.)

7 THE COURT: Ladies and gentlemen, what I am
8 going to say to you is intended to serve as an
9 introduction to the trial of this case. These
10 remarks are not a charge on the law. I will
11 charge you on the law applicable to this case at
12 the very end of the trial.

13 These are simply an explanation of the
14 procedure that we will follow so you can better
15 understand what is happening.

16 In this case, Mr. Walls is charged by the
17 bill of indictments filed in this court with the
18 offenses of criminal sexual conduct in the first
19 degree, kidnapping, and use of a vehicle without
20 permission, the elements of which I will explain
21 to you later.

22 An indictment is simply the formal charge
23 by which a case is brought into the courtroom,
24 and it is not in any sense evidence of any of
25 the allegations that it contains.

1 In this case the defendant Mr. Walls has
2 pled not guilty to these indictments. The
3 State, therefore, has the burden of proving each
4 of the elements of each of the indictments
5 beyond a reasonable doubt.

6 It's your duty, ladies and gentlemen of the
7 jury, to decide whether or not the State has met
8 that burden.

9 Your purpose as jurors is to find and
10 determine the facts. You the jury are the sole
11 judge of all facts in this case. If at any time
12 I make a comment regarding this case, you must
13 disregard it, and you are to determine the facts
14 of this case from the testimony that you hear
15 from the witness stand as well as any other
16 evidence that is introduced during the trial.

17 It is up to you to determine the inferences
18 that you feel may properly be from the evidence.
19 Please understand it is especially import that
20 you perform your duty of determining the facts
21 diligently and consciously, because ordinarily
22 there is no way to correct an erroneous
23 determination of the facts by a jury.

24 On the other hand and with equal emphasis,
25 the same law that makes you the jury the judge

1 of the facts makes me the judge of the law. The
2 law given by the Court is the only law you may
3 consider. You must accept and follow it, even
4 though you may disagree with me on that.

5 I cannot tell you what the facts of this
6 case are, and you cannot disagree with me about
7 what the law is or what the law should be.

8 Your job at the end of this trial is to
9 take the law as I give it to you and apply it to
10 the facts as you find them, and from there
11 render a true and just verdict.

12 Until I tell you to begin your
13 deliberations, you must not discuss this case
14 with anyone, and that includes your fellow
15 jurors, family members, friends, or anyone
16 involved in this case.

17 I have told you before and I will tell you
18 again that the attorneys and the parties have
19 been advised that they are not to talk to you in
20 any way. So if you see someone involved in this
21 case coming or going from the courthouse over
22 the next few days and don't even say hello,
23 please understand that they are not being
24 unfriendly. They are just simply following my
25 orders.

1 Also, ladies and gentlemen, you are not to
2 read, listen to, or watch any news reports about
3 this case. That includes anything that may be
4 in newspapers, the internet, radio, or
5 television. You must not consider anything you
6 may have read or heard about the case outside
7 the courtroom, whether before or during the
8 trial.

9 It is important that you keep an open mind
10 and not decide any issue in the case until all
11 of the evidence has been presented, the parties
12 have made their closing arguments and I have
13 instructed you on the law in this case.

14 Your verdict must be based solely on the
15 evidence that is presented to you in this trial
16 and on the law that I instruct you on during and
17 at the close of the trial.

18 In just a moment the solicitor is going to
19 make what is called an opening statement, in
20 which the solicitor is going to explain to you
21 the issues in this case or at least what the
22 solicitor thinks the issues are in this case.

23 Then the attorney for the defendant is also
24 going to make an opening statement, although she
25 is not required to do so.

1 What the attorneys tell you during their
2 opening statements is not evidence in this case.
3 Again, it is only their contention as to what
4 the issues are.

5 The evidence in this case will be presented
6 to you by the testimony of sworn testimony
7 presented to you from the witness box and also
8 by any evidence that may be introduced into
9 evidence.

10 During the course of the trial of this
11 case, you may hear one of the attorneys say
12 something like, "Your Honor, I believe we have a
13 question of law" or "Your Honor, may we
14 approach?" I will signal them to come to the
15 bench. Sometimes I may need to excuse you back
16 to your jury room.

17 Please understand something. We are not
18 hiding anything from you. Oftentimes I need to
19 rule as a matter of law whether or not certain
20 testimony or evidence is admitted to determine
21 the facts of the case.

22 I would never want anything that I do to
23 influence you in your determination. Out of an
24 abundance of caution, we just do it outside your
25 presence.

1 In determining what the true facts are in
2 this case, you must decide whether or not the
3 testimony of the witnesses is believable. It's
4 my responsibility to rule as a matter of law
5 whether or not certain testimony is admitted.
6 Once it is admitted, whether or not you believe
7 it is for you to determine.

8 In deciding on the evidence, you have the
9 right to consider the interest of any witness,
10 the bias of any witness, the prejudice of any
11 witness. And include the opportunity of that
12 witness to see matters and things about which
13 the witness testified.

14 You can also look at the way the witness
15 acts on the witness stand. You have the right
16 to consider anything, any evidence in the record
17 to evaluate the credibility of witnesses. That
18 means it's your duty to pay close attention to
19 the witnesses, to observe the witnesses, to
20 listen to them, and to pay close attention to
21 the attorneys and the Court so that at the end
22 of the case, you may accurately remember the
23 testimony.

24 The bailiff has instructed me that some of
25 you have inquired about taking notes in this

1 case. We have given you pads and pencils or
2 pens so you can go ahead and take notes. I want
3 you to understand something. Those notes are
4 for your own personal use.

5 When you come and go from the courtroom,
6 you are going to leave that with your number on
7 it in the courtroom. At the very end of the
8 trial, you will have those notes during your
9 deliberations. You will hear me caution you
10 that you are to rely on your own memory and not
11 rely on someone else simply because they took
12 notes. Some people are better notetakers than
13 other. Some people don't like taking notes and
14 prefer to sit back and sit and listen. It is
15 completely up to you whether or not you choose
16 to take notes.

17 So ladies and gentlemen, with those
18 introductory comments, I will ask the attorneys
19 if there are any exceptions or additions. If
20 not, we will go ahead and begin the trial of
21 this case.

22 From the State?

23 MR. SHEDD: None from the State, Your
24 Honor.

25 THE COURT: Thank you.

1 Anything from the defense?

2 MS. TOLLEY: Not from the defense.

3 THE COURT: Very good.

4 Ladies and gentlemen, we will now begin the
5 trial of this case.

6 MR. SHEDD: Thank you, Your Honor.

7 **

8 **OPENING STATEMENT BY MR SHEDD**

9 MR. SHEDD: This case is about the rape and
10 kidnapping of K.P. [REDACTED]. You may hear
11 her referred to as K.P. [REDACTED]. It's her middle
12 name. She goes by K.P. [REDACTED].

13 The evidence in this case is going to show
14 that on December 6, 2016, the defendant Brian
15 Walls raped K.P. [REDACTED] in the bathroom at the
16 Howard Johnson's on Trask Parkway.

17 The evidence is also going to show that
18 after this rape and kidnapping, he stole her car
19 and fled the jurisdiction.

20 As her Honor just explained, there are
21 three indictments in this case. We will take a
22 little bit of time to talk about them.

23 The first is for Criminal sexual conduct in
24 the first degree. I have referred to it twice
25 as rape. That is the statute that criminalizes

1 what is colloquially thought of as rape. It
2 requires proof, which is defined as sexual
3 intercourse, and that the battery was
4 accomplished through the use of aggravated
5 force. The force actually applied to accomplish
6 the sexual assault.

7 The second indictment is for kidnapping. At
8 the end of the case, you will get law from the
9 judge about these elements and go through them,
10 but I want to go through them briefly.

11 Kidnapping requires proof that the
12 defendant unlawfully, without authority of law
13 confined, seized, inveigled, decoyed, abducted,
14 kidnapped, or carried away the victim, **K.P.**
15 **[REDACTED]**.

16 It doesn't require proof of a Hollywood-
17 style kidnapping. It doesn't require duct tape
18 and thrown in the trunk of a car and taken
19 across state lines, what a lot of folks think of
20 when they hear kidnapped. That is not what is
21 required. It is simply proof that the defendant
22 confined, or seized, or constricted that the
23 movement would not allow the victim to leave.

24 As we go through this case, we all have
25 distinct roles in the courtroom. Our role as

1 the State who is prosecuting these charges, we
2 have the burden of proof. We have to bring you
3 the evidence that convinces you, leaves you
4 firmly convinced of the defendant's guilt.

5 Your job is to pay attention. Listen
6 closely to what the witnesses are saying,
7 evaluate the exhibits, and you are to determine,
8 make a determination who is believable. Are the
9 witnesses believable?

10 Ladies and gentlemen, I would submit that
11 in making that determination, you should
12 particularly focus on does the physical
13 evidence, does the evidence that we know that
14 you see come in, does it match what the witness
15 is saying, or is it inconsistent?

16 In other words, does the physical evidence
17 corroborate or support or further indicate the
18 credibility or the veracity of the statements
19 being made. This also goes to the bias. There
20 are a number of different reasons why
21 credibility is important.

22 As you are listening to these witnesses, we
23 are going to bring probably a dozen or so
24 witnesses to you over the next couple of days.
25 They are all going to have something important

1 to tell you. There is an important piece to
2 these witnesses. So they are all important.

3 It's important that you pay close attention
4 and listen to what they are saying and ask
5 yourselves, does what they are saying make sense
6 and is it supported by the evidence.

7 At the end of the case, once you have heard
8 all of this evidence, listened to all of the
9 witnesses and received all of these exhibits,
10 you will go back and deliberate. It will be
11 your job and duty to return with a verdict.
12 Specifically, your job is to return a verdict
13 that speaks the truth, and I trust that you will
14 do that.

15 Thank you.

16 THE COURT: Thank you.

17 MS. TOLLEY: Thank you, Your Honor. May it
18 please the Court.

19 THE COURT: Yes.

20 **

21 **OPENING STATEMENT BY MS. TOLLEY**

22 MS. TOLLEY: Good afternoon. When I
23 listened to all of that, what I think about is
24 things are not always as they seem. Sometimes
25 they appear one way and they are not actually

1 that way. I think that is what is happening in
2 this particular case.

3 I am reminded of an incident with me a few
4 years ago. I was out shopping, enjoying myself
5 on a Saturday. Spending my daddy's money. That
6 was a long time ago. I went into a lady's
7 clothing store and I found some pants that I
8 wanted to try on. So I took them off the rack
9 and walked towards the dressing room. The clerk
10 said, the dressing room is full. I thought I
11 would just stand there and wait until the
12 dressing room was available.

13 The next thing I know, I heard somebody
14 speaking right behind me. It started
15 quietly at first and then got louder and louder
16 and louder. He said, I was here first. I am
17 here with my wife and kids. We were here first.
18 You need to get behind us. We were here first.

19 I looked around, and I stayed calm, and I
20 didn't say anything. The clerk didn't say
21 anything. No one said anything. He was just
22 getting louder and louder.

23 He eventually was so dissatisfied with the
24 situation, that he and his wife and his daughter
25 -- he was with a younger daughter -- they left.

1 After he left, one of the clerks walked
2 over to me quietly and softly and said, "I know
3 you were here first. I know you didn't get in
4 front of him."

5 Things are not always as they seem. Even
6 though he was louder and saying that something
7 had happened, that didn't mean that what he was
8 saying happened or that it happened the way that
9 he thought it happened.

10 That is this case. Mr. Walls stands here
11 an innocent man. He is presumed innocent under
12 our law until he is proven guilty beyond a
13 reasonable doubt by the State.

14 We are going to ask you to come this with
15 an open mind, use your common sense. Don't
16 leave that at the door.

17 At the end of this trial, I think you will
18 find that things are not always as they seem.

19 THE COURT: The State may call its first
20 witness.

21 MR. SHEDD: State calls Allyson Moriera.

22 **ALLYSON MOREIRA,**

23 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

24 *******

25

DIRECT EXAMINATION

BY MR. SHEDD:

Q Good afternoon, Ms. Moriera, how are you today?

A I'm good, thank you.

Q Can you please tell the jury where you work?

A The Beaufort County Sheriff's Office.

Q What's your title there?

A I'm the 911 Audio Clerk.

Q Can you describe what your duties are in that role, as part of that?

A I locate 911 calls and burn them to a disk when asked.

Q And are 911 calls recorded contemporaneously as they're coming in?

A Yes.

Q And are they kept in the ordinary course of business?

A They are.

Q And were you asked to pull a 911 call from December 6th of 2016?

A Yes.

MR. SHEDD: And if I may approach the witness, Your Honor?

1 THE COURT: You may.

2 BY MR. SHEDD:

3 Q Can you tell me if you recognize that
4 disk?

5 A I do.

6 Q What is it?

7 A It's the 911 call.

8 Q And how do you know?

9 A It has my initials on it.

10 MR. SHEDD: At this time the State would
11 move State's Exhibit Number 1 into evidence.

12 THE COURT: Any objection?

13 MS. TOLLEY: No objection.

14 THE COURT: Without objection it's in
15 evidence, and you may publish as well.

16 (State's Exhibit 1 admitted into evidence.)

17 MR. SHEDD: Thank you, Your Honor, and we
18 will publish it at this time.

19 (911 call being played for the jury.)

20 BY MR. SHEDD:

21 Q Thank you, Ms. Moreira, I have no
22 further questions.

23 THE COURT: Anything from defense?

24 MS. TOLLEY: Just a couple.

25

**

CROSS-EXAMINATION

BY MS. TOLLEY:

Q You didn't personally witness anything yourself, did you?

A No.

Q And you weren't the person who actually took the phone call; is that right?

A That's correct.

Q And you didn't interview any witnesses; is that right?

A No.

Q So you don't have any personal knowledge of this case?

A No.

Q Thank you.

THE COURT: Anything further, Mr. Shedd?

MR. SHEDD: No, Your Honor.

THE COURT: You may be excused. Call your next witness.

MR. SHEDD: The State calls Officer Eric Hayes.

ERIC HAYES,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

1 BY MR. SHEDD:

2 Q Good afternoon, Officer Hayes. I see
3 you're in uniform, can you please tell the jury
4 where you work?

5 A I currently work for the City of
6 Beaufort Police Department in a part-time
7 capacity, and I'm a Safety Director for a local
8 charter school full-time.

9 Q How long have you been with the City of
10 Beaufort Police Department?

11 A I was full-time from 2015 until 2022,
12 and I have just returned in the last month or so
13 to part-time status.

14 Q Okay. How much of that time in law
15 enforcement was on patrol?

16 A My first three years was full-time
17 patrol, then I was moved to an SRO position.

18 Q Were you working on December 6th, 2016?

19 A Yes, sir.

20 Q And were you on patrol that day?

21 A Yes, sir.

22 Q Did you receive a call-out to respond in
23 reference to this case?

24 A Yes, sir, I did.

25 Q And what was the nature of the call that

1 you were responding to?

2 A The call shifted as we progressed, but I
3 believe, initially, it was a water rescue,
4 someone needing a rescue assistance.

5 Q And where were you dispatched to?

6 A I was assigned to the Charlie District,
7 which is where I was dispatched to, the Howard
8 Johnson Hotel.

9 Q And is that in Beaufort County?

10 A Yes, sir, in Beaufort City, yes, sir.

11 Q When you got on-scene, were you the
12 first one there, or were there others there?

13 A The first officer, yes, sir. There were
14 other first responder elements present, but I
15 believe I was the first police officer.

16 Q And when you say first responder
17 elements, can you expound on that?

18 A Fire, Emergency, Rescue, anything that
19 would support a water rescue type call.

20 Q As you're arriving on-scene, tell the
21 jury, what do you do first? What's the first
22 thing you do when you get there?

23 A The first thing we do on a victim call
24 like that is, try to locate the victim, ensure
25 that they're -- what is the current need of

1 their care or assistance. When I arrived Fire
2 was already there, so I attempted to kind of
3 figure out what was already done, what needed to
4 be done, how I could assist, which is when I
5 began the call of assisting with the search and
6 rescue portion.

7 Q And I should have asked this earlier,
8 what time of day was this call?

9 A It was in the evening, sir.

10 Q Was it dark out?

11 A Yes, sir.

12 Q Can you describe to the jury what were
13 the search and rescue efforts undertaken by you?

14 A Assisted in, essentially, getting this
15 altogether. The search and rescue was
16 referencing a missing female somewhere in that
17 area. Didn't have exact locations at that time,
18 so it was, essentially, getting a general
19 direction to pursue our efforts, and attempt to
20 recover this young lady, and figure out exactly
21 where she was, and what was going on.

22 Q But you knew she was in the water, or in
23 the marsh?

24 A In the fluff, I believe is the
25 information that was provided, yes, sir.

1 Q Fluff, can you -- in case anybody is not
2 from around here, can you please tell the jury
3 what fluff mud is?

4 A It's a local version of mud that is,
5 essentially, incredibly difficult to navigate,
6 and fluffy, fluffy, if you step in it, you can
7 become stuck very easily, kind of deep, hard to
8 traverse, especially if you're not -- if you're
9 on foot.

10 It's definitely something that often needs
11 a rescue, whether it's a person or an animal.

12 Q How did you become -- at some point did
13 you discover the victim?

14 A Yes, sir, I did.

15 Q And how did that happen?

16 A I heard her actually in the area that I
17 was a part of the search, off to the left of the
18 hotel. We could hear the audible screams for
19 help, and I do also believe at the time she was
20 at least for a portion of it on the phone with
21 911, who was also assisting us in trying to
22 figure out where she was.

23 Q If you're able to, can you please
24 describe where the victim was when you first saw
25 her?

1 A If you're facing the Howard Johnson's
2 off to the left, there's a bit of a overgrown
3 area, a wooded area, and then there's a drop
4 from the higher ground wooded area into the
5 fluff mud area, and then rises back up on the
6 other side, so the back of what used to be a
7 Suzuki dealership, and I do believe now is an
8 abandoned perhaps unused structure. She was in
9 that fluff mud portion, that titled area off to
10 the left of the hotel.

11 Q Would a map of the -- an overview map of
12 the area would it help you describe this to the
13 jury?

14 A Absolutely, sir, absolutely.

15 MR. SHEDD: And, Your Honor, the State
16 would like to use this overview map for
17 demonstrative purposes only, and it's my
18 understanding that defense counsel does not have
19 an objection to the use of it as demonstrative
20 only.

21 THE COURT: Is that correct?

22 MS. TOLLEY: That's correct.

23 THE COURT: Thank you.

24 MR. SHEDD: And call it Exhibit 2.

25 (State's Exhibit 2 identified for the

1 record but not admitted into evidence.)

2 BY MR. SHEDD:

3 Q And, Officer Hayes, with the Court's
4 permission I'm gonna ask you to step down.

5 THE COURT: You can step down, sir.

6 WITNESS: Okay.

7 THE COURT: Members of the jury, if someone
8 cannot see what they're referring to, please
9 raise your hand and let me know, okay?

10 BY MR. SHEDD:

11 Q So can you just orient as to what we're
12 looking at here and then --

13 A Yes, sir, this would be the hotel area
14 here. This would be the high ground overgrown
15 wooded area. This would be that lower fluff mud
16 area that would come up to the back of what's
17 formerly the Suzuki dealership. It was in this
18 area off to the left in that marshy fluff mud
19 area.

20 Q And that's where the victim was when you
21 found --

22 A Yes, sir.

23 Q -- her?

24 A Yes, sir.

25 Q Thank you. I'll have you just sit back

1 down. When you first encountered the victim,
2 how did she appear?

3 A She was scared. She was terrified --

4 MS. TOLLEY: Objection.

5 BY WITNESS:

6 A -- she was screaming. She was clearly
7 in need of assistance.

8 THE COURT: Overruled, go ahead, thank you.

9 BY MR. THORNTON:

10 Q Continue, sorry.

11 A She was clearly in need of assistance,
12 sir, she was scared.

13 Q Did you -- how did you actually get her
14 out of the marsh, or did you actually help
15 assist her out?

16 A At that point of the search there was
17 quite a few of us, Fire and the first responder
18 personnel, with the first one hearing, bearing,
19 if you will, hearing she was off to that area.
20 She was down the bank and up a bank. With
21 helping her she was able to be pulled and walked
22 up the bank. I did not have to carry her or
23 triage her of any kind but was able to assist
24 her out of that fluff mud area to high ground.

25 Q And did you speak to her even briefly?

1 A Briefly, yes, sir.

2 Q And just limited to time and place can
3 you tell me what she informed you?

4 A She explained that she had been
5 assaulted, and someone stole her car, and it was
6 in -- at the hotel, in that hotel area.

7 Q After you got her out of the mud, what
8 did you do next?

9 A Almost immediately Fire and EMS
10 personnel were there, more of the medical side
11 of the call, so she was handed off, quote,
12 unquote, "to them," to receive any medical care,
13 to be evaluated.

14 Q Where did that leave you? What was your
15 responsibility at that point?

16 A Returning back to kind of the main
17 campus of the hotel to see who else had
18 responded, where I could be of assistance, and
19 then, eventually, ending up at the hotel room
20 inside the hotel.

21 Q And what -- do you remember what room it
22 was?

23 A I do not. That would be in my notes,
24 sir, in the report.

25 MR. SHEDD: The Court's indulgence while I

1 look for that.

2 BY MR. SHEDD:

3 Q It's all right if you don't remember the
4 exact room. What did you do with the room? Did
5 you respond to the room?

6 A Yes, sir, went directly to the room,
7 yes, sir.

8 Q And did you secure it?

9 A Yes, sir.

10 Q Earlier you mentioned that the victim
11 described that she had been assaulted before.
12 Did she describe what kind of assault? What was
13 it?

14 A She did indicate that it was a physical
15 assault, perhaps in her rambling she would have
16 said she was raped, or sexually assaulted, but I
17 don't recall exactly which word she would have
18 used.

19 Q And did you -- earlier you mentioned,
20 when I asked you about how you were dispatched.
21 You mentioned it transitioned --

22 A Yes, sir.

23 Q -- from a wider area, maybe to --

24 A Uh-huh.

25 Q When did it transition from one to two?

A I believe at that point once the information came out, and it was that she had been assaulted to some degree, it would, obviously, go from a water rescue, to include any number of things, an assault, a sexual assault, an assault and battery.

As the information was provided, I think it actually changed a few more times, but inevitably be landing on a sexual assault, sir.

Q I don't have any further questions for you, Officer. Please answer any Ms. Tolley might have.

A. Yes, sir.

THE COURT: Ms. Tolley?

MS. TOLLEY: Thank you, Your Honor.

* *

CROSS-EXAMINATION

BY MS. TOLLEY:

Q Good afternoon, Officer Hayes.

A Good afternoon, ma'am.

Q I think you described that K.P. [REDACTED] was able to walk out with little help?

A With assistance, yes, ma'am.

Q With a little help?

A From me, yes, ma'am, I was able to help

1 her, yes, ma'am.

2 Q You testified that you were able to go
3 into the room. Did you go into the hotel room?

4 A Yes, ma'am.

5 Q Was there any sign of struggle inside
6 the hotel room?

7 A It appeared to be a -- no, ma'am, a
8 regular hotel room. Things strewn throughout,
9 but no sign of a violent crime with blood or
10 anything.

11 Q Thank you.

12 A Yes, ma'am.

13 MR. SHEDD: Nothing, Your Honor.

14 THE COURT: Anything further, Ms. Tolley?
15 No?

16 MS. TOLLEY: Nothing.

17 THE COURT: All right, you are excused,
18 thank you, sir.

19 WITNESS: Yes, ma'am.

20 THE COURT: Call your next witness.

21 MR. SHEDD: The State calls Katherine Roos.

22 **

23 KATHERINE ROOS,

24 BEING DULY SWORN TESTIFIED AS FOLLOWS:

25 ***

DIRECT EXAMINATION

BY MR. SHEDD:

Q Ms. Roos, can you tell the jury where you work?

A I was a Paramedic for Beaufort County EMS, and responded to the 911 call.

Q Well, let's back up a little bit, where do you work now? Do you still work for Beaufort County EMS?

A No, I'm a Paramedic for Bluffton County Fire District.

Q Okay, and how long have you been employed with them?

A About three years now.

Q Okay. So prior to that you worked for Beaufort County EMS?

A Yeah.

Q Okay.

A In 2013.

Q And what was your role at Beaufort County EMS?

A I was a paramedic.

Q Can you please explain to the jury what your training was and qualifications were, in order to obtain that position at EMS?

1 A Yes, sir. So in South Carolina there
2 are three levels of emergency technicians, EMT
3 Basic, Advanced and Paramedic is the highest
4 level of pre-hospital care. I'm able to
5 monitor, interpret EKG rhythms, administer drugs
6 per the South Carolina state formulary, and I'm
7 able to access the patient in different ways, IV
8 access and perform airway maneuvers that the
9 patient needed.

10 Q Have you been a paramedic since 2013?

11 A I was an EMT-Basic from 2013 to 2016 and
12 finished paramedic school in 2016.

13 MR. SHEDD: Your Honor, at this time I
14 would move to have Ms. Roos qualified as an
15 expert in the field of emergency medical care,
16 pre-hospital medical care.

17 THE COURT: Ms. Tolley, any objection?

18 MS. TOLLEY: No.

19 THE COURT: Ms. Roos in this case is being
20 qualified as an expert in emergency medical care
21 and pre-hospitalization. That allows her to
22 give her opinion, and the reasons for her
23 opinion, and that's for you to use as you see
24 appropriate.

25 BY MR. SHEDD:

1 Q Mr. Roos, were you working on December
2 6th, 2016?

3 A Yes, sir.

4 Q And do you recall being dispatched out
5 that night in refence to this case?

6 A I do.

7 Q And where were you dispatched to?

8 A I was dispatched to the Howard Johnson
9 Motel.

10 Q And where is that located?

11 A Beaufort.

12 Q Is it in Beaufort County?

13 A Yes.

14 Q Can you please tell the jury when you
15 first go on-scene, what did you see when -- as
16 you arrived?

17 A As I arrived, I saw a female patient
18 sitting on the front bumper of the fire engine.
19 She began to walk with the assistance of a
20 Bluffton Firefighter.

21 Q. Can you describe the patient for the
22 jury, and what you saw her physical appearance
23 to be?

24 A She was visibly upset and was covered
25 about waist-deep in fluff mud.

1 Q Was there anything noteworthy about her
2 physical appearance, as it relates to your
3 medical diagnosis of her.

4 A Other than her emotional distress, no.
5 I could see pretty readily that she did not have
6 any apparent life threat, which is kind of what
7 I need to ascertain quickly in my general
8 impression of a patient.

9 Q Did you take her vitals?

10 A I did. She was assisted into the back
11 of the ambulance, and I then placed her on a
12 cardiac monitor, and took her vitals.

13 Q And do you recall -- well, let me back
14 up, what are vitals? Can you just explain to
15 the jury what they are?

16 A Vitals would be pulse rate and blood
17 pressure, oxygen saturation. Currently we can
18 assess a patient's CO2 levels, and then a GCS is
19 generally obtained in the third round of vitals
20 that we have from the patient.

21 Q Was there anything that stood out about
22 her vitals when you observed her?

23 A For a patient of her age, her pulse rate
24 was extremely high. It was very obviously
25 tachycardic.

1 So for a 19-year-old that's usually
2 something that I would never see.

3 Q And I should have asked you this
4 earlier, were you able to identify who the
5 patient was?

6 A Yes, the -- it was -- she was the only
7 patient who we were all tending to. From my
8 report her name was K.P. [REDACTED].

9 Q You mentioned tachycardic, or
10 tachycardia. Can you explain to the jury what
11 tachycardic means?

12 A Tachycardic is a medical term for a fast
13 heart rate. So cardia -- pertaining to the
14 heart and tachy is usually the prefix for
15 anything that's too fast. The basic heart rate,
16 or average heart rate for a resting adult would
17 be from 60 to 100 beats per minute, and [REDACTED]
18 K.P.'s [REDACTED] was, at the time, that I arrived at her
19 at 160 beats a minute.

20 Q And so you would describe it as very
21 tachycardic?

22 A Yes.

23 Q As it relates to, specifically, limited
24 to time and location, what was K.P.'s [REDACTED] chief
25 complaint?

1 A Her chief complaint, as I have listed,
2 was, "I was raped," and she stated just prior to
3 my arrival at the Howard Johnson.

4 Q And did you take her to the hospital
5 after your on-scene treatment?

6 A We did. We placed her on our stretcher,
7 and covered her with a hospital sheet, and then
8 kind of began to tend to her emotional stress
9 and took her to the hospital.

10 MR. SHEDD: The Court's indulgence for just
11 one second, Your Honor.

12 THE COURT: Okay.

13 BY MR. SHEDD:

14 Q Ms. Roos, did you notice anything
15 specific about the patient's skin that you may
16 have noted in your report?

17 A I did note that she was visibly upset
18 and covered in mud, that her skin was cool to
19 the touch after having been in the marsh, but
20 her face was noticeably red.

21 Q And why did you note that? Is that
22 uncommon, or is that medically important to you?

23 A In my chief complaint noted was her
24 primary complaint, "That I was raped." Her
25 secondary complaint was to the sexual assault.

1 Noted to have pain in her face and her knee.

2 Q And was the redness in her face, being
3 that her skin is cool to the touch, so -- and I
4 may not be asking this the right way, but were
5 you able to rule out that her face was flush?
6 That she was overheated, and that's why her face
7 was red?

8 A Yes, we had turned the heat on, and
9 things like that, and she'd been in the water
10 we didn't want her to be too cool.

11 Q Would the redness in her face, is that
12 consistent with her having been struck in the
13 face?

14 A I believe so.

15 Q I don't have any further questions, Ms.
16 Roos, please answer any Ms. Tolley might have.

17 THE COURT: Ms. Tolley?

18 MS. TOLLEY: Thank you, Your Honor.

19 **

20 **CROSS-EXAMINATION**

21 BY MS. TOLLEY:

22 Q How are you doing?

23 A I'm good.

24 Q Good. So when you encountered [REDACTED]

25 [K.P.] she was able to walk?

1 A She was.

2 Q And she was able to speak?

3 A Yes.

4 Q Okay. And you mentioned that her pulse
5 right was up; is that correct?

6 A Yes, it was very bad.

7 Q Okay, and there are reasons why her
8 pulse rate might be high; is that correct?

9 A Yes.

10 Q Sometimes can drugs cause your heart
11 rate to go up?

12 A There are some, yes.

13 Q Okay, thank you.

14 MR. SHEDD: Nothing further for this
15 witness, Your Honor.

16 MS. TOLLEY: Nothing further.

17 THE COURT: Nothing further?

18 MR. SHEDD: Nothing further from us.

19 THE COURT: Thank you. All right, you're
20 excused, thank you.

21 MR. SHEDD: The State calls Joel Blackwell.

22 **

23 **JOEL BLACKWELL,**

24 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

25 ***

DIRECT EXAMINATION

BY MR. SHEDD:

Q Officer Blackwell, who do you work for?

A I work for the Beaufort Police Department.

Q And how long have you been with the Beaufort Police Department?

A It will be 18 years this December, it's 2006, so December is when I started.

Q And what's your current rank, or what are your current duties?

A Currently I'm a Sergeant, and I've over the SRO Division. I'm a School Resource Officer at Lady's Island Middle School.

Q Back in December of 2016 what was your role?

A At that time in 2016 I was one of the assistant supervisors of the Patrol Division, so sort of the assistant supervisor at that time.

Q And were you on-duty on the evening of December 6th, 2016?

A Yes, I was.

Q Do you recall being dispatched out in reference to this case?

A I do, yes, sir.

1 Q And what was the nature of that call?

2 A The initial report was for a water
3 emergency, and as I was responding to that
4 location, the Howard Johnson, and more detail
5 was provided by Dispatch, that it was more than
6 just a water emergency, and it was some type of
7 assault that occurred.

8 Q And where were you dispatched to?

9 A To Howard Johnson, somewhere on Trask
10 Parkway. I'm not sure of the address, but it's
11 in the City of Beaufort.

12 Q All right. When you got on-scene what
13 did you do first?

14 A First, when I arrived on-scene the
15 report was that the caller was somewhere to the
16 left of the building -- to the Howard Johnson
17 building, so I immediately -- being familiar
18 with that area, I immediately went towards the
19 left side of the property.

20 Q I'm gonna stop you real quick.

21 A Yes.

22 Q Can I have you step down? Would a map
23 help you describe --

24 A Yes.

25 Q -- the location?

1 A Yes.

2 Q So can you just kind of start back here,
3 and as you're arriving, what information do you
4 get, and where do you go?

5 A Yeah, so as I'm arriving towards Howard
6 Johnson coming from the City, again, the initial
7 information was a report of a water emergency,
8 and then as I was responding, Dispatch provided
9 more details that it was some of kind of assault
10 that occurred, and that the caller said that she
11 was stuck somewhere towards the left side of the
12 building.

13 And, again, from my knowledge of knowing
14 the way the property was laid out, I knew that
15 there was a wooded area somewhere to the left.
16 So when I pulled in, I pulled in towards this
17 angle, parked around this part of the property,
18 and there was another Emergency personnel, Fire
19 and officers on-scene, so I began to go back
20 this way looking to check that area.

21 Q Okay, and were you a part of -- or were
22 you present when the victim was located?

23 A Yes, I was somewhere further back. That
24 me and another firefighter were actually
25 checking, trying to call out for the caller, and

1 another officer mentioned on the radio that she
2 was located, and was walking her back out, so I
3 was coming back out at the same time, but
4 shortly behind the other officer on the call.

5 Q Do you recall where they came out at, or
6 did you see them?

7 A I don't recall that.

8 Q Okay, thank you. I'll have you sit back
9 down. Was there a time when you -- you said
10 that another officer was pulling her out, when
11 you were walking out. Was there a time that you
12 encountered the victim?

13 A Yes, once the -- the victim was up
14 toward -- there was an ambulance already on-
15 scene, so there was medical personnel treating
16 her by the ambulance, and that's when I first
17 encountered her.

18 Q When you first encountered her was there
19 anything -- what -- how did she appear?

20 A Some --

21 MS. TOLLEY: Objection. Just renewing our
22 objection.

23 THE COURT: Thank you, noted for the
24 record, provided I hear the answer first.

25 A She appeared in some hysterical sense.

1 She was worked up about something and was --
2 appeared some kind of trauma has occurred.

3 Q Were you able to take a full statement
4 from her?

5 A I took a brief statement, because at the
6 time, again, she was worked up and was more
7 concerned about her welfare at the time, so I
8 was letting EMS do what they needed to do with
9 her, and I got some basic information as to what
10 occurred.

11 Q As it relates specifically limited to
12 time and place, was there information that she
13 provided to you regarding what had just
14 happened?

15 A Yes.

16 Q And, again, limited to time and place,
17 can you please tell the jury what she was
18 describing had just happened?

19 A At that time she explained that she was
20 -- she escaped from her vehicle that was in the
21 parking lot, and ran off, after being raped by
22 someone just before that. So she ran into the
23 wood line for safety, trying to get away from
24 someone.

25 Q I don't have any other questions,

1 Officer Blackwell, please answer any that
2 defense may have.

3 A Yes.

4 **

5 **CROSS-EXAMINATION**

6 BY MS. TOLLEY:

7 Q Good afternoon, Officer.

8 A Good afternoon.

9 Q You said the victim appeared hysterical?

10 A Yes.

11 Q When someone's using drugs, is their
12 state sometimes altered, or they appear
13 hysterical, or they're acting in a way that's
14 unusual?

15 A It's --

16 Q Is it possible?

17 A It's possible, I've seen it.

18 Q Okay. One moment, please.

19 MS. TOLLEY: Nothing further, Your Honor.

20 THE COURT: Anything further?

21 MR. SHEDD: Just one, just briefly, Your
22 Honor.

23 **REDIRECT EXAMINATION**

24 BY MR. SHEDD:

25 Q Is it possible that she was hysterical

1 because she had just been raped; is that
2 possible?

3 A Yes, that's quite possible.

4 MR. SHEDD: Thank you, Your Honor, I don't
5 have any further questions.

6 THE COURT: Anything further, Ms. Tolley?

7 MS. TOLLEY: Not from me.

8 THE COURT: All right, you may step down.
9 You are excused.

10 WITNESS: Thank you.

11 THE COURT: Is this a good stopping place?

12 MR. SHEDD: Yes, Your Honor, we're at a
13 good stopping point. We have some, obviously, I
14 know the Court knows we have some work to do
15 this afternoon, but it would be outside the
16 presence of the jury.

17 THE COURT: Okay.

18 So, ladies and gentlemen, of the jury we
19 have some other work to do to streamline this
20 trial for you. At this time, ladies and
21 gentlemen, I need you to write your juror number
22 on the front of your pad, or whatever the
23 Bailiff told you to do so we can identify it,
24 and when you walk by just leave it at the front
25 here.

1 THE COURT: Okay, so do whatever they tell
2 you.

3 Ladies and gentlemen, do not discuss this
4 case when you go home. Again, the only thing
5 you're permitted to say is you've been chosen as
6 a juror. I would like to start at 9:30 tomorrow
7 morning, if that's acceptable. If that is too
8 early, for anyone, we can start at 10:00.

9 Is that okay? Is everyone okay with that?
10 And really we can start at 10:00, if that is
11 just easier for you'all, but I want to get the
12 case out, obviously. And we will run as long as
13 we need to, where there is a natural break. I
14 will tell you, we will take a morning break,
15 where you'll just go back to your jury room, get
16 Cokes and coffee, and that's usually around
17 11:00ish, and then we will probably break for
18 lunch right around 1 o'clock for an hour and 15
19 minutes or so, all right and then we'll come
20 back.

21 And, again, I will have you ask about
22 tomorrow, what time the jury can work until, I
23 just need to know a good time, all right? Is
24 everyone fine? Everyone feeling well? Very
25 good.

1 I'll remind you, if you don't feel good
2 over the evening, call into the Clerk of Courts
3 Office. Don't come in, if you don't feel well,
4 okay? I appreciate it. Don't discuss the case,
5 just go home and get a good night's sleep.

6 (Jury exits the courtroom.)

7 BAILIFF: The jury's cleared, Your Honor.

8 THE COURT: The door shut?

9 BAILIFF: Yes, ma'am.

10 THE COURT: All right. What do we need to
11 take up this afternoon?

12 MR. SHEDD: Judge, nothing with Your Honor,
13 I just -- I want to go ahead, as long as Ms.
14 Tolley and Mr. McFadden will remain and are
15 available, we have all of our photographs. I'd
16 like for them to go ahead and look at all that,
17 the other evidence, so that if there's any
18 objections, we can take them up first thing in
19 the morning. And so my point in that was just
20 that I'm not about to run out of here on you, I
21 want to go ahead and get the rest of this
22 evidence lined up, so that they if have
23 objections, we can take it up in the morning.

24 MS. TOLLEY: We're agreeable to that.

25 THE COURT: Okay. All right, that sounds

1 good. So tomorrow morning, can we all be here,
2 roughly, you know, 9:00, 9:15, and I apologize I
3 just got caught in a wreck, and just sat on my
4 way in this morning, so that's where we're at.

5 Can I also have you talking to your -- for
6 the witnesses, to caution them using the word
7 victim repeatedly? I just want to make sure,
8 while it's permissible to say that, I just want
9 to make sure for the record that you don't
10 always refer to K.P. [REDACTED] as the victim, all
11 right?

12 MR. SHEDD: Understood, Your Honor.

13 THE COURT: All right?

14 MR. SHEDD: I'll take care of that
15 tomorrow.

16 THE COURT: I appreciate it, thank you.

17 MR. SHEDD: Your Honor, may we approach?

18 THE COURT: You may.

19 (Bench conference.)

20 THE COURT: All right, so everyone fine?

21 So I'm going to go ahead and be at ease. Ms.
22 Tolley, while you go through and look at these,
23 you and Mr. Walls will join in; is that correct?

24 MS. TOLLEY: He would like to stay, yes.

25 THE COURT: Okay, that's fine.

1 MR. SHEDD: No problem, Judge.

2 THE COURT: All right, thank you'all. And,
3 again, let me know if there's anything, because
4 I'm gonna be here for a while.

5 MR. SHEDD: Yes, ma'am. Thank you, Judge.

6 THE COURT: Thank you. Okay.

7 (At 4:16 p.m., the proceedings were
8 continued until the following day without
9 interruption.)

10 **

11 END OF VOLUME I

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CERTIFICATE OF REPORTER*******

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 26th Day of August, 2024.

I do further certify that I am neither related, counsel, or interest to any party hereto.

This, the 10th day of February, 2024.

Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
COUNTY OF BEAUFORT 14th JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

vs.

CASE NO. 2016-GS-07-02232 - -234

BRIAN DAVID WALLS,

Defendant.

TRANSCRIPT OF JURY TRIAL
VOLUME II
(PAGES 115 - 268)

TRIAL BEFORE:

THE HONORABLE CARMEN T. MULLEN

DATE:

AUGUST 27, 2024

REPORTED BY:

KYMBERLEE M. WILLIAMS, CSR/RPR

APPEARANCES:**Attorneys for the State:**

Sean Thornton, Esq.
Deputy Solicitor
Jared Shedd, Esq.
Assistant Solicitor
State of South Carolina
Solicitor's Office
14th Judicial Circuit
102 Ribault Road
Beaufort, South Carolina 29902

Attorneys for the Defendant:

Juan Tolley, Esq.
Jacob McFadden, Esq.
Assistant Public Defender
State of South Carolina
Public Defender's Office
14th Judicial Circuit
1905 Duke Street
Beaufort, South Carolina 29902

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PROCEEDINGS

TUESDAY, AUGUST 27, 2024

BEAUFORT, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

**

THE COURT: All right, good morning. You said you needed to put something on record?

MR. THORNTON: I do, yes, ma'am. And I'm probably doing this -- well, I'm doing it out of an abundance of caution, it probably is not necessary, but one of the things I mentioned to the Court yesterday was that I have instructed K.P. to not mention there was a gang reference of Mr. Walls, that she alleges and has from day one that Mr. Walls alleged about being in a gang, or being a member of a gang, I've told her not to mention that.

If I don't -- I think the prejudice of that, based on the case law I've seen, far outweighs any probative value. And the fact that he was in jail with her father at one point, I've instructed her not to talk about that, just to simply say, if asked, that, you

1 know, he knew -- that he and her father did know
2 each other, and they knew each other prior to
3 them being incarcerated.

4 So that's part easy, however, in my
5 discourse of that yesterday, I wanted to make
6 sure that I didn't mislead either the defense or
7 the Court by -- there is another piece to that
8 puzzle I do think is relevant, and important,
9 and probative, that I am going to get into with
10 the Court's permission; which is one of the
11 statements, and this is something that's in the
12 incident report, it was in her interview with
13 Josh Dowling, that she says is that Brian Walls
14 tells her that this sexual assault is due to a
15 debt that her father owes money to.

16 And the reason I believe that it's
17 extraordinary relevant in this case is, it's to
18 the, at that time, unidentified a black male who
19 was in the hotel room while they're in the
20 bathroom; meaning, I think that goes a long way
21 to explaining why she might not have been
22 comfortable yelling out or telling anybody if
23 she believes that he is also involved. So on
24 the off-chance that I at all said anything, that
25 I wouldn't be going into that --

1 THE COURT: Okay.

2 MR. THORNTON: Okay, I just wanted to make
3 sure.

4 THE COURT: Are you going to address
5 motive?

6 MR. THORNTON: Yes, ma'am, so I do intend
7 to get into that. I just wanted to make sure I
8 didn't mess that up yesterday.

9 THE COURT: Even though the State is not
10 required to prove motive, but I think --

11 MR. THORNTON: Yeah.

12 THE COURT: -- it goes towards the story,
13 and juries want to know.

14 MR. THORNTON: Yes, ma'am.

15 THE COURT: Okay?

16 MR. THORNTON: Thank you, Your Honor.

17 THE COURT: Okay, anything else before we
18 bring the jury in?

19 MR. THORNTON: No, ma'am, I will tell the
20 Court to the greatest extent I was able to, the
21 defense was kind of enough to stay after-the-
22 fact. We went through photographs.

23 I'm still gonna show them before I present
24 them, but they had only a couple of objections,
25 and it was things that I didn't intend to use

1 anyway. I tore those photographs up and threw
2 them away, so they wouldn't inadvertently get
3 put back. We have the sexual assault kit, which
4 I've shown them the buccal swab from their
5 client and the victim's clothes, which I'm
6 probably just gonna put in through the victim.
7 I've let them know all that.

8 I don't believe there's gonna be any
9 objections. Obviously, that'll be at the time,
10 and I will show it to them before I introduce
11 it.

12 THE COURT: Also we had a juror call in
13 this morning, juror number 57, his wife was in a
14 car accident this morning, and said he went to
15 attend to her, and so you're gonna go ahead and
16 put juror number 142, who is the alternate, in
17 number 57's place, and juror number 142 will
18 take his place, okay?

19 MR. THORNTON: Your Honor, I would ask one
20 other thing.

21 THE COURT: Yes.

22 MR. THORNTON: May we approach briefly,
23 just as to scheduling.

24 (Bench conference.)

25 THE COURT: All right, if you'all are

1 ready, let's go ahead and bring the jury.

2 MR. THORNTON: Yes, ma'am, the State's
3 ready, Your Honor.

4 THE COURT: All right, let's bring the jury
5 in.

6 BAILIFF: The jury's entering the
7 courtroom, Your Honor.

8 (Jury enters courtroom.)

9 THE COURT: Good morning.

10 JURORS: Good morning.

11 THE COURT: It's good to see you all.

12 BAILIFF: Judge, I think it was 530.

13 THE COURT: You think it was 530?

14 BAILIFF: Yeah.

15 THE COURT: I appreciate that.

16 Ladies and gentlemen, I do have to have 12
17 jurors for the trial of this case, so I have
18 picked alternate juror number 142. Yes, sir,
19 you're actually part of the jury now. Stay
20 where you are, or you can come take a seat up
21 front, whatever you choose to, but you are on
22 this jury, all right, sir? Thank you.

23 All right, so State call your first witness
24 this morning.

25 MR. THORNTON: Thank you, Your Honor. The

1 State calls Ashley Hildreth.

2 **

3 ASHLEY HILDRETH,

4 BEING DULY SWORN TESTIFIED AS FOLLOWS:

5 ***

6 DIRECT EXAMINATION

7 BY MR. THORNTON:

8 Q Good morning, ma'am.

9 A Good morning.

10 Q Ms. Hildreth, can you tell us where you
11 work?

12 A I work at Beaufort Memorial Hospital.

13 Q And how long have you worked there?

14 A 21 years.

15 Q And what is your job at Beaufort
16 Memorial Hospital?

17 A I'm the Corporate Director of Quality
18 and a Patient Safety Officer.

19 Q Okay, and back in 2016, specifically,
20 December the 6th of 2016, did you have the same
21 job at that time, or a different job?

22 A I had a different job at that time. I
23 was the Assistant Director of the Emergency
24 Department, and I also served as a Forensic
25 Nurse.

1 Q And so are you trained and qualified, or
2 at that time in 2016, as a nurse?

3 A Yes.

4 Q And can you tell me a little bit about
5 what your training and experience is in nursing?

6 A Sure, so I've been a nurse for 21 years.
7 All of that time prior to this role was in the
8 Emergency Department, so I'm State Board
9 certified in the Emergency Department,
10 specifically. Our training was receiving
11 patients from either EMS or POV, triaging,
12 attending to any injuries that they had,
13 administering medications --

14 Q And in --

15 A -- assessments.

16 Q I'm sorry to interrupt. Let me ask you
17 a quick question, so -- and I know some of
18 these, and we've had this discussion before,
19 some of these questions are gonna sound dumb,
20 but as a nurse do you have educational training?
21 In other words, did you get a degree to be a
22 nurse?

23 A Oh, yes, sorry.

24 Q Okay, go ahead.

25 A So I have an associate's degree in

1 nursing, and I also have a bachelor's degree in
2 nursing, and a master's degree in nursing.

3 Q And I'm gonna ask you, do you know what
4 a SANE nurse is?

5 A I do.

6 Q And I'm assuming that the word SANE
7 nurse is not an explanation of your mental
8 condition?

9 A It is not.

10 Q All right. Can you tell us what a SANE
11 nurse is?

12 A A SANE nurse is a sexual assault nurse
13 examiner.

14 Q And do you have to have additional
15 training, other than just being a nurse to
16 qualify as a Sexual Assault Nurse Examiner?

17 A You do. It's an 80-hour dynamic course,
18 followed by multiple other requirements, to
19 include watching court testimony, forensic
20 examinations that are done under the direction
21 of an emergency room physician, pelvic exams.
22 So you get checked off on all of those, and then
23 we continue our education with continuing
24 education credits.

25 Q And was that -- is that also a -- is it

1 a subset, or a further explanation of being -- I
2 think you'd mentioned earlier, a forensic nurse?

3 A It is, yes, sir.

4 Q So in 2016 were you also a qualified as
5 a SANE nurse?

6 A I was.

7 Q And were you on-call at that point,
8 basically, 24/7 on-call as a SANE nurse?

9 A I was.

10 Q And explain for the members of the jury,
11 does that mean, you know, how does that come
12 about? In other words, how do you get a phone
13 call?

14 A So, typically, what happens is we have
15 critic calls in place, the staff know if someone
16 were to present to the emergency room --
17 Emergency Department, and at any point, whether
18 that be upon arrival, or through their visit,
19 state that they had been a victim of sexual
20 assault, then they follow our protocol, which
21 would be to call my cell phone.

22 They'd call me and I -- yeah, I'm expected
23 to be in the emergency room within 30 minutes.

24 Q So, obviously, you were not present
25 earlier, but there's been testimony from a

1 paramedic that K.P. [REDACTED], in this case, the
2 victim in this case, was -- had complained --
3 had -- she complained of a sexual assault, and
4 she was transported to the hospital; is that the
5 kind -- transported to Beaufort Memorial
6 Hospital, is that the kind of call that you're
7 talking about that you would have been called
8 out?

9 A Yes, that's an example, uh-huh.

10 Q And, in fact, were you called out on
11 December the 6th of 2016 to meet with K.P. [REDACTED],
12 the victim?

13 A I was.

14 Q And when I say K.P. [REDACTED], I'm referring to
15 K.P. [REDACTED]. And did you, in fact, meet
16 with K.P. [REDACTED]?

17 A I did.

18 Q And was that in your capacity as a SANE
19 nurse?

20 A It was. I was called in to be the
21 forensic nurse, the SANE nurse.

22 Q And I know you've kind of -- you've
23 given the very scientific answer; is part of it,
24 basically, that you're there trying to gather
25 evidence, or potential evidence in a case?

1 A It is. So my capacity there is to
2 obtain evidence from that particular victim.

3 Q And do you also gather some information
4 from the person who is complaining of the sexual
5 assault?

6 A Absolutely.

7 Q So let me ask you this, have you ever
8 been qualified as an expert in the State of
9 South Carolina as a SANE nurse, or forensic
10 nurse expert?

11 A I have.

12 Q And how many times have you testified in
13 a State Court?

14 A State Court, six.

15 Q And how about Federal Court?

16 A Twice.

17 Q So a total of eight times?

18 A Yes, sir.

19 Q All right.

20 MR. THORNTON: Your Honor, at this time I'd
21 ask that Ms. Hildreth be recognized as an expert
22 both in forensic nursing, and, specifically, as
23 a SANE nurse.

24 THE COURT: Any objection?

25 MS. TOLLEY: No objection, Your Honor.

1 THE COURT: Ladies and gentlemen, in this
2 case Ms. Hildreth is being qualified as an
3 expert in the area of forensic nursing and as a
4 SANE nurse. That allows her to give her
5 opinion, and the reasons for her opinion.
6 That's for you to use as you feel it's
7 appropriate.

8 MR. THORNTON: Thank you, Your Honor.

9 BY MR. THORNTON:

10 Q Ms. Hildreth, let me ask you a couple of
11 questions about your meeting, and interview, and
12 examination of K.P. in this case.

13 Did you fill out a report?

14 A I did.

15 Q All right, and do you have a copy of
16 that report handy?

17 A Yes, sir, I do.

18 Q All right. So, if at any time -- I
19 realize this is a 2016 case, so if at any time
20 that you cannot remember specific a detail, just
21 let us know that you need to refresh yourself
22 from your report, and you would be welcome to do
23 that.

24 So is one of the questions that you -- when
25 you were gathering information, does one of the

1 questions involve the use of alcohol or drugs?

2 A That is one of the questions, yes, sir.

3 Q All right. And would you have asked
4 those questions of K.P. during your
5 examination?

6 A Yes, sir, I did.

7 Q And did you notate on your report, and
8 do you recall what her response to that was?

9 A I do. She had a negative response to
10 questions about alcohol or drug use.

11 Q All right. And would that have been
12 within the specific timeframe of within the last
13 day, or two days? Is there a specific timeframe
14 that you're looking for?

15 A We do. We ask 96 hours for any drug
16 use, and 24 for any alcohol use.

17 Q All right. Let me ask you, when you
18 were interviewing -- and let's just first start,
19 generally, if you're interviewing, and I'm using
20 the word interview, I probably ought to say
21 examining, but when you're examining a patient
22 who complains of a sexual assault, do you notate
23 whether they are able to talk to you in a
24 coherent fashion?

25 A I do.

1 Q And did you notate that in this case?

2 A I did.

3 Q And was she able to talk to you in a
4 coherent fashion?

5 A She was.

6 Q Could you -- do you have anything
7 specific notated in your report, as --

8

9 A I do.

10 Q -- far as her demeanor?

11 A Yes, sir. I'll refer to my report now.
12 So she was able to readily recall events. Her
13 speech was clear. I did observe her gait, which
14 was steady. She answered everything readily as
15 I asked those questions to her.

16 Q And so does that mean that she would
17 have been able to understand what you were
18 saying, and give what you considered to be
19 appropriate or coherent answers?

20 A That is correct.

21 Q And had she appeared to be under the
22 influence? I think you said she had a steady
23 gait, so if she'd been unsteady on her feet in
24 some way, would you have notated that?

25 A I would have.

1 Q All right. In fact though, you notated
2 the opposite. You said she had a steady gait,
3 and you said she was, I think, tearful, but
4 could -- coherent and could answer questions; is
5 that --

6 A That's --

7 Q -- correct?

8 A That's correct.

9 Q Did you -- and I know you know this, and
10 I think the jury has probably picked up on this
11 by now that, as you know the rule, you cannot
12 talk about the identification of the assailant,
13 based on what she told you, but as to time and
14 place, I think the jury's probably heard that
15 about ten times by now, but limited to time and
16 place, did she indicate to you that she had been
17 sexually assaulted?

18 A She did.

19 Q All right. And did she indicate to you
20 where it occurred, or in what type of room it
21 occurred in?

22 A She did.

23 Q All right, and what did she tell you?

24 A She told me that it occurred in a hotel
25 on Boundary Street in the bathroom,

1 specifically.

2 Q And did -- at some point did she
3 indicate that there was -- during the assault --

4 MS. TOLLEY: Objection, leading.

5 THE COURT: Sustained, don't lead.

6 MR. THORNTON: Yes, ma'am.

7 BY MR. THORNTON:

8 Q Did she indicate whether or not she had
9 suffered any physical attack, or physical
10 strike?

11 A She did. She complained of pain in her
12 -- I want to make sure I tell you right -- on
13 the right side of her face, she said as a result
14 of being punched; and I did note that she also
15 had a laceration on her lip.

16 Q Did they bring in -- did you see the
17 clothing that she came in with?

18 A I did see it, because I packaged it, but
19 she had already been removed out of most of that
20 clothing prior to my arrival on-scene, because
21 she came in wet and muddy, so for her comfort
22 the staff removed it prior to me getting there.

23 Q You answered the next question I was
24 going to ask, which was what was her condition
25 as far as clean, dirty, etcetera. So what about

1 clothes, do you recall whether you notated
2 whether they were clean or not?

3 A I did. I notated that they were muddy
4 and damp.

5 Q When you are gathering evidence in a
6 case like this, how do you go about doing that?
7 Like, physically, what are you going to do to
8 gather potential evidence?

9 A So first I do interview the victim to
10 understand how the assault occurred, physically
11 where on their body.

12 Q And let me stop you right there, why is
13 that relevant?

14 A It's important for me to know what
15 evidence to gather. Secondly, it's important
16 for the victim, to make sure that I don't --

17 MS. TOLLEY: Objection, to referring to [REDACTED]
18 K.P. as the victim.

19 BY MR. THORNTON:

20 Q If you would, ma'am, just refer to her
21 from now on as K.P. [REDACTED].

22 A Okay. So it's important for me to make
23 sure that K.P. [REDACTED] helps guide that head-to-toe
24 assessment, and I usually try to do so from the
25 least invasive to the most invasive.

1 Q So what are the mechanics of -- in this
2 case, and we won't go into generalities, just in
3 this case, what evidence did you gather, or
4 potential evidence did you gather?

5 A So I did gather evidence from the inside
6 of her mouth, which is just typical, to
7 establish her own DNA, so I gathered evidence
8 there.

9 Q And let me ask you, and I'm sorry I keep
10 interrupting, but I want the jury to understand,
11 so what is that, when you -- how do you do that,
12 when you gather inside somebody's mouth? What
13 is that, or what is that commonly referred to?

14 A Those are buccal swabs.

15 Q Okay, I always mispronounce that and say
16 buccal swabs, so buccal swab. Does that look
17 like a giant Q-Tip?

18 A It does. So it looks like two Q-Tips.
19 You do in some areas wet first, and then you
20 roll it secondly with a dry swab. Those are for
21 areas that weren't already moist.

22 On the inside of the mouth it's already
23 moist, and so you would take one dry swab, roll
24 it, and then those are placed in a -- identified
25 and placed in a swab dryer before they're

1 packaged.

2 Q So did you do that in this case?

3 A I did do that.

4 Q All right. So that's one swab that
5 we've talked about. Did you do any other swabs?

6 A I did. So I also did a swab on [REDACTED]
7 K.P.'s [REDACTED] -- looking at laterality again, to make
8 sure that I remember. I did a swab on her left
9 breast. She indicate to me that she was licked
10 in that area, and so I would, at that point,
11 take another dry swab.

12 I rolled it over the area that she pointed
13 out to me, and that was also identified and
14 placed in a swab dryer.

15 Q And when you said that she had been
16 licked there, did she indicate -- and I don't
17 need a name, but did she indicate who had licked
18 her there? Not by name, but in other words, was
19 it the assailant, or somebody else?

20 A The assailant.

21 Q Okay. So based on your testimony, she's
22 indicated to you, and what you testified
23 earlier, about guiding things. So she's
24 indicated to you her assailant licked her left
25 breast. You've now testified you swabbed her

1 left breast for that reason?

2 A That is correct.

3 Q All right. So that's two swabs, did you
4 take any others?

5 A I did. I did a vaginal swab as well.

6 Q And why did you take a vaginal swab?

7 A K.P. indicate to me that she had
8 been penetrated vaginally by the assailant --

9 Q All right.

10 A -- so I collected a vaginal swab, I
11 identified it and dried it as well.

12 Q Ma'am, I'm gonna show you what's been
13 marked for identification as State's Exhibit 34,
14 and ask you if you can identify the contents
15 that are in those?

16 Hopefully, without having to open them, but
17 if you do need to open them, please let me know.

18 A No, sir, I can identify these. These
19 are slides, swabs and evidence that I collected
20 during the evidence collection kit that I
21 opened.

22 Q And is this on -- well, let me ask, on
23 who?

24 A On K.P.

25 Q All right. And, ma'am, when you do

1 these, I see that there are numerous -- or
2 there's some envelopes and other things in here,
3 do those bear your initials across the sealed
4 tape?

5 A They do.

6 Q And is there also a Beaufort Police
7 Department case number on some of the labels
8 that are inside and sealed?

9 A There are.

10 Q And at my request this morning did you
11 review your report for the case number from
12 Beaufort that is written on the report that you
13 did in this case for K.P. [REDACTED]?

14 A I did.

15 Q And does that number match the number of
16 the assault kit that you have in front of you
17 from K.P. [REDACTED]?

18 A It does.

19 Q When you do this kit and everything is
20 prepared, do you personally seal everything up?

21 A That is correct.

22 Q And was there seal evidence tape on
23 across those envelopes?

24 A There was.

25 Q And once you turn it over to law

1 enforcement until you get to court, do you see
2 it again?

3 A I do not.

4 Q While it was in your care, custody and
5 control, once you had done it and sealed it, did
6 you alter it or change it in any way?

7 A I didn't.

8 Q And also this morning at my request, did
9 you -- is there somewhere on your report that
10 you do, where the agency or, specifically, an
11 officer actually picks up the sealed kit?

12 A There is.

13 Q And was that assigned in this case

14 A It was.

15 Q All right, and are you able to look at
16 the printed name of the officer?

17 A Yes, it says H. Cottingham.

18 Q All right. So Officer Cottingham would
19 have been the one that picked this up from you?

20 A That is correct.

21 Q And did you also sign as signature of
22 the examiner?

23 A I did.

24 MR. THORNTON: Your Honor, the Court's
25 indulgence, please, for just one moment.

1 BY MR. THORNTON:

2 Q Thank you, ma'am, I don't have any other
3 questions, thank you very much. Please answer
4 any questions Ms. Tolley has for you.

5 (State's Exhibit 34 admitted into
6 evidence.)

7 **

8 **CROSS-EXAMINATION**

9 BY MS. TOLLEY:

10 Q Good morning.

11 A Good morning.

12 Q How are you?

13 A I'm good, thank you.

14 Q So, Ms. Hildreth, when you begin with a
15 patient, the information you get comes directly
16 from the patient; is that correct?

17 A That's correct.

18 Q Okay. And you don't interview any other
19 witnesses, do you?

20 A I do not.

21 Q Okay. And so you're relying on what
22 she's telling you, in terms of what happened; is
23 that correct?

24 A That's correct.

25 Q And was there a toxicology report done

1 in this case?

2 A Yes, ma'am.

3 Q Okay, and what happened with that?

4 A I don't have that in front of me, but I
5 do note on this sexual assault protocol that a
6 urine drug screen was done.

7 Q Okay, do you know the results of that?

8 A I don't remember, I'm sorry.

9 Q What about are you aware that in the
10 medical report from your hospital, it said that
11 she's a smoker?

12 A Yes, ma'am.

13 Q Okay. Are you aware that it said that
14 she had five eye surgeries?

15 A I don't recall specifically, I'm sorry.

16 Q Okay. If I show you the report --

17 A Yes, ma'am.

18 Q Okay, sure.

19 MS. TOLLEY: Permission to approach?

20 THE COURT: Okay.

21 BY MS. TOLLEY:

22 Q I'm gonna hand you this report.

23 A Yes, ma'am.

24 Q Does it say that she had five eye
25 surgeries?

1 A It does.

2 Q Okay, thank you.

3 A Yes, ma'am.

4 Q And are you aware in the report it says
5 she had implanted contraception?

6 A Yes, ma'am.

7 Q And in your report, there were no
8 reports of lacerations in the vaginal area; is
9 that correct?

10 A That's correct.

11 Q No reports of lacerations in the anal
12 area; is that correct?

13 A We didn't do an anal exam.

14 Q Okay, so you don't know?

15 A We deferred that exam, since she did not
16 say she had anal penetration.

17 Q Okay, great. So the answer to that will
18 probably be, no?

19 A No, that she had lacerations? I didn't
20 look.

21 Q Okay, great, thank you.

22 A Yes, ma'am.

23 Q One more thing, are you aware -- I think
24 you mentioned that she said she had been kissed
25 on the right side of the face; is that correct?

1 A If I recall, she said she was punched.
2 A direct quote on my report said, "Punched on
3 the right side of the face."

4 Q Okay, and are you aware that the doctor
5 at the hospital, who examined her, said that she
6 complained of pain on the left side, even though
7 she said she was hit on the right side?

8 A I was not aware, no, ma'am.

9 Q Okay. If I show you the report?

10 A Sure. It does say, "She was punched in
11 the right side of the face prior to this. She
12 does have some mid-jaw pain on the left."

13 Q Okay, thank you.

14 A She states, however, she was punched on
15 the right side.

16 Q Thank you, okay. Thank you.

17 Nothing further.

18 THE COURT: Redirect?

19 **REDIRECT EXAMINATION**

20 BY MR. THORNTON:

21 Q So just to reiterate, the medical
22 records that we provided to defense, she was
23 consistent and told you and the doctor that she
24 had been hit on the right side of the face?

25 A That is correct.

1 Q Fantastic, thank you, ma'am.

2

3

RECROSS-EXAMINATION

4

BY MS. TOLLEY:

5

6

Q But she reported mild pain on the left side?

7

8

A According to the physician's note, that's what she reported to the physician.

9

Q Thank you.

10

MR. THORNTON: Nothing further, Judge.

11

12

THE COURT: Any objection to this witness being excused?

13

14

MR. THORNTON: None, Your Honor. I would ask she be subject to recall.

15

16

THE COURT: Okay, subject to recall, and you are excused.

17

WITNESS: Thank you, ma'am.

18

THE COURT: Call your next witness.

19

MR. THORNTON: Officer Hillary Cottingham.

20

HILLARY COTTINGHAM,

21

22

BEING DULY SWORN TESTIFIED AS FOLLOWS:

23

24

DIRECT EXAMINATION

25

BY MR. THORNTON:

1 Q Officer Cottingham, who do you work for?

2 A Beaufort City Police Department.

3 Q And how long have you worked for them?

4 Nine-and-a-half years.

5 Q So were you working for them on or about
6 December the 6th of 2016?

7 A I was.

8 Q And did you respond out to the Beaufort
9 Memorial Hospital that evening?

10 A I did.

11 Q And what was the purpose of your trip
12 out to Beaufort Memorial Hospital?

13 A I was requested to respond in reference
14 to standing by to be with K.P. [REDACTED] until
15 Investigations could arrive.

16 Q And did you respond out to the hospital
17 during the time that she was being examined by
18 the SANE nurse, Ms. Hildreth?

19 A I did, I stood by until she met with the
20 nurse.

21 Q And did you retrieve anything from the
22 SANE nurse by Ms. Hildreth?

23 A I did. They called when a sexual
24 assault kit was completed, and I responded upon
25 notification that it was ready to retrieve it,

1 so that I could submit it into evidence.

2 Q Ma'am, I'm gonna show you what's been
3 marked for identification at this point, as
4 State's Exhibit 34, and ask you if you can
5 identify that?

6 A Yes. This would be the sexual assault
7 collection kit that was submitted, based on also
8 the corresponding case number and K.P.'s
9 name, and all the items that are typically
10 associated with a sexual assault kit.

11 Q You answered my second question I was
12 gonna ask you, so let me ask you additionally,
13 did it -- when you go and pick up a sexual
14 assault kit, do you sign somewhere on the same
15 -- at the bottom of the SANE nurse's report?

16 A Correct. There is paperwork associated,
17 and we sign our signature and date and time of
18 receipt.

19 Q And does that also have the case number
20 on it?

21 A Yes, the associated case number for such
22 an incident would be included.

23 MR. THORNTON: I'm not going to introduce
24 this into evidence, Your Honor, I've shown it to
25 defense, this is the SANE nurse's report.

1 BY MR. THORNTON:

2 Q I'm just gonna ask you, is your
3 signature -- is your name printed out -- appear
4 at the bottom of that document?

5 A It does.

6 Q And is it -- does it have a case number
7 -- a City of Beaufort case number on it?

8 A It does.

9 Q And does that match the case number
10 that's sealed inside the bag with the sexual
11 assault examination kit?

12 A Yeah.

13 Q And -- thank you, ma'am. Once you
14 received, ma'am, State's Exhibit 34 for
15 identification, once you receive that item, did
16 you -- was it sealed when you received it?

17 A It was.

18 Q And did you open it, alter it, or do
19 anything to it in any way?

20 A No.

21 Q What did you do with it once you grabbed
22 it?

23 A I then immediately responded to Beaufort
24 City Police Department and locked it in a
25 secured refrigeration unit that's in our

1 Evidence Department.

2 Q And I'll ask you about something else
3 while you were there, but other than this
4 procedure, did you have anything else to do with
5 this case once you dropped that off into --
6 locked it into evidence?

7 A I did not.

8 Q While you were at Beaufort Memorial
9 Hospital, did you talk to K.P. [REDACTED]?

10 A Briefly, yes.

11 Q And I don't want you to go into what she
12 told you, specifically, but was she -- did she
13 appear to be steady on her feet?

14 A No.

15 Q All right, in what way?

16 A Well, she was already -- she was in a
17 bed at the time.

18 Q Oh, I'm sorry, I should have --

19 A Yeah, yeah. At my arrival --

20 Q It's hard to be steady on your feet, if
21 you're laying down.

22 A Correct.

23 Q Let me ask you a better question. Was
24 she able to talk to you?

25 A Yes.

1 Q Did she seem to understand as you were
2 conversing with her?

3 A Yes.

4 Q And was she, for lack of a better word,
5 coherent?

6 A Yes.

7 Q I don't have anything further, ma'am,
8 please answer any questions Ms. Tolley has.

9 MS. TOLLEY: No questions.

10 THE COURT: All right.

11 MR. THORNTON: I ask that she be excused,
12 Judge.

13 THE COURT: You're excused.

14 WITNESS: Thank you.

15 THE COURT: Who is your next witness?

16 MR. THORNTON: At this time, Your Honor,
17 the State calls K.P. [REDACTED].

18 **

19 K.P. [REDACTED],

20 BEING DULY SWORN TESTIFIED AS FOLLOWS:

21 ***

22 DIRECT EXAMINATION

23 BY MR. THORNTON:

24 Q And, ma'am, what is your middle name?

25 A K.P. [REDACTED].

1 Q And is that the name you typically go
2 by?

3 A Yes, sir.

4 Q All right. Well, since I've called you
5 that now for several years, I think I'm gonna
6 stick with K.P., if that's okay with you?

7 A That's fine.

8 Q All right. So, K.P., how old are you?

9 A I'm 27.

10 Q And how old were you back on December
11 the 6th of 2016?

12 A I was 19.

13 Q Is it safe to say that you remember
14 December the 6th of 2016?

15 A Unfortunately.

16 Q So do you know a man by the name of
17 Brian Walls?

18 A I do.

19 Q And do you see Mr. Walls here in the
20 courtroom?

21 A I do.

22 Q And where is he?

23 A Right here.

24 MR. THORNTON: Your Honor, let the record
25 reflect she's pointing at the Defendant, Mr.

1 Walls.

2 BY MR. THORNTON:

3 Q K.P. [REDACTED], back in 2016 did you know who
4 Brian Walls was?

5 A I did.

6 Q And how did you know him?

7 A He was a friend of my father's.

8 Q Had you seen him one time before
9 December the 6th, or more than one time?

10 A Multiple times.

11 Q Would it be safe to say did you know him
12 well enough to recognize him when you saw him?

13 A Absolutely.

14 Q So on December the 6th of 2016, can you
15 -- did you hear from Mr. Walls at some point,
16 the Defendant in this case?

17 A I did.

18 Q And tell me about that.

19 A He had reached out to me, he had called
20 me kind of the evening time, later on in the
21 afternoon, and he had asked me for a ride, him
22 and his kids for a ride to Pageland.

23 Q All right, when you say his kids, had
24 you ever met them before?

25 A I had.

1 Q All right, and how old were they at that
2 time, if you know?

3 A I believe 14 and 15, I believe.

4 Q All right, so he -- you indicated -- you
5 testified he called and asked you for a ride?

6 A Right.

7 Q So did you go pick him up?

8 A I did.

9 Q All right and tell me about that.

10 A So I left, went, grabbed -- got him.
11 When I arrived, it was not just him, there was
12 multiple people, so that was a little much for
13 me, and then he wanted to go a couple places.

14 I didn't really want to go a couple places,
15 so I told him that we needed to be bright --
16 brief and quick. He asked me if I could take
17 him all the way to Point South, a hotel out
18 there.

19 Q All right, let me -- and, I'm sorry,
20 **K.P.**, I may have to interrupt you every once
21 in a while.

22 So stop for a second, so where are you when
23 he calls you? I probably should have asked you
24 that.

25 A At home.

1 Q All right, and at that time where was
2 home?

3 A Shell Point.

4 Q Okay. And where is he that he's asked
5 you to pick him up? And when I say he, I mean
6 the Defendant, Brian Walls.

7 A Bonaire.

8 Q And for folks on the jury who may not be
9 real familiar, how far of a drive away is that?

10 A Maybe five minutes.

11 Q Okay. So he wants to go out to -- where
12 did you say?

13 A Point South.

14 Q And how far is that from where you were?

15 A Like 40 minutes.

16 Q All right, go ahead.

17 A Okay. So he had asked to go that far
18 out, and at the time I had a one-year-old son,
19 and I just didn't want to leave that far out, I
20 needed to get back to him, so I told him that I
21 couldn't take him that far out, he would need to
22 go somewhere closer, and that's when he told me
23 that he would just go to the Howard Johnson's.

24 Q All right.

25 MR. THORNTON: And this is not in evidence,

1 Your Honor, it's just being used for
2 demonstrative purposes, but it's State's -- I
3 apologize, I can't read Mr. Shedd's writing, I
4 will ask.

5 MR. SHEDD: Two.

6 MR. THORNTON: Mr. Shedd tells me it's
7 State's 2.

8 BY MR. THORNTON:

9 Q Ma'am, if you would, could you --

10 MR. THORNTON: Your Honor, with the Court's
11 permission?

12 THE COURT: Uh-huh.

13 BY MR. THORNTON:

14 Q Could you just step down real quick?

15 All right, can you tell me, if you see on here,
16 you said the Howard Johnson; is that the Howard
17 Johnson that you eventually went to?

18 A Yes.

19 Q All right, and did you make other stops
20 prior to getting there?

21 A We did.

22 Q Okay. All right, you can go ahead back
23 over to your seat. So your testimony is, he
24 indicated he wanted to go to the Howard Johnson,
25 is that -- do you -- what county is that in; do

1 you know?

2 A Beaufort.

3 Q Okay. So tell me what happens after you
4 agree to take him out to the Howard Johnson's?

5 A So we stopped by an associate of his, I
6 guess, a friend's house of his. He asked to
7 stop by there. I believe the guy's name was
8 D.J., I'm not exactly sure. So we stopped by
9 there, we were there for a few moments.

10 Q All right and let me stop you for a
11 second. Who is in the car at this point with
12 you?

13 A At this point in the vehicle it's me,
14 Brian Walls, Courtney Brock, John Priester,
15 X.W. [REDACTED] and K.W. [REDACTED].

16 Q All right, so let me back up for a
17 second, and we're talking about on December the
18 6th of 2016, so when this is going on, you've
19 already testified you knew who Brian Walls was,
20 and you testified you knew who his kids were.
21 Did you know their names?

22 A I did.

23 Q All right. Did you know who Courtney
24 Brock was, or had you met her before?

25 A I did not.

1 Q All right, and did you know her name?

2 A No.

3 Q All right. Did you know John Priester's
4 name at that point?

5 A I did not.

6 Q All right, and so when you refer to him,
7 I want you to remember that we have to talk
8 about it as you knew then, not as you know now;
9 so at that time did you know who he was?

10 A I did not know who he was.

11 Q All right. Had you ever met John
12 Priester to your knowledge?

13 A I had not.

14 Q So the -- it's one -- I'm sorry, my
15 arithmetic's not great, so that's six people?

16 A Yeah.

17 Q What kind of car have you got?

18 A A Toyota Camry.

19 Q All right, and did you have a Toyota
20 Camry on or about December the 6th of 2016?

21 A I did.

22 Q That's awfully tight for six people.

23 A Yeah.

24 Q All right, so where did you'all go?

25 A So we left from there, and he pit-

1 stopped by an associate's house, I believe his
2 name was D.J.

3 We were there for a few moments, probably
4 15 minutes, and then we left from there, and he
5 needed to go by the gas station, so we went to
6 the Parker's, and drove out --

7 Q Hang on for me just a second.

8 Ma'am, I'm gonna show you what's been
9 marked as State's Exhibit 13 and 14, and ask if
10 you can identify what's going on in those
11 pictures? And when you talk about them, if you
12 would just refer to the number, individually,
13 okay? Which one are you looking at now?

14 A State's 14.

15 Q All right, so these are just for
16 identification, so don't show them to anybody,
17 but State's 14, can you describe for me what's
18 in that picture?

19 A State's 14, a picture of me walking into
20 Parker's gas station.

21 Q All right, and is that what you were
22 wearing that day?

23 A Yes, sir.

24 Q And when I say that day, I mean on
25 December the 6th of 2016?

1 A Yes, sir.

2 Q And is -- what about the next? And
3 just, again, identify it by the number.

4 A All right. State's 13 is a picture of
5 Courtney Brock, X.W. [REDACTED], K.W. [REDACTED], Brian
6 Walls, and an unidentified man that I did not
7 know at the time it was taken.

8 Q Right, okay, so you didn't know him, but
9 is that the man who was riding with you?

10 A Yes.

11 Q Okay, that you now know as John
12 Priester?

13 A Yes.

14 Q All right. Now, these pictures, are
15 they a fair and accurate representation of how
16 you appeared and how they appeared that day as
17 you walked into the Parker's gas station?

18 A Yes.

19 Q Does it look like I've altered, or
20 changed them in any way?

21 A No.

22 Q Is there a reason that you're not
23 standing, that you can't see you in the picture
24 of the group with the rest of the folks, and
25 you're by yourself, or were you with them, or

1 ahead of them, behind them?

2 A I was behind them.

3 Q Okay. And did you stay and walk up to
4 the register with them, or did you turn around
5 and leave?

6 A I turned around back outside.

7 Q All right.

8 MR. THORNTON: Your Honor, at this time I'd
9 ask that State's 13 and 14 be moved into
10 evidence.

11 MS. TOLLEY: Without objection.

12 THE COURT: Without objection in evidence.
13 You may approach.

14 MR. THORNTON: Thank you, Your Honor.

15 (Plaintiff's Exhibits 13-14 admitted into
16 evidence.)

17 BY MR. THORNTON:

18 Q And this is State's Exhibit 14,
19 Courtney, so who is the person in that
20 photograph?

21 A That is me.

22 Q I'm sorry, [K.P.], I apologize, I don't
23 know what I said the name Courtney.

24 So, [K.P.], who is that a picture of?

25 A That is me.

1 Q All right, and I'm gonna back up now,
2 K.P. , and ask you -- I know you testified at
3 the time you don't know his name, but is that
4 the gentleman that you identified as riding with
5 you?

6 A Yes, sir.

7 Q All right, and who is this?

8 A Brian Walls.

9 Q And who is that?

10 A Courtney Brock.

11 Q And who are these two young men here?

12 A K.W. and X.W. .

13 Q And, again, that is at the Parker's?

14 A Yes, sir.

15 Q And which Parker's is it?

16 A It's 59 on Trask Parkway.

17 Q All right, K.P. , I'm actually
18 struggling a little bit to figure out why I just
19 called you Courtney, I have no idea why, so I'm
20 gonna do my best not to do that again to confuse
21 you, or the jury or anybody else. So, K.P. ,
22 when you walk into the Parker's you're standing
23 there, what do you do after that?

24 A I go back outside.

25 Q All right. And tell me what happens

1 then.

2 A I go back outside, I'm waiting outside.

3 Q Uh-huh.

4 A Brian and them come out. They have a
5 couple cases of beer, a couple grocery bags with
6 food in them, and it looks like they had gotten
7 hot food as well, a couple hot food things.

8 Q All right. Let me back up for a second,
9 something I should have asked you earlier. When
10 they -- when all these folks get into your car,
11 do they -- are they bringing anything with them?

12 A Yes, they --

13 Q And what types of things are they
14 bringing with them?

15 A Bookbags, you know, things that I would
16 assume they were carrying their things in.

17 Q And so they had bookbags already in
18 there, and now they come out of the Parker's,
19 and you said they had bought a couple cases of
20 beer?

21 A Correct, a couple cases of beer, a
22 couple grocery bags, a few other things and then
23 some food.

24 Q Where, if anywhere, do you'all go once
25 they come back out to the car?

1 A We went to the Howard Johnson.

2 Q All right, so you went straight from the
3 Parker's to the Howard Johnson's?

4 A Correct.

5 Q All right. What happens once you get
6 into the Howard Johnson's?

7 A So we arrived at the Howard Johnson, and
8 their inside office is closed, because it's
9 getting dark out. So John gets out, I guess
10 because he --

11 Q You can, but, again, just to be clear
12 for the record, you didn't know who Mr. Priester
13 was at that time?

14 A Correct.

15 Q Okay.

16 A I had no idea who he was.

17 Q All right.

18 A However, he gets out of the vehicle
19 first, and he goes over to obtain a room,
20 because he was the only one with an ID that was
21 able to be used.

22 So that's what they were discussing, and he
23 hops out. He goes to the side, I guess there's
24 like a little desk, a window where you can get a
25 room. So he's there probably 20 minutes it

1 feels like, it was a while it took him to get a
2 room. And eventually Courtney gets out, and she
3 goes to check to see what's going on because it
4 had taken so long. So, finally, they get a room
5 key, and they come over. Courtney and John and
6 **K.W.** immediately start walking straight up to
7 the room, and I go to park the car.

8 So they're on the left side of the
9 building, I went to the right side, so I went to
10 the wrong side. I had to turn around and come
11 back around and go to the left side and park.

12 **K.W.**, Courtney and John have already went up to
13 the room, and they'd left all of their things in
14 the car.

15 **X.W.** gets out and he grabs one of the
16 bags and goes upstairs. And so **K.W.'s** there,
17 Ryan is there with all of these things, and, you
18 know, I'm trying to politely like, "Go ahead and
19 go, it's time for me to go." And he asked for
20 help bringing stuff up to the room. I politely
21 try to tell him like, "I really need to go ahead
22 and go."

23 And he's just, "Can you just real quick can
24 you help me bring all this stuff up to the room?
25 I really need to get it up there, and then you

1 can go ahead and go." So I get out, I grab I
2 believe a bookbag, one grocery bag and a case of
3 beer, so a case of beer in one hand.

4 So the Howard Johnsons is on the left side
5 there's a staircase that goes up to the second
6 story, so you don't have to go through the main
7 side, so they were on the second floor, so we
8 went up there to the second floor and we went
9 in.

10 Q And hang on a second, please stop for a
11 minute, and I know we've talked about this a
12 couple of times, and it's been a long time.

13 Can you, by any chance, remember the room
14 number?

15 A It is 227.

16 Q Okay. All right, go ahead.

17 A So -- and it wasn't very far when we
18 went in. So we went up and it was just a couple
19 rooms down over to the right, and so we went in.
20 I immediately -- most hotels are set up the same
21 way so when you walk through the door there's a
22 desk and dresser with a TV is on the right side,
23 and the two -- the first thing you pass is the
24 bathroom, and Courtney's actually in there using
25 the bathroom with the door open.

1 So the bathroom's right there, and then you
2 have two beds. So I walk in, pass the TV, and
3 there's a desk right there. So I turned, I sat
4 the case of beer down, sat the bag down, pulled
5 the bookbag off of me. And at this time Brian's
6 coming behind me, so we're talking in a line
7 together. I came in the room first, Brian comes
8 behind me. So I set everything down, Brian's
9 coming behind me, John is at the door. At this
10 time I did not know his name was John, but he is
11 at the door, and he's closing the hotel room
12 door. I am anticipating on leaving, so I set
13 the things down, but then I immediately turn
14 around to go ahead and go.

15 As I'm turning around, Brian is coming
16 behind me, and he says, "It's hot in here," and
17 he just pulls his shirt off, and the A/C unit is
18 this side where the window would be. So he
19 comes behind me as I'm setting the stuff down
20 and turning to go leave, and he cuts the A/C
21 unit off, at the same time that John is locking
22 the door, and he just hit me hard, extremely
23 hard in the face. I immediately started crying.

24 Q And I'm so sorry to interrupt you. Who
25 hit you in the face?

1 A Brian did.

2 Q And when you say Brian, who are you
3 referring to?

4 A Brian Walls.

5 Q And, again, you're indicating, who are
6 you pointing to?

7 A Brian Walls.

8 MR. THORNTON: Again, Your Honor, let the
9 record reflect she's identified the Defendant,
10 Brian Walls.

11 BY MR. THORNTON:

12 Q Go ahead, ma'am.

13 A So he hit me in the face, and
14 immediately -- as soon as he hit me, he like
15 grabbed my nose and my mouth and like pulled me
16 against him. He told me not to scream, and I
17 started crying, and like sucking up at the same
18 time, like making noise, and he just said, "Like
19 I mean it, I'll kill you." And I'm like crying,
20 I peed on myself a little bit, and I'm trying
21 not to like fully pee on myself, and I'm
22 terrified.

23 And so like he slowly moved his hand a
24 little bit, and I just like, "I have to use the
25 bathroom." That's all I said, "I have to use

1 the bathroom," and I'm like sucking up, I cannot
2 get it together. John comes over -- I have a
3 sweater on, the cardigan that you saw in the
4 picture, I have a sweater on, John starts
5 patting me down, basically, to see what all I
6 have. He removed my cell phone, and my car
7 keys. I think I had a thing of Chapstick in my
8 pocket. So he takes everything out of my
9 pockets and he puts it on the bed. He takes my
10 sweater off, and I'm just standing there, and I
11 tell Brian again, "Look, I need to use the
12 bathroom, I'm gonna pee on myself."

13 And so he walks me by my neck, like he's
14 holding me in the back of my neck, and he walks
15 me to the bathroom. And he's behind me and we
16 go in together, and he actually watches me use
17 the bathroom, but was polite enough to close the
18 door.

19 So he closes the door, I use the restroom,
20 and he starts telling me that my father owes
21 people money, and that the gentleman in there is
22 associated with the people that he owes money
23 to, and --

24 Q And when you say the gentleman in there,
25 who is in there? Who's the only gentleman in

1 there that's an adult?

2 A Correct. So at that time he was
3 referencing the John Priester. So the gentleman
4 my father had owed him and his peoples some
5 money, and, unfortunately, this is what happens
6 when things like that are not paid.

7 So at the time I managed a loan office, and
8 I offered to go to the ATM and pull money out, I
9 have my own money, and Brian told me that we
10 were, unfortunately, past that point.

11 So I am hysterically crying through the
12 whole thing. I'm telling him, "You know, we
13 don't have to do this, you can have anything
14 that I have, and will be happy to go get it for
15 you, and we can go to Parker's, and he is just
16 denying every chance on that. He takes some
17 stuff out of his pockets, he's just rambling --
18 rambling also as he's moving things around, kind
19 of like tweaking, weird.

20 I'm crying, and at this point I'm facing
21 Brian, so I'm standing against the sink, and
22 Brian is standing right in front of me, so can't
23 move. And he's doing his rambling, he's
24 fiddling with his pockets, and, eventually, he
25 tells me that I need to turn around. And I tell

1 him like, "Brian, we don't have to do this."
2 "And we have to do this, unfortunately, like
3 there's no other choices for you at this point."
4 So I turn around and I'm crying, and I'm just
5 asking him like not to, and he like puts his arm
6 on the back of my neck, and just kind of like
7 bends me over. I'm still crying, but at this
8 point, I have stopped asking. I'm no longer
9 talking, I'm just crying. And at that point
10 Brian sexually assaulted me, he forcefully
11 penetrated me, and --

12 Q And --

13 A -- he assaulted me.

14 Q We've had this discussion before, and
15 you know, unfortunately, I have to ask you some
16 fairly specific unpleasant questions. So when
17 you say he sexually assaulted you, did any part
18 of his body penetrate any part of your body?

19 A He did, so --

20 Q And what part of his body penetrated
21 what part of your body?

22 A So he forced his penis inside of my
23 vagina.

24 Q And do you know whether or not you felt
25 him ejaculate?

1 A I -- yes, he did.

2 Q What happened after that?

3 A After that Brian lit a cigarette --
4 well, he pulled his pants up, I pulled mine up.
5 I'm sobbing on the sink. He pulled his pants up
6 and he lights a cigarette. At the time I'm a
7 smoker, and I'm terrified, and so I just asked
8 him if I could have one.

9 And so he lights me a cigarette, and we sit
10 in the bathroom, and he apologizes to me for
11 what he just did. And he tells me that he's
12 sorry, but once again these things had to
13 happen.

14 And then a few minutes go by, and he tells
15 me that we're gonna go to the ATM. So we smoked
16 our cigarettes, we didn't really talk much. The
17 few minutes go by, we're gonna go to the ATM.
18 Going out of the door --

19 Q All right.

20 A -- he grabs --

21 Q Let me stop you for just a second. At
22 any time did any other part of his body make
23 contact with any part of your body?

24 A He did.

25 Q Okay, can you tell me about that?

1 A So while Brian was sexually assaulting
2 me, he started by bending me over. In the
3 middle of it, Brian asked me to turn around. He
4 also asked for Courtney Brock to bring him a
5 beer in the middle of it, which she did, and
6 this is the point where he asked me to turn
7 around.

8 He took a swig of his beer, and then put
9 himself back inside of me, and at that point he
10 put his mouth on my breast. He also kissed me.

11 Q Okay. All right, I'm sorry, go ahead.
12 You were talking about you were about to leave
13 the room.

14 A So when we went to leave, he grabbed my
15 hand, and he just wouldn't let go of my hand.
16 So we're talking out of the bathroom, but still
17 back into the hotel room. We walk out.

18 K.W. and X.W. are at the edge of the
19 first bed watching TV right next to the
20 bathroom. Courtney is laid out, I believe, on
21 the other bed, and John is also out here. So he
22 tells them that my girl is gonna take me to the
23 ATM, and so --

24 Q And who -- he was telling that to who?

25 A Brian tells everybody else that's in the

1 room, which would be John, Courtney, X.W. and
2 K.W..

3 Q And he says, "My girl was gonna take,"
4 and so who was he referring to as my girl?

5 A Me.

6 Q Go ahead.

7 A That I was gonna take him to the ATM.
8 So in order to do that we need car keys. I
9 grabbed -- everything of mine was thrown
10 together, I grabbed all of my stuff, my
11 cardigan, just everything, and we're leaving.

12 Q So you had indicated earlier that your
13 phone had been pulled out, so did you retrieve
14 that?

15 A I did.

16 Q And did you retrieve your car keys?

17 A I did.

18 Q And you said your cardigan?

19 A I'm sorry

20 Q You also testified your cardigan
21 sweater, whatever you want to call it?

22 A Cardigan, yes, sir.

23 Q All right, go ahead.

24 A So I grabbed all of my things and put
25 them back in my -- put my stuff back in my

1 pocket and put my cardigan on and put my stuff
2 back in my pockets. My phone was turned off, I
3 did not turn it back on.

4 So we leave to go out of the hotel door,
5 and as soon as we walk out of the door Brian
6 lets go of hand. We're walking, we go
7 downstairs. I have a '99 Toyota Camry at the
8 time, and I bought it for \$600, and it was
9 falling apart. The door handles were broke,
10 pretty much almost all of them. So I knew
11 getting into my car that the only side that you
12 can get on the front is the driver's side.

13 If you wanted to get in on the passenger
14 side, the driver has to get in the door, like in
15 their side, lean over and open the door for you
16 to get in. That was my only chance in my brain,
17 so -- and we're walking, we come down the stairs
18 that lead to the sidewalk, obviously, we go
19 straight to my car.

20 As I'm walking there, I remind Brian,
21 "Remember that my door handle is broken, and I
22 have to let you in the car, you can't open it
23 from the side." So he's still probably right on
24 the sidewalk right in front of the car as I'm
25 opening my door, and I just threw myself in

1 there, started the car.

2 I cannot believe I got it in reverse so
3 fast, and I just hit the gas. At least I didn't
4 flip over. We just started spinning. I believe
5 there's a bunch of tire marks all over there. I
6 might have hit a car. I think I hit him while
7 we were spinning, because, obviously, he's not
8 in the vehicle, but I was going too fast, and I
9 couldn't see, obviously, which way to point, so
10 I had to stop, gather myself to figure out which
11 way I needed to go to get out of here.

12 So I hit the brakes and I stop, and Brian
13 gets up, and he gets in through my backdoor of
14 my car. So he's just kind of throwing himself
15 in, and as soon as he throws himself into the
16 backdoor, back passenger side, I hit the gas
17 again, and we start spinning again.

18 So at this point the car's spinning,
19 Brian's hitting me. He yelled out, "Don't do
20 this." I'm still on the gas spinning, and
21 finally I just brake -- hit the brakes, and just
22 go to jump out of the car. Brian had me by my
23 sweater -- by the back of my sweater, but I knew
24 that my phone was in my pocket, so as I
25 literally threw the door open to jump out, threw

1 my hand in my pocket and came out of my sweater,
2 Brian had ahold of me, and I just jumped. I
3 fell jumping out of the car, did not land right.
4 So as soon as I got back up, I just took off to
5 the left side, because that's the side that we
6 were parked on.

7 Hurricane Matthew had come through a couple
8 months before this, and there was a big downed
9 tree down there, so I jumped up over the tree,
10 and kind of hid inside of it, just long enough
11 to look and see if he was still after me, and he
12 was chasing me on-foot.

13 So I went to get out of the back of the
14 tree, stumbled and fell, got back up, and
15 started running. So the dirt road behind the
16 tree ends up into a marsh. So I ran down into
17 the marsh, and almost immediately I start
18 sinking. I was on feet for probably like ten
19 seconds maybe, and then I was just sinking too
20 much. I couldn't get fast enough, so I got down
21 on my stomach, and I just started crawling.

22 I periodically looked back to see, and I --
23 when I did not see Brian anymore, I stopped. I
24 turned around and I see headlights coming. The
25 only thing that I believe is just that he pulled

1 my vehicle over to try and see me, so I just
2 keep going. I'm trying to turn my phone on,
3 because my phone was turned off. I had a little
4 crappy Metro Android at the time, so I'm trying
5 to get my phone to turn on. And it's finally
6 turned on, but there's so much mud all over me
7 and my phone that I'm having trouble getting it
8 to open, so that I can call 911.

9 So I finally get my phone open and I call
10 911, and they, you know, you hear it from the
11 911 call that I'm hiding in the marsh, and I'm
12 continuously moving the entire time I'm on the
13 phone with the operator until somebody gets
14 there.

15 Q So you testified just a minute ago that
16 -- I know it's hard for everybody to hear, but
17 the 911 call, was that you that made that phone
18 call?

19 A It was.

20 Q And were you far enough out into the
21 marsh that you were in water as well as mud?

22 A I was.

23 Q All right. And do you understand me,
24 have you lived -- how long have you lived in
25 this area?

1 A I'm from here.

2 Q Do you understand how dangerous it is to
3 be out in the marsh like that?

4 A I actually almost lost my life in the
5 marsh when I was like nine. My mama had to come
6 get me out of there, because I was playing.

7 Q I'm gonna hand you what is marked first
8 as -- and I just want you to tell me, if you
9 know what this is, okay? That is State's 23,
10 24 --

11 MR. THORNTON: I'm sorry, Madam Court
12 Reporter.

13 BY MR. THORNTON:

14 Q 22, 23, 24 and 4, just for
15 identification at this point. Can you just tell
16 me in general what those are photographs of?

17 A These are photographs of my car at the
18 time.

19 Q And you said at the time, so was that
20 your vehicle, the Camry that you talked about?
21 Are those photographs of the Camry that you had
22 back in December of 2016?

23 A Yes, sir.

24 Q And is that the car that you've been
25 talking about that you dove out of, that you

1 were just talking about a few minutes ago?

2 A Yes, sir.

3 Q I'm next gonna hand you a group of
4 photographs, which is State's 25 through 33,
5 okay? And just, in general, if you would tell
6 me what these are photographs of, if you
7 recognize them?

8 A They're photographs of me, injuries.

9 Q All right, if you say photographs of
10 injuries, injuries on who?

11 A On me.

12 Q And were those the injuries that you
13 received before, during and after the sexual
14 assault?

15 A Correct.

16 Q And were those taken by law enforcement?

17 A Yes.

18 Q Does it appear that I've altered or
19 changed them in any way

20 MR. THORNTON: Your Honor, at this time I'd
21 ask that State's 25 through 33, so that's 25,
22 26, 27, 28, 29, 30, 31, 32 and 33, be moved into
23 evidence and 22 - 24 and 4.)

24 MS. TOLLEY: Without objection.

25 THE COURT: Admitted without objection.

1 MR. THORNTON: Thank you, Your Honor.

2 (State's Exhibits 4, 22-33 were admitted
3 into evidence.

4 BY MR. THORNTON:

5 Q It's always a little bit hard to get the
6 lighting exactly correct.

7 So, K.P. [REDACTED], in 25 and 26 are these just
8 scratches that were on your arm?

9 A Yes.

10 MR. THORNTON: I'm gonna do this, Your
11 Honor, the old-fashioned way with the Court's
12 permission. It's hard to see the lighting in
13 some of these.

14 BY MR. THORNTON:

15 Q All right, you had already testified,
16 K.P. [REDACTED], as to 25 and 26 being scratches on your
17 arms. And 27 may just not be a great picture,
18 but can you identify for the Court and for the
19 jury what the injury is that that is depicting?

20 A There's a bruise and a big bruise on my
21 leg area.

22 Q So is that --

23 A There, yes.

24 Q All right, so I'm gonna show that on
25 here, and you just confirm for me that I've got

1 it right. I don't think we need to dim the
2 lights. Is it this area right there?

3 A Correct.

4 Q All right, as to 28 and 29?

5 A My legs.

6 Q And as to, specifically, 29, do you know
7 where you got that injury?

8 A That's when I was in the marsh.

9 Q Can you tell me -- I probably should
10 have started with 33, is that the same injury on
11 your hip?

12 A Yes.

13 Q And 32.

14 A Yes.

15 Q All right, and is that showing bruising?

16 A Yes.

17 Q All right.

18 MR. THORNTON: Your Honor, the Court's
19 indulgence, please, just a moment.

20 BY MR. THORNTON:

21 Q Just a couple of questions, ma'am.

22 Where were you in relation to the room, outside
23 the room, inside the room, where were you when
24 you testified Brian Wall struck you in the face?

25 A It would have been inside the hotel

1 room.

2 Q So would that have been in front of
3 other people?

4 A Yes.

5 Q Did any of those people say anything
6 about it?

7 A No.

8 Q You testified earlier that immediately
9 prior to the assault, that Brian Walls forced
10 you down. Did he do that once, or more than
11 once?

12 A A couple times.

13 Q And I don't -- I'm not sure if I asked
14 you this already, but did you see any of the
15 items that were pulled out on the counter? You
16 said that he was emptying his pockets or
17 something I think was your testimony.

18 Did he pull anything and put it on the
19 bathroom counter?

20 A He did, but I --

21 Q Do you remember what it was?

22 A It's been a long -- I believe like a
23 condom, I think maybe some gum, a receipt.

24 Q Did he use a condom? I should have
25 asked you that.

1 A No, he didn't.

2 Q Thank you very much, [K.P.], please
3 answer any questions Ms. Tolley has for you.

4 MS. TOLLEY: Your Honor, may we approach?

5 THE COURT: You may.

6 (Bench conference.)

7 ***

8 **CROSS-EXAMINATION**

9 BY MS. TOLLEY:

10 Q How are you doing?

11 A Good, how are you?

12 Q So I believe you testified that you've
13 known Brian for a long time now?

14 A Correct.

15 Q Okay, and you've given him rides before?

16 A Correct.

17 Q Okay, and when you were in the room,
18 when you came out of the bathroom, you didn't
19 tell anybody that you were sexually assaulted?

20 A I did not say the words sexually
21 assaulted to anyone.

22 Q When you were in the bathroom you didn't
23 yell?

24 A No, ma'am, I did not yell out.

25 Q You're aware that there were no signs of

1 struggle in the bathroom?

2 A Am I aware of that?

3 Q Uh-huh.

4 A I wasn't part of the investigation.

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

6 BY MS. TOLLEY:

7 Q The Solicitor showed you some pictures
8 of injuries, is it fair to say that you could
9 have sustained some of those injuries or bruises
10 from going into the marsh?

11 A It could have happened.

12 Q Okay. Prior to going to the hotel,
13 would you say that everything was friendly?

14 A I would say that.

15 Q That everybody was having a good time?

16 A Yes, ma'am.

17 Q We have pictures of you and Brian
18 hugging at the Parker's?

19 A When?

20 Q At the gas station before you went to
21 the hotel?

22 A We took pictures?

23 Q There were -- well, there were --
24 there's a video camera.

25 A There's a video, but there's not

1 pictures of me and Brian hugging outside. We
2 were not positioned and standing for pictures.

3 Q No, not that you were positioning, but I
4 think the store has video cameras; is that
5 correct?

6 A It does.

7 Q Okay, and if it shows that you were
8 hugging --

9 MR. THORNTON: The State will concede that
10 there is a hug on the video camera, Your Honor,
11 we just didn't have a still of it, but the State
12 concedes that that is accurate.

13 BY MS. TOLLEY:

14 Q You have used drugs before?

15 A I have.

16 Q Okay.

17 MS. TOLLEY: I don't have any other
18 questions, Your Honor.

19 THE COURT: From the State?

20 MS. TOLLEY: I'd like to recall the witness
21 possibly.

22 MR. THORNTON: I don't have anything
23 further, Your Honor. I'd ask that she be
24 allowed to step down.

25 THE COURT: You may step down, K.P. [REDACTED]

1 please.

2 All right. Is this a good time for a break
3 for the morning?

4 MR. THORNTON: It would be a good time,
5 Judge, to get ready for the next witness.

6 THE COURT: Ladies and gentlemen of the
7 jury, I need to remind you do not discuss this
8 case, it would be inappropriate to do so.

9 Make sure you leave your pads here.
10 Refresh yourselves, and we'll be back in about
11 ten minutes or so, okay

12 (Jury exits the courtroom.)

13 THE COURT: All right, for scheduling
14 purposes, where are you, Mr. Thornton?

15 MR. THORNTON: Judge, I think we should
16 probably go ahead, if we can knock out
17 Investigator Dowling will be the next witness.
18 I don't foresee him being -- I don't think it's
19 gonna be short, but I don't think -- no, I'm
20 sorry, we have a chain witness on the video
21 tape.

22 We don't believe it shows a whole lot of
23 anything, it's a little bit, but I just -- I
24 don't want the jury to think I'm hiding anything
25 from the, so we're just gonna go ahead, put the

1 hotel manager or slash owner up, put the video
2 in real quick. I don't even think we're gonna
3 play it, to be honest with you, and then we will
4 call Investigator Dowling immediately after
5 that. If we -- the only problem I've got is,
6 once we're done with him I have several
7 witnesses remaining, but they are all from
8 Upstate, and they -- none of them are gonna get
9 here until 2 o'clock.

10 THE COURT: So you want to break until
11 2:00.

12 MR. THORNTON: Yes, ma'am, and then I will
13 have -- I will tell the Court I think it's
14 either three or four witnesses left. I don't
15 know how long.

16 I mean I don't think they're gonna be that
17 long, and I'm sorry, I just didn't think we were
18 gonna get quite this fast, but we will
19 definitely -- as I said, we'll be finished
20 today, it's just earlier than I thought.

21 THE BAILIFF: Ms. Brock is here.

22 THE COURT: Ms. Brock is here? Okay. Is
23 there anyone else?

24 MS. TOLLEY: James Priester.

25 THE COURT: Jemes Priester, is he here?

1 MR. THORNTON: He hasn't arrived.

2 THE COURT: He hasn't arrived yet? Okay.

3 Okay, I'm just wondering if we could today take

4 up the Ms. Brock issue, if her lawyer's here.

5 So I'm gonna go back and have my office find her

6 lawyer and see if we can proceed. Okay?

7 MR. THORNTON: Thank you, Your Honor.

8 THE COURT: So we'll be at ease for about

9 ten to 15 minutes, okay?

10 (RECESS)

11 **

12 **PROCEEDINGS CONTINUED**

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

14 (Jury enters courtroom.)

15 THE COURT: State may call its next

16 witness.

17 THE COURT: State can call its next

18 witness.

19 MR. THORNTON: State calls Peter Patel.

20 **PRADIPBHAI PATEL,**

21 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

22 ***

23 **DIRECT EXAMINATION**

24 BY MR. THORNTON:

25 Q Do you work at the Howard Johnson's on

1 Trask Parkway in Beaufort?

2 A Yes, sir.

3 Q And does that hotel have surveillance
4 cameras outside?

5 A Uh-huh.

6 Q Is that a yes for the record?

7 A Yeah.

8 Q And did I --

9 MR. THORNTON: May I approach the witness,
10 Your Honor?

11 THE COURT: You may.

12 BY MR. THORNTON:

13 Q I'm gonna show you what's been
14 previously marked as State's Exhibit Number 3,
15 and ask you to look at that disk, and tell me if
16 you recognize what it is?

17 A Yes, sir.

18 Q Okay, is that -- did I ask you to review
19 what's on that disk prior to trial today?

20 A Yeah.

21 Q And is that surveillance from the Howard
22 Johnson's from back in December of 2016?

23 A Yes, sir.

24 Q Thank you.

25 MR. THORNTON: At this time the State moves

1 State's Exhibit 3 into evidence.

2 THE COURT: Any objection?

3 MS. TOLLEY: Without objection.

4 THE COURT: Without objection.

5 (State's Exhibit 3 admitted into evidence.)

6 BY MR. THRONTON:

7 Q Mr. Patel, I don't have any further
8 questions for you.

9 **

10 **CROSS-EXAMINATION**

11 BY MS. TOLLEY:

12 Q How are you?

13 A Good.

14 Q You didn't witness any of the incidents
15 alleged on Number 3, did you?

16 A I did not hear you.

17 Q I'm sorry. You didn't witness any of
18 the incidents alleged on December 6th, did you?

19 A December 6th incident -- I'm not here
20 until 2020.

21 Q Okay, so you weren't there?

22 A No.

23 Q Okay. Thank you.

24 THE COURT: Anything further? Any
25 objection to Mr. Patel being excused?

1 MR. THORNTON: No, Your Honor.

2 THE COURT: All right, your excused, sir,
3 thank you.

4 WITNESS: Thank you.

5 MR. THORNTON: State calls Josh Dowling.

6 **

7 JOSHUA DOWLING,

8 BEING DULY SWORN TESTIFIED AS FOLLOWS:

9 ***

10 DIRECT EXAMINATION

11 BY MR. THORNTON:

12 Q Investigator Dowling, could you tell the
13 jury where you work now?

14 A I presently work for the Hampton County
15 Sheriff's Office, overseeing their cold case
16 unit.

17 Q How long have you been with Hampton
18 County?

19 A I was sworn in, roughly, I think
20 December of 2022.

21 Q And prior to that --

22 A Or, excuse me, December of '23, excuse
23 me.

24 Q So December of '23. Prior to that,
25 where were you working?

1 A I was employed with the City of Beaufort
2 Police Department. I commenced my employment
3 there in 2007, and I had departed just prior to
4 being sworn in with the Hampton County Sheriff's
5 Office.

6 Q Back in December of 2016 what was your
7 role with the City of Beaufort Police
8 Department?

9 A In December of 2016 I would have been an
10 Investigator with Beaufort Police Department.

11 Q Were you -- as an Investigator, how did
12 you get assigned cases? Did you work a normal
13 shift, or were you on-call?

14 A We worked business hours during the
15 daytime, but anything outside normal business
16 hours we would be called in. We had a rotation
17 cycle, so typically it was a week you would be
18 on-call for anything that would happen that
19 required an investigator to be involved.

20 Q Were you on-call December 6th of 2016 in
21 fact?

22 A Yes, I would have been responsible for
23 anything that major happened in the City.

24 Q And did you receive a call in reference
25 to this case?

1 A I did.

2 Q And can you tell me what the nature of
3 that callout was, and where you went?

4 A The nature of the callout was involving
5 an alleged rape that had occurred at the Howard
6 Johnson's Hotel. The victim had -- K.P. [REDACTED],
7 excuse me, it was identified that she had fled
8 from the hotel. She took refuge in a marsh area
9 that required a water rescue, and she had
10 subsequently been brought to the hospital, so I
11 was called out to commence the investigation
12 into what happened to K.P. [REDACTED].

13 Q At the time you were called out, had
14 responding officers already secured the Howard
15 Johnson's?

16 A Yes. So the responding officers
17 consisting of patrol officers in marked patrol
18 units in uniform would have responded and
19 subsequently staged as a crime scene.

20 Q So where did you respond first when you
21 got this information?

22 A When I initially received the
23 information, I'd gone to Beaufort Memorial
24 Hospital. I wanted to have contact with K.P. [REDACTED]
25 [REDACTED] to establish some baseline facts.

1 Q Did you, in fact, make contact with K.P.
2 [REDACTED] at the hospital?

3 A I did.

4 Q And how did she appear when you
5 encountered her?

6 A She was in a hospital bed. She was
7 almost completely covered in mud. She appeared
8 extremely distraught, wide-eyed, was very
9 apprehensive.

10 Q And you spoke to her, and just limited
11 to time and place, did she describe to you what
12 had just happened?

13 A She did, yes.

14 Q And what was that? Again, limited to
15 time and place.

16 A She explained to me that the rape had
17 occurred in the bathroom of unit 227 at the
18 Howard Johnson's, so that was all the baseline
19 information I had received.

20 Q In response to getting that information,
21 what did you do next?

22 A So given the nature of the
23 investigation, I secured a search warrant, in
24 order to enter the unit 227 to commence any
25 forensic processing.

1 Q I'm gonna show you what's been
2 previously marked for identification as State's
3 Exhibits 6 through 12, and I'm just gonna ask
4 you to look at those and tell me if you
5 recognize them.

6 A Yes, I recognize the exhibits.

7 Q Okay, and if you're able to, can you
8 describe what that collection of photos is,
9 generally?

10 A So the collections of the photos entail
11 the photograph evidence in room 227, in addition
12 to the outside where **K.P.'s** jacket was
13 recovered from the exterior of the hotel.

14 Q And are those photos a fair and accurate
15 depiction of the scene as you saw it that night?

16 A Yes.

17 MR. THORNTON: At this time, the State
18 would move State's 6 through 12, I believe, into
19 evidence, yes, 6 through 12 into evidence.

20 THE COURT: Thank you. Without objection?

21 MS. TOLLEY: Without objection.

22 (State's Exhibits 6-12 were admitted into
23 evidence.)

24 MR. THORNTON: Permission to publish, Your
25 Honor.

1 BY MR. THORNTON:

2 Q What I'm showing you here is State's 6.
3 Can you just describe to the jury what this is a
4 photo of?

5 A That would be a photo of the entrance to
6 room 227, where the incident had occurred, so
7 just -- I'm out in the hallway portion of the
8 hotel room, taking a picture of the shooting
9 inside the room.

10 Q And next I'm going to show you State's
11 Exhibit Number 7, and can you tell me what this
12 is a photo of?

13 A Those are just miscellaneous items that
14 were located on top of a dresser, a towel, two
15 tennis balls and a baseball cap.

16 Q Can you tell me what this box is here?
17 Do you recognize this box?

18 A It looks -- from -- it's a little dark,
19 but I believe it's probably plates of food,
20 three plates.

21 Q And now State's Exhibit 8?

22 A On to of the tabletop there was plates
23 of food, there were three plates total.

24 Q Now, State's Exhibit Number 9, what are
25 we seeing in this photo?

1 A And that's the facilities for unit 227,
2 so it's the -- like a granite countertop with a
3 sink. It had a box of condoms, as well as like
4 a box of candy.

5 Q Moving onto State's Exhibit Number 10, I
6 know this is very dark, but can you tell me what
7 this image is depicting?

8 A That would be depicting what was
9 identified as the victim's jacket. Towards the
10 back of the Howard Johnson's that we -- we're
11 looking at it from the front, it would be the
12 back left. It's where the pavement meets the
13 grass, that's where the jacket was recovered
14 that led to the wooded area.

15 Q Would an overhead map help you describe
16 this area that we're seeing in this picture?

17 A Yeah. Yes, that would probably do that.

18 Q Can you please step down over here with
19 me, so I can have you point on this map, so the
20 jury knows where we're looking at. So this
21 picture where you said where the pavement meets
22 the dirt, can you tell me where we're talking?

23 A So we have the Howard Johnson's Hotel
24 here, so this is a -- if we're looking at it
25 from Howard Johnson's, you've got a left parking

1 lot, and the grass and pavements, there's almost
2 like a trail that's traversed by vehicles, but
3 would have been roughly in this proximity right
4 in this area.

5 Q Near this trail area here?

6 A Yes.

7 Q All right. I'll just have you sit back
8 in your seat. Now, State's Exhibit 11 does this
9 appear to be a closer up image of the same area?

10 A That's right. It's kind of progressing
11 towards the actual jacket.

12 Q And then, finally, State's Exhibit 12,
13 what is this a picture of?

14 A That's just a very close proximity
15 photograph of the jacket facing, you know,
16 obviously, down at the grass below.

17 Q Did you collect that jacket?

18 A Yes, sir, the jacket was collected
19 pursuant to the search warrant.

20 Q And I'm gonna show you what's been
21 previously marked as State's Exhibit Number 37
22 for identification, and I'm gonna ask you to
23 take a look at that, and tell me if that's an
24 item that you collected, is it sealed?

25 A Yes, it indicates that it was collected

1 by me with a date, approximate time, and on the
2 back of it it has my initials with the seal for
3 evidence.

4 Q And, if you would, please, sir, would
5 you mind opening that bag and showing --

6 A Certainly.

7 Q What's in that bag?

8 A Inside the bag would be the victim, [REDACTED]
9 K.P.'s jacket.

10 Q Okay.

11 MR. THORNTON: At this time, the State
12 would move State's 37 into evidence.

13 MS. TOLLEY: Without objection.

14 THE COURT: Admitted without objection.

15 (State's Exhibit Number 37 admitted into
16 evidence.)

17 BY MR. THORNTON:

18 Q Now, if you would, please, sir, open the
19 bag.

20 A Sure.

21 Q Thank you, sir. Just set that bag in
22 the back, if you would. Thank you, sir. When
23 you arrived on-scene at the Howard Johnson's,
24 did you see K.P.'s vehicle?

25 A I did not.

1 Q At that point, was there a search, or
2 was there any information put out of the car in
3 an attempt to locate it?

4 A Yes, information was put out that Mr.
5 Walls had departed in the vehicle, so it was
6 subsequently notification to, you know, what's
7 known as be on the lookout, or BOLO, for the
8 vehicle.

9 Q And at some point during your
10 investigation, did you get information that this
11 vehicle was somewhere up in the Upstate?

12 A Yes.

13 Q And did you notify the local Sheriff's
14 Department?

15 A There was a notification made to -- as
16 respect to the Sheriff's Office, regarding
17 trying to locate the vehicle, yes.

18 Q And do you remember the agency, or what
19 the local agency was?

20 A The best of my recollection it was
21 Chesterfield County Sheriff's Office.

22 Q And to your understanding, was that
23 vehicle eventually located in that jurisdiction?

24 A It was.

25 Q Did you check with the Howard Johnson's

1 to see if they had surveillance tapes?

2 A Yes.

3 Q And did they have surveillance?

4 A They do.

5 Q Was there surveillance footage that was
6 captured that contained the time?

7 A Yes, it was the security footage from
8 around the time the incident occurred.

9 Q Did you eventually collect surveillance
10 from the Howard Johnson's and submitted it into
11 evidence?

12 A Yes, it was, it was collected.

13 Q Did you review that footage?

14 A I did.

15 Q Can you tell the jury what you were
16 seeing on the footage? Was there anything of
17 recorded evidentiary value?

18 A Not so much, it was limited in quality.
19 I would describe it pretty much as poor quality.
20 The only thing that I did see in one portion was
21 on the side parking lot, there appears to be a
22 vehicle with headlights going in a circular
23 fashion, but it was set back, it was quite a
24 limited view.

25 Q The next day did you go back out to the

1 Howard Johnson's and do anything, other than
2 collect surveillance footage?

3 A Yes, I would go out there with the
4 victim, actually, [K.P.], I went out there
5 with [K.P.] to the Howard Johnson's.

6 Q And was that the next day?

7 A I believe so, yes.

8 MS. TOLLEY: Your Honor, may we approach
9 briefly?

10 THE COURT: Yes.

11 (Bench conference).

12 THE COURT: Ladies and gentlemen, we need
13 to take a brief recess. I'm gonna remind you do
14 not discuss this case, it wouldn't be
15 appropriate to do so. I'm gonna send you back
16 to your jury room, we'll be right back with you,
17 okay? Thank you.

18 (Jury exits the courtroom.)

19 (RECESS)

20 THE COURT: Just for the record, Kymberlee,
21 we're playing the referenced video from the
22 Howard Johnson's.

23 (Video being played for the Court.)

24 BY MR. THORNTON:

25 Q What's happening off to the left, is

1 that what you're describing?

2 A Yes, sir, the extreme left, the extreme
3 left. So when you see those vehicles that are
4 parked facing the pool, you're gonna see the
5 headlights emerge from that dark spot and just
6 make a semi-circle.

7 Q So it's as if a part of the circle's
8 off-camera; is that fair to say? This is what
9 you're describing?

10 BY THE COURT:

11 Q Is that what you're talking about there?

12 A Yes, Your Honor, with the headlights,
13 correct.

14 Q And is that as much as it shows those
15 headlights?

16 A Well --

17 MR. THORNTON: It does. Sorry.

18 THE COURT: Keep going. I mean if it goes
19 longer --

20 MR. THORNTON: Well, there's a video before
21 that shows the headlights in that stationary
22 position before this, so there is -- video
23 number five shows the headlights.

24 THE COURT: Show me that. So is this gonna
25 show anything?

1 MR. THORNTON: Judge, I do want to be
2 clear, the second video has stationary
3 headlights --

4 THE COURT: Okay.

5 MR. THORNTON: -- through the entirety of
6 the clip. The video we showed first is
7 chronologically after that, and it shows that
8 partial movement which was described.

9 THE COURT: Let's just take a couple
10 minutes, I'll just go on back, and I'll be right
11 back out here.

12 MR. THORNTON: Thank you, Your Honor.

13 (RECESS)

14 **PROCEEDINGS CONTINUED**

15 BAILIFF: All rise, come to order, this
16 Court is back in session.

17 THE COURT: Please be seated. All right,
18 are we ready?

19 MR. THORNTON: The State's ready, Your
20 Honor.

21 THE COURT: Are you okay? You all right?

22 MS. TOLLEY: Defense is ready.

23 THE COURT: Very good, let's bring the jury
24 back in.

25 (Jury enters the courtroom.)

1 BAILIFF: The jury's seated, Your Honor.

2 THE COURT: Thank you. All right, you may
3 continue.

4 MR. THORNTON: Thank you.

5 THE COURT: Thank you.

6 BY MR. THORNTON:

7 Q Investigator Dowling, right before our
8 break we were talking about the surveillance at
9 the Howard Johnson's, excuse me.

10 You mentioned that you could see some
11 circles in the parking lot. Were you able to
12 see full circles, or was it -- like what you're
13 describing is it fully on camera?

14 A No, what I'm describing is not fully on
15 camera, it's -- the camera just shuts off. You
16 see it as partial headlights of the vehicle.

17 Q When you went out to the Howard
18 Johnson's to check the footage, did you review
19 the footage while you were there?

20 A I believe when I reviewed the footage it
21 would have been the following forensic process
22 in the hotel room.

23 Q But we -- at some time did you view the
24 Howard Johnson's surveillance footage, while you
25 were at the Howard Johnson's?

1 A Yes, that's correct, I did.

2 Q And was that also with an employee of
3 the Howard Johnson's?

4 A That's right, there was a representative
5 from Howard Johnson's, yeah, correct.

6 Q And you said that was on your second
7 trip out, was that the following day; do you
8 remember?

9 A Yes, it would have been -- well,
10 theoretically, it was December 6th, and into the
11 7th of processing it, and it would have been
12 later that afternoon on December 7th of 2016.

13 Q And while you were out there, did you
14 take any photos?

15 A I did.

16 Q And I'm gonna show you what's been
17 previously marked as State's 15 through 21, and
18 I'm gonna ask you to take a look at those and
19 tell me if you recognize those.

20 A I do.

21 Q And are you able to describe
22 collectively what those photos are?

23 A So those are the photographs I took
24 exclusively of the parking lot region on the
25 left-hand side.

1 Q And are they fair and accurate
2 depictions of how the parking area looked on
3 that day?

4 A They are.

5 MR. THORNTON: At this time the State would
6 move State's 15 through 21 into evidence.

7 THE COURT: Any objection?

8 MS. TOLLEY: Without objection.

9 THE COURT: Without objection
10 (State's Exhibits 15 - 21 were admitted
11 into evidence.)

12 MR. THORNTON: With the Court's permission,
13 I'm gonna ask Investigator Dowling to step down
14 with me with these photos.

15 THE COURT: You may step down, sir.

16 BY MR. THORNTON:

17 Q Okay, I'm gonna hand you these photos,
18 and if you would, please, sir, can we start by
19 showing, or explaining to the jury where
20 location-wise on this map are these photos
21 depicting?

22 A So the photographs, so this is the front
23 façade of the Howard Johnson's, so it would be
24 roughly this region in this area of the parking
25 lot. So the photographs are gonna capture the

1 front façade of the Howard Johnson's, as well as
2 some of the photographs capture this marsh area.

3 Q And I'm gonna ask, if you would, to just
4 take these photos one at a time, and explain to
5 the jury what's being depicted in each photo.
6 Let's start with State's 15.

7 A Okay, so State's Exhibit 15, this is the
8 front façade of the Howard Johnson's.

9 Q I don't mean to cut you off, can you
10 move just slightly closer, so they can see.

11 A My apologies. So this is the parking
12 lot region, this is the front façade of the
13 Howard Johnson's, this would be the swimming
14 pool. In the photograph you'll see how the tire
15 marks, skid mark on the pavement there, that's
16 State's Exhibit 15.

17 Q I'll take 15 from you.

18 A This is 16, correct. So once again,
19 State's Exhibit 16 just more or less a closeup,
20 she was directly down at the parking lot region,
21 the skid mark of markings of the tire.

22 Q That's State's 16. What about State's
23 17?

24 A State's Exhibit 17 once again is the
25 parking lot, and you can see the marks of the

1 tire. Okay, that was State's 17. And State's
2 Exhibit 18, this is -- so this is -- what this
3 will be capturing is the façade of the front of
4 the Howard Johnson's would be that way.

5 This is the back part of the Howard
6 Johnson's. There's three skid marks in a
7 circular fashion right here, one, two, three.
8 It's in a circular fashion on State's Exhibit
9 18.

10 And State's Exhibit 19 there are three
11 closeups. And State's Exhibit 20 is just --
12 this is capturing the marsh, so theoretically
13 it'd be behind me when I was taking the picture,
14 and it just has the skid mark visible. And once
15 again State's Exhibit 21 is the front façade of
16 the hotel, just the skid marks in the parking
17 lot.

18 Q Thank you, Investigator Dowling, you can
19 have a seat. As the lead investigator on this
20 case, were you involved in, or in any way
21 responsible for submitting items for testing?

22 A I would -- as the case officer, I would
23 oversee and make sure everything that was
24 collected would be tested accordingly, correct.

25 Q At some point after, some point down the

1 road were you -- did you have an occasion to
2 collect a DNA sample from the Defendant, Mr.
3 Brian Walls?

4 A Yes, I collected a DNA collection of Mr.
5 Walls, correct.

6 Q And I'm gonna show you what's been
7 previously marked for identification as State's
8 Exhibit 35, and ask you if you recognize what
9 that is?

10 A I do.

11 Q And what is it?

12 A This would contain the buccal swab of
13 Mr. Walls.

14 Q And was that item -- after you collected
15 it, what did you do with it?

16 A So after it was collected, it would
17 subsequently be put into our evidence, and then
18 it would be submitted to the State Law
19 Enforcement Division, known as SLED for DNA
20 comparison purposes.

21 Q Prior to submission into evidence, would
22 it be sealed?

23 A It would. The evidence would be sealed,
24 correct.

25 Q And signed by you?

1 A That's correct.

2 Q And did that happen with those items?

3 A It did.

4 Q Okay. Other than collecting it and
5 sealing it and sending it off for testing, did
6 you alter, manipulate or mess with that item in
7 any way?

8 A I did not.

9 Q And you did submit it for testing with
10 SLED?

11 A It was submitted, correct, with SLED,
12 correct.

13 MR. THORNTON: At this time the State moves
14 State's 35 into evidence.

15 MS. TOLLEY: Without objection.

16 THE COURT: Without objection it's in
17 evidence.

18 (State's Exhibit 35 was admitted into
19 evidence.)

20 BY MR. THORNTON:

21 Q And one last question, Investigator
22 Dowling, I'll grab that from you, do you see in
23 the courtroom the man that you took this DNA
24 sample from?

25 A I do.

1 Q There's no picture of Mr. Walls
2 assaulting K.P. [REDACTED]?

3 A No, there's no picture that I'm aware
4 of.

5 Q Okay. There's no picture showing Mr.
6 Walls hitting K.P. [REDACTED]?

7 A I'm aware of no picture, correct.

8 Q There's no picture showing Mr. Walls
9 chasing K.P. [REDACTED]?

10 A Correct.

11 Q You went inside the hotel room?

12 A I did.

13 Q Okay, and there was no food thrown about
14 the hotel room?

15 A No, I don't recall seeing any food
16 scattered about, no.

17 Q Okay. They were neatly placed on a
18 table?

19 A There was food placed on a table, yes.

20 Q Okay. There were not random things
21 thrown around the hotel room?

22 A I would say in the bathroom we had the
23 condoms that were just kind of -- the condom
24 boxes that were thrown on top of the sink
25 countertop.

1 Q Okay. You would describe that as thrown
2 about the countertop? I would describe them as
3 being placed about the countertop. There was
4 nothing knocked over, no furniture overturned,
5 or anything like that?

6 A Correct, there was no furniture that was
7 overturned, correct.

8 Q Okay. And no one in the room said that
9 she had been raped?

10 A The victim said she was -- K.P.
11 said she was raped.

12 Q Ms. Brock didn't say she was raped?

13 MR. THORNTON: Objection, hearsay.

14 THE COURT: You can answer it.

15 BY WITNESS:

16 A Correct, no.

17 Q Mr. Priester didn't say she was raped?

18 A Correct.

19 Q X.W. didn't say she was raped?

20 A Correct.

21 Q K.W. didn't say she was raped?

22 A Correct.

23 MS. TOLLEY: I don't have anything else,
24 Your Honor.

25 THE COURT: Mr. Thornton?

1 MR. THORNTON: Nothing further, Your Honor.
2 I just would ask that he be subject to recall if
3 needed.

4 THE COURT: Thank you, I appreciate it.
5 You may step down, sir.

6 WITNESS: Thank you, Your Honor.

7 THE COURT: Thank you.

8 Do you think now is a good time for a lunch
9 break? Does that sound good to everyone?

10 MR. THORNTON: Yes, ma'am.

11 MS. TOLLEY Yes, Your Honor.

12 THE COURT: All right. Ladies and
13 gentlemen of the jury, by the clock back there,
14 I'm gonna ask that you be back in your jury room
15 at 2 o'clock, where we're going to continue with
16 the trial. My understanding, you believe the
17 State will rest today; is that correct?

18 MR. THORNTON: I believe so, Your Honor,
19 yes, ma'am.

20 THE COURT: Okay. So right now I do think
21 we're gonna finish this case tomorrow, I'll just
22 let y'all know that right now.

23 Ladies and gentlemen, I'll remind you don't
24 discuss the case, it wouldn't be appropriate to
25 do so.

1 Don't read anything, watch anything, look
2 anything up. Grab a bite to eat, come on back
3 at 2 o'clock.

4 I appreciate you all's willingness to work
5 until 5:30. We'll work as long as we have
6 witnesses, and whatever we need to keep going,
7 okay, so thank you.

8 (Jury exits the courtroom.)

9 BAILIFF: The jury's cleared and the doors
10 are closed, Your Honor.

11 THE COURT: Questions?

12 MS. TOLLEY: Not that I'm aware of. I
13 reached out to his counsel on the murder charge,
14 originally, and he said that he's no longer
15 involved with it, but if he has other counsel,
16 I'm not aware of it.

17 THE COURT: Okay. Do you know?

18 MR. THORNTON: I don't, but I mean if he's
19 got a PCR pending, or anything else, he might.

20 THE COURT: Is there a direct appeal or a
21 PCR right now?

22 MR. THORNTON: I don't think there's a
23 direct appeal pending, but there may very well
24 be a PCR.

25 THE COURT: Who was his counsel during --

1 or he pled, correct?

2 MR. THORNTON: He pled the --

3 THE COURT: Correct.

4 MR. THORNTON: -- morning of trial, yes,
5 ma'am.

6 THE COURT: And so who was his counsel then?

7 MS. TOLLEY: I think it was Courtney
8 Delaney.

9 THE COURT: Okay.

10 MR. THORNTON: I can -- well, Judge, what I
11 can do is, I can try to -- I'll put somebody on
12 this --

13 THE COURT: See if you can find if the
14 PCR's been filed.

15 MR. THORNTON: Yes, ma'am, and what I can
16 do is I can call the AG's Office, the PCR
17 Division, and see if he's in their system.

18 THE COURT: Perfect. I just want to make
19 sure that we don't run into a problem on it.

20 MR. THORNTON: Yes, ma'am.

21 THE COURT: Okay, thank you. All right, if
22 everyone will just be back. I will tell you
23 that I am trying to get the attorney for
24 Courtney Brock, is it Brock --

25 MR. THORNTON: Yes, ma'am.

1 THE COURT: -- here today. She may or may
2 not be, I have no idea if she's coming after
3 hours. I don't know what she's doing, but my
4 office is trying to contact her.

5 So if we could take that up today, that
6 would be great, and if we can't, obviously, we
7 can't, okay?

8 MR. THORNTON: Yes, ma'am, thank you.

9 THE COURT: Absolutely.

10 MR. THORNTON: Are we until 2:00, Judge?

11 THE COURT: We're until 2:00.

12 MR. THORNTON: Yes, ma'am.

13 THE COURT: Okay? Thank you.

14 (Luncheon recess)

15 **

16 **PROCEEDINGS CONTINUED**

17 THE COURT: All right. Let's bring in the
18 jury.

19 (Jury enters courtroom.)

20 THE COURT: Welcome back, ladies and
21 gentlemen.

22 The State may call its next witness.

23 MR. THORNTON: State calls Wayne Jordan.

24 **

25 **WAYNE JORDAN,**

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BEING DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. THORNTON:

A Wayne Jordan, J-O-R-D-A-N, I go by Wayne.

Q Wayne what is your current rank?

A I am a Sergeant in the Detective Division for the Anson County Sheriff's Office over in North Carolina.

Q Sergeant, back on or about December the 6th and the 7th of 2016 where did you work at that time?

A At that time I was a Lieutenant for the Chesterfield County Sheriff's Office here in South Carolina.

Q All right, sir. At some point on the evening of December the 6th of 2016 into the next day on the 7th did you receive, without telling me specifically what anybody told you, but did you receive information about what's commonly known as a BOLO, or be on the lookout for?

A I did.

Q All right, sir, and did you get that

1 from Beaufort County?

2 A Yes. Well, actually, we got it through
3 our communications --

4 Q Yes, sir.

5 A -- that came from Beaufort, yes.

6 Q All right, and did you receive some
7 information that the vehicle may be in a part of
8 your area called Pageland?

9 A That's correct, yes.

10 Q And can you tell us first where is
11 Chesterfield County?

12 A Chesterfield County is the northeastern
13 county over in South Carolina. It's about 45
14 minutes north of Florence.

15 Q So did -- and you said you came from
16 Anson County, North Carolina today. About how
17 far is it from say here, if you were driving
18 here to Chesterfield County.

19 A I actually live in Cheraw. It was about
20 a three-hour trip for me today.

21 Q And after you received this information
22 about a BOLO for a vehicle, did you go out to
23 the Pageland area, you and other officers of
24 Chesterfield County Sheriff's Office.

25 A Yes, we did.

1 Q And were you able to locate the vehicle
2 that you had the BOLO on?

3 A Yes, we did.

4 Q Sir, I'm gonna hand you what's been
5 marked as State's identification as 22, 23, 24
6 and State's 4 that were previously identified by
7 K.P. [REDACTED] as her vehicle. Can you tell me if
8 you recognize that vehicle?

9 A Yes. Yes, I do.

10 Q And did you actually take these
11 pictures?

12 A Yes, I did.

13 Q And are they a fair and accurate
14 depiction of the Toyota Camry that you found in
15 Pageland, in Chesterfield County?

16 A Yes, it is.

17 Q And do you remember, was that on the 6th
18 or was that on the day of the 7th, the next day?
19 And if I need to, I can get you your report.

20 A If I could look at the report --

21 Q Yes, sir.

22 A -- I'd appreciate it.

23 MR. THORNTON: Your Honor, may I approach?

24 BY WITNESS:

25 A Yes, it was on the 7th when we went to

1 Boyd Evans, yes.

2 Q All right, and were there people -- were
3 you the only officer who showed up, or were
4 there other officers?

5 A No, once we got the BOLO I got several
6 other officers, including another Captain, to go
7 with me, and I would say there was probably
8 five, if not six of us in the area.

9 Q All right, sir. Once you went out
10 there, can you just tell me, and tell the jury
11 what happened.

12 A We were directed to a location over on
13 Boyd Evans Road, which is off of Highway 9 in
14 the Pageland area. As I pulled up, I think I
15 might have been the second, if not the third
16 vehicle, pulling up.

17 I got out, I exited my driver's door. The
18 vehicle was to my left, probably from me to the
19 door is where I parked from the vehicle, and as
20 I exited a couple of deputies were taking a male
21 subject out of the driver's seat. There was a
22 female in the passenger seat as well, and I went
23 straight to her to secure her to make sure
24 everything was good.

25 Q All right, sir, and do you -- were you

1 able to later identify the male subject?

2 A Yes, sir, it was Mr. Walls.

3 Q All right, sir, and was he the subject
4 that was attached to that BOLO?

5 A Yes, he was.

6 Q All right, and, sir, do you see him in
7 the courtroom?

8 A Yes.

9 Q All right, sir.

10 MR. THORNTON: Your Honor, let the record
11 reflect he's indicated the Defendant, Brian
12 Walls.

13 BY MR. THORNTON:

14 Q Thank you, sir, I don't have any further
15 questions. Please answer anything Ms. Tolley
16 has.

17 MS. TOLLEY: No questions.

18 THE COURT: All right.

19 MR. THORNTON: I'd ask that he be able to
20 step down and be excused.

21 THE COURT: Thank you.

22 WITNESS: Thank you.

23 MR. THORNTON: Thank you, Sergeant.

24 State calls Verona Herrera.

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VERONA HERRERA,
BEING DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. THORNTON:

Q Ms. Herrera, who do you work for?

A The Department of Environmental
Services.

Q Okay, and did that organization, I know
the alphabets have switched up, did that used to
be DHEC?

A That was, it's the Environmental of what
used to be DHEC.

Q Did you have employment being at -- and
I'm just gonna keep saying DHEC, but did you
have employment prior to that?

A Yes, I worked for the State Law
Enforcement Division, for SLED.

Q And what was your job at SLED?

A I was an evidence processing technician
for the DNA section, and then when serology was
added, that incorporated evidence processing, so
I became a serologist in the DNA section.

1 Q Can you explain to the jury what a
2 serologist is, and then kind of go through what
3 qualifications you have that allowed you to be
4 able to do that job at SLED?

5 A A serologist attempts to identify body
6 fluids, or presumptive testing on what possibly
7 could be body fluids. I have an Associate's
8 degree from Greenville Tech, an Associate's
9 degree from Tri-County Technical College in
10 science, a Bachelor's degree from Liberty
11 University in forensics in criminal justice.

12 COURT REPORTER: What was the second place
13 that you had --

14 BY MR. WITNESS:

15 A Tri-County Technical College.

16 Q And how long did you do serology at
17 SLED?

18 A Approximately, 12 years.

19 Q And can you just kind of take me through
20 -- I know you gave them a brief description, but
21 what do you do as a serologist at SLED? Like
22 what is your main function, or the things that
23 you would do there?

24 A There's a couple different things. Any
25 evidence that comes from a crime scene that's

1 larger than, basically, a sheet of computer
2 paper, would come through, if it was being
3 analyzed for blood, semen, saliva or possibly
4 urine. It wasn't testing for urine, but we
5 would cut those for DNA sometimes.

6 Also, ownership cases, or touch cases would
7 come through. We would process those items for
8 the requested body fluid or skin cells. With
9 sexual assault kits we would test those to see
10 if there was any of the fluids present that were
11 of interest, and then all those items would be
12 prepped for the DNA analyst, so they could just
13 start their testing as soon as they receive the
14 evidence from us.

15 Q And I'm gonna hand you what's been
16 marked for identification as State's Exhibit 34.
17 Did you do any testing on that item?

18 A I did on portions of this item. A
19 sexual assault evidence collection kit is what
20 this is, it was separated into two different
21 bags when it came into the laboratory. One was
22 probably the underwear that was worn to the
23 hospital, and then the swabs and other
24 collections are in the other envelope.

25 Q And so as to the swabs and other

1 collections in the first envelope there in
2 State's 34, did you perform any testing on those
3 items?

4 A Yes.

5 Q All right, and before we get into that,
6 have you ever been declared an expert in the
7 State of South Carolina?

8 A Yes.

9 Q All right, and have you been declared an
10 expert in serology --

11 A Forensic serology, yes.

12 Q Yes, ma'am, forensic serology. How many
13 times?

14 A Just forensic serology is probably about
15 20. Evidence processing and forensic serology
16 together is somewhere around 50.

17 Q And how many of those cases did you
18 ultimately end up testifying?

19 A All of them.

20 MR. THORNTON: At this time, Your Honor,
21 I'd ask that Ms. Herrera be recognized by the
22 Court as an expert in forensic serology.

23 MS. TOLLEY: No objection.

24 THE COURT: Thank you. Ladies and
25 gentlemen, in this case Ms. Herrera has been

1 qualified as an expert in the area of forensic
2 serology.

3 Now, as to her opinion and the reasons for
4 her opinion, that's for you to use as you see
5 appropriate and as compared to other evidence
6 presented in the case.

7 MR. THORNTON: Thank you, Your Honor.

8 BY MR. THORNTON:

9 Q Ms. Herrera, could you go through the
10 testing that you did in this case, and what your
11 results were?

12 A Sure. The sexual assault evidence kit
13 was inventoried to determine what items had been
14 collected in this case, since not all items are
15 always collected. And so item one was a sexual
16 assault kit, item 1.1 was smears vaginal and
17 oral, there was no analysis performed on that.
18 Item 1.2 is vaginal swabs, and that was tested
19 for semen.

20 So the examinations for components of semen
21 P30 and spermatozoa were positive, semen was
22 identified, and that item was forwarded to the
23 DNA section.

24 Item 1.3 was oral swabs, it was tested for
25 semen, and examination for components of semen

1 P30 and spermatozoa were negative, no semen was
2 identified.

3 Item 1.4 was the suspected saliva swab,
4 listed as from the left breast, presumptive
5 testing for saliva was positive, and the item
6 was forwarded to the DNA section.

7 Item 1.5 is fingernail scrapings, and that
8 is further separated into left hand fingernail
9 scrapings, and right hand fingernail scrapings,
10 those were not tested, they were just forward to
11 the DNA section.

12 And item 1.6 is a victim buccal swab, which
13 is a known standard taken from inside the
14 victim's mouth, and that item was forwarded to
15 the DNA section.

16 Q And, if you could -- so we'll go back
17 through some of the specific findings that you
18 have, but if you could, can you explain, and
19 we've heard -- the jury's heard, me, I pronounce
20 it buccal, other people said buccal, but can you
21 explain what the purposes of having say a victim
22 and a defendant buccal swabbed? You've said it
23 was a known standard, could you kind of explain
24 what that means, and what the purpose of having
25 it is?

1 A Sure. A known standard allows the
2 comparison of say the -- any swab in here to
3 take out, basically, the victim DNA, because you
4 know what it is from developing that DNA profile
5 that came off the buccal swab, which should
6 purely be the victim. You can kind of subtract
7 that from the DNA profile that's developed to
8 give any other leftover DNA to be extraneous
9 from the victim, so it would be from either
10 someone else that came in contact with it some
11 way.

12 Q All right, and the same thing for a
13 defendant, meaning that's a known standard, so
14 you have something to compare it to?

15 A That is correct, yes.

16 Q So let's go back to your results in this
17 specific case. So you had 1.2, the vaginal
18 swabs, so on the vaginal swab from K.P.

19 what was your result on that?

20 A The examination for components of semen
21 P30 and spermatozoa were positive, semen was
22 identified.

23 Q And can you explain in language even I
24 will understand, what the -- how you do the P30,
25 and then spermatozoa? In other words, what is

1 the process that you identified that by?

2 A Sure. So semen comes -- it's,
3 basically, a cellular portion and a liquid
4 portion. The liquid portion contains high
5 levels of P30, normally, so the testing is,
6 basically, a simple card test. It's read
7 similar to a pregnancy test, where -- or a COVID
8 test where multiple lines is positive, but a
9 single line is negative. And it only tests at
10 concentrations that are high enough that it
11 could be semen. In lower concentrations they
12 can be found in other body fluids.

13 So that is the testing for the liquid
14 portion of semen -- or, yes, semen, I'm sorry.
15 Spermatozoa are, basically, the sperm cells.
16 They don't always still have the tails attached,
17 but those are the cellular portion is -- a small
18 portion of it is dried on a slide stained, and
19 then visualized under a microscope. If we see
20 the sperm cells spermatozoa that gives us the
21 cellular portion of semen, and when you put the
22 two together you can say that semen is
23 identified.

24 Q So in that case you testified that semen
25 was identified, and then what do you do at that

1 point?

2 A A small portion of that swab is cut,
3 packaged in very small little tubes for the DNA
4 analyst to be able to begin their work.

5 Q And do you then forward that to the DNA
6 section?

7 A Yes, yes.

8 Q And as to 1.4, the swabs from the -- [REDACTED]
9 [REDACTED] K.P.'s left breast, it says, "Suspected
10 saliva," what were your results again?

11 A The presumptive testing for saliva was
12 positive, and the item was forwarded to the DNA
13 section.

14 Q Other than you testing the kit, ma'am,
15 did you do anything else in this case?

16 A I did not, no.

17 Q All right. So let me -- just a real
18 quick question, when you get a sexual assault
19 kit, are you the one who is the -- in this case,
20 did you actually open this kit up and inventory
21 it?

22 A Partially.

23 Q Okay.

24 A The kit comes in a box into the
25 laboratory. That box is opened by our intake

1 staff, and they separate, if they are liquid,
2 blood or urine in the kit, that goes to a
3 different section, so it would be separated out
4 into the different heat-sealed pouch and be
5 routed to the department that does that testing.

6 The clothing, any clothing that's included
7 with the kit would also be separated out, and
8 put as another item, and in a different heat-
9 sealed pouch. And then the envelope that
10 contains the swabs, the fingernail scrapings,
11 vaginal or oral smears, or potential pubic hair
12 combings, all of that is in one envelope.

13 I inventoried that envelope and gave them
14 the individual numbers that are associated with
15 them.

16 Q And are those items themselves sealed?

17 A Yes, they are sealed.

18 Q Okay.

19 A Yes.

20 Q And I phrased that poorly, the point is,
21 when you are testing things, are you the one
22 that's actually opening the seals on those
23 items?

24 A Yes, I would be opening those seals,
25 yes.

1 Q And would you test something that was
2 not in a sealed condition when you got it?

3 A I would have stopped testing, if I had
4 started and found something that was unsealed,
5 and there would be a note in my documentation of
6 what happened with that. I would have to,
7 through my supervisory staff, get permission to
8 continue, or stop testing, and that would be
9 noted on my documentation.

10 Q And is any of that noted in this?

11 A It is not, no.

12 Q Okay. I don't have any further
13 questions. Please answer any questions Ms.
14 Tolley has for you.

15 **

16 **CROSS-EXAMINATION**

17 BY MS. TOLLEY:

18 Q I don't have a lot of questions for you.
19 How are you doing

20 A I'm well, and you?

21 Q So you didn't test the vaginal smears or
22 the oral smears; is that correct?

23 A No, ma'am.

24 Q Do they still have to do the serology
25 part of this when they do the sexual assault

1 kits, DNA testing at SLED now?

2 A I don't really know. I've been away
3 from SLED for about five years. I'm unsure of
4 their processes now.

5 Q Okay. Thank you.

6 A Uh-huh.

7 THE COURT: Anything further?

8 MR. THORNTON: Nothing from the State, Your
9 Honor.

10 THE COURT: You are excused, ma'am, thank
11 you.

12 WITNESS: Thank you.

13 MR. THORNTON: Thank you, ma'am.

14 Sarah Zapata.

15 SARAH ZAPATA,

16 BEING DULY SWORN TESTIFIED AS FOLLOWS:

17 ***

18 DIRECT EXAMINATION

19 BY MR. THORNTON:

20 Q Ms. Zapata, who do you currently work
21 for?

22 A The South Carolina Law Enforcement
23 Division, commonly known as SLED.

24 Q And is it okay to call you Agent Zapata?
25 Would that be appropriate?

1 A That is okay.

2 Q All right. Agent Zapata, how long have
3 you worked for SLED?

4 A Since 2015, so almost ten years.

5 Q And what do you do for SLED?

6 A I am an analyst in the DNA Casework
7 department.

8 Q And what kind of education and training
9 do you have, and, if you don't mind, start with
10 your education, that allows you to be a DNA
11 analyst for SLED?

12 A I have a Bachelor of Science in forensic
13 science from the Pennsylvania State University,
14 and then upon employment at SLED I went through
15 a training program for approximately a year and
16 a half under a qualified DNA analyst. And that
17 training program included first an observation
18 period, where I just watched the individual
19 training me perform all the different laboratory
20 procedures, and then I was watched practicing
21 them before I was able to practice kind of
22 independently all the different laboratory
23 procedures that we perform, as well as the
24 interpretation of profiles, calculating
25 statistics, writing reports.

1 And in order to successfully complete the
2 training program, I had to pass several
3 different written exams, several oral exams, I
4 had to complete mock cases in mock court, so a
5 very long series of testing to be qualified to
6 perform lab work on real cases. And then we are
7 also proficiency tested twice per year to
8 maintain our ability to perform casework and
9 also have to have several hours of continuing
10 education every year, and that is accomplished
11 either through attending conferences, or
12 different trainings to stay up-to-date on the
13 new developments in the technology.

14 Q And how many, if you have any idea, how
15 many standards, how many unknowns, both in your
16 testing and in your case work, how many times do
17 you believe that you've done DNA analysis for
18 SLED?

19 A I don't have a good idea of the number
20 of samples. I know I have issued over 700
21 reports, and that can be reports on several
22 courts in one case, and each case will have at
23 least one or two items, so several hundred.

24 Q Have you ever been qualified as an
25 expert in the State of South Carolina, and --

1 first of all, have you ever been qualified as an
2 expert?

3 A I have.

4 Q And in what? Because I want to make sure
5 I get it right.

6 A In DNA analysis, and that also includes
7 serology.

8 Q So how many times have you been
9 qualified as an expert in DNA analysis and
10 serology?

11 A About 23.

12 Q And were you -- did you testify in Court
13 in each of those cases?

14 A Yes, I did.

15 MR. THORNTON: Your Honor, at this time I'd
16 ask that Agent Zapata be recognized by the Court
17 as an expert in the field of DNA analysis and
18 serology.

19 MS. TOLLEY: Without objection.

20 THE COURT: Ladies and gentlemen, in this
21 case Agent Zapata is being qualified as an
22 expert witness in DNA analysis and serology.
23 Give her opinion and the reasons for her
24 opinions as you see appropriate as compared to
25 other evidence in the case.

1 MR. THORNTON: Thank you, Your Honor.

2 BY MR. THORNTON:

3 Q Agent Zapata, what is the -- I'm gonna
4 probably not say this right, but the program or
5 the procedure used by SLED any time you are
6 doing DNA analysis? And what I mean by that is
7 Starmix, and what it is, and how you use it.

8 A Yes. So Starmix is a software program
9 that we use as part of our interpretation
10 process, so that is, once we have taken the
11 items of evidence through the laboratory
12 procedures and have developed a DNA profile, we
13 first have to ensure that the profile is
14 suitable for comparison according to our
15 protocols, and that includes determining the
16 number of contributors to a profile, so there
17 can be only one contributor, if the profile is
18 single source, or there can be a mixture, which
19 means that there appears to be DNA from multiple
20 individuals present in the profile. And so we
21 will use Starmix to aid us in the interpretation
22 of those profiles.

23 So if the DNA profile itself is like a
24 puzzle, what we use Starmix for first is to kind
25 of sort out the puzzle pieces, and see which

1 pieces make sense to go together, and then we
2 can make comparisons of any DNA profiles
3 developed from the known standards to that
4 evidentiary profile.

5 And then the second way that we use Starmix
6 is in calculating our statistics, which is how
7 we give weight to the comparisons that we are
8 making to those standards.

9 Q And so when you actually do the DNA
10 comparison, is that -- is Starmix part of that
11 process, or are you developing the DNA
12 comparison -- I don't want to say the way you've
13 always done it, but the most common way that
14 you've done, say over the last decade?

15 A Yeah, so the actual procedures in the
16 lab that we use to develop the DNA profile, that
17 has not changed, Starmix is just a newer tool
18 that we're using, and the interpretation of the
19 profiles that were developed using those same
20 methods.

21 Q And can you -- does that generate -- in
22 what form, or what would you call the results of
23 that? When you run a Starmix is that sometimes
24 called a likelihood ratio, or did I get that
25 incorrect?

1 A That is the statistic that is calculated
2 by Starmix, yes.

3 Q So that's where the fancy number comes
4 from?

5 A Yes.

6 Q Okay. Can you tell the jury just a
7 little bit about DNA? Exactly what DNA is, and
8 how you -- what you're actually looking at when
9 you're examining DNA?

10 A DNA is a chemical that is found
11 throughout your body, it is the blueprint that
12 makes you a unique individual. You get half
13 from your mom, and half from your dad, and
14 you're the only person in the world that has
15 that exact same DNA profile, unless you have an
16 identical twin.

17 Q And when you are analyzing DNA, can you
18 tell the jury a little bit about what you're
19 looking at?

20 A Okay. So part of our -- well, the DNA
21 testing that we do is targeting specific
22 locations on the DNA that have been shown
23 through scientific studies to vary from person-
24 to-person.

25 So we're not looking at everything in your

1 DNA profile, we're looking at specific markers,
2 and the results of at those locations are called
3 allele. And so like I said, you get one from
4 your mom, and one from your dad, so you can
5 either have two different numbers at each
6 location, if you've got a number from mom, and a
7 different number from dad, or you could inherit
8 the same number from both individuals, and then
9 you'd only have one number at that location, one
10 at a different one.

11 Q I'm going to hand you what's been marked
12 for identification as State's 34, and I believe
13 what was already entered into evidence as
14 State's 35, but I will re-move that into
15 evidence, if necessary. If you could, would you
16 please look at State's 34, which has already
17 been testified to as a rape kit, and 35, which
18 was the buccal swab.

19 Did you do any testing on either of those
20 items?

21 A I performed testing on the items in
22 container one --

23 Q Yes, ma'am.

24 A -- with the 34 sticker, and then also on
25 State's Exhibit 35.

1 Q And how do you know that?

2 A First, the containers have the unique
3 SLED laboratory case number and item number, and
4 then on the packaging I can see my initials, and
5 the date as well as the case and the item number
6 as well.

7 Q So if you could, please, just talk about
8 what comparisons you did in this case, and what
9 the results were?

10 A Okay.

11 Q And I tell you what, just to keep it
12 simple, we'll start with the comparison
13 standard. This is your report, the August 1st,
14 '22 report.

15 A Uh-huh.

16 Q If you would go to that report, and just
17 start with the -- go down to 1.6, and then just
18 kind of go down, 1.2 and 1.4, if you would just
19 talk about your results?

20 A Sure. So the first two items on the
21 report are the known comparison standards. So
22 in order to make comparisons to an evidence
23 profile, you need to have standards from known
24 individuals to make that comparison to the
25 unknown profile developed from the DNA.

1 So for this case I had item 1.6, which were
2 buccal swabs from K.P. [REDACTED], and then item 4,
3 which was a buccal swab from Brian Walls, and
4 then I had item 1.2, which were vaginal swabs.
5 And because of the results of the testing
6 performed by serologist, Herrera, I treat that
7 item in a specific way, so when we are -- when
8 there is semen that has been identified, or
9 semen as a body fluid of interest on an item.
10 The way that it processes in the laboratory it
11 undergoes what's called a differential
12 extraction, and that is just to target.

13 Any potential sperm cells are in one
14 fraction, which is called sperm fraction, and
15 then any potential cells that are not sperm
16 fraction, such as skin cells, would be in the
17 non-sperm fraction of the item. So for item
18 1.2, a DNA profile suitable for comparison was
19 developed from the sperm fraction, and then
20 likelihood ratios for this profile were
21 calculated using Starmix.

22 Q Okay, and what was the result of the DNA
23 profile that was developed from the sperm
24 fraction?

25 A So the way that Starmix calculates the

1 likelihood ratios, it is putting -- we're
2 putting two scenarios kind of on either end of a
3 seesaw, and what Starmix does and what the
4 likelihood ratio number means is, it is giving
5 weight to one scenario to explain which is a
6 better explanation for the final DNA profile
7 that we are seeing. And that sounds very
8 complicated, but you do those kinds of
9 comparisons subconsciously all the time.

10 So, for example, if you have a plate of
11 cookies, and you have a newborn and a four-year-
12 old, and you walk away and you come back and the
13 cookies have all been eaten, one scenario is,
14 the four-year-old ate the cookies, one scenario
15 is the newborn ate the cookies. There's an
16 obvious explanation for why the cookies were
17 eaten, right, so there's gonna be more weight on
18 that side of the seesaw. So the way that we
19 make our comparisons is, we establish the number
20 of individuals in the profile first, so for this
21 the DNA profile was interpreted as single source
22 between DNA from only one individual was
23 detected.

24 And then the person who is being compared
25 to the profile is always on one side of the

1 seesaw, and then the other side of the seesaw is
2 an unidentified, unrelated individual
3 contributed to the profile, because we have to
4 have something to contrast that person again.
5 So the result of that comparison is, the DNA
6 profile is approximately 110 septillion times
7 more likely, if Brian Walls contributed to the
8 profile, than if an unidentified, unrelated
9 individual contributed to the profile.

10 Q I'm sorry, 110 what?

11 A Septillion.

12 Q How many zeros?

13 A It is 25 zeros after the 110.

14 Q And that's as to the sperm fraction?

15 A Yes.

16 Q All right.

17 A I'm sorry, 24 zeros, sorry.

18 Q 24 zeros?

19 A Yes.

20 Q All right. So 110 followed by 24 zeros?

21 A Yes.

22 Q As to item 1.4, suspected saliva swabs
23 left breast, did you also do a comparison of
24 that material with the known standard of Brian
25 Walls?

1 A Yes, I did.

2 Q And what were your results?

3 A For this item a DNA profile suitable for
4 comparison was developed. A likelihood match
5 for this profile were calculated using Starmix,
6 and this profile was interpreted as a mixture
7 originating from two individuals. And so for
8 this item, because it is coming directly off of
9 K.P.'S [REDACTED] body, I make comparisons to her
10 profile first, to see if her DNA is present in
11 this mixture, because it's coming off of her own
12 body. And so in this situation, I assumed her
13 as a contributor, so K.P. [REDACTED] was
14 contributing to the mixture, and what that does
15 is, it puts her on both sides of the seesaw.

16 So we're saying scenario one is K.P. [REDACTED]
17 [REDACTED], and Brian Walls contributed to the
18 mixture, and scenario two is K.P. [REDACTED] and an
19 unidentified, unrelated individual who
20 contributed to the mixture.

21 And what that does within Starmix is,
22 essentially, like, if you're making a puzzle and
23 set out -- put the edge pieces together first,
24 and then you're just looking at the pieces that
25 are in the middle to make comparisons to that,

1 you have kind of a guideline, and now you're
2 looking at what is not the person whose body the
3 item was coming from.

4 Q All right, so let me see if I understood
5 what you just said.

6 A Yeah, yeah.

7 Q So in this case your seesaw is on one
8 side of the seesaw would be K.P. [REDACTED], and in
9 this case Brian Walls --

10 A Right.

11 Q -- who's the known standard, and on the
12 other side of the seesaw is K.P. [REDACTED] and
13 somebody else?

14 A Correct.

15 Q All right, so what are the likelihood
16 ratios?

17 A So the DNA profile is approximately 89
18 septillion times more likely, if K.P. [REDACTED]
19 and Brian Walls contributed to the mixture, than
20 if K.P. [REDACTED] and an unidentified, unrelated
21 individual contributed to the mixture.

22 Q And that's followed by 24 zeros you
23 said?

24 A Correct.

25 Q Thank you, ma'am.

1 MR. THORNTON: Your Honor, at this time I
2 think that State's 35 was actually already moved
3 into evidence, but on the off-chance that it's
4 not, I'd ask that State's 34 and 35 be moved
5 into evidence. The Court's indulgence, please,
6 Your Honor, for one moment. I don't have any
7 further questions, ma'am, please answer any
8 questions that Ms. Tolley may have.

9 MS. TOLLEY: Thank you.

10 **

11 **CROSS-EXAMINATION**

12 BY MS. TOLLEY:

13 Q How are you, Ms. Zapata?

14 A I'm great.

15 Q Good.

16 A How are you?

17 Q Good. So you only test items that are
18 actually sent to you; is that correct?

19 A Correct.

20 Q Okay, and they only sent you standards
21 for K.P. [REDACTED] and Brian Walls; is that
22 correct?

23 A For standards, yes.

24 Q Okay, and they sent you a couple of
25 other items as well; is that correct? The

1 panties?

2 A Yes, there was a pair of panties, as
3 well as a shirt that was submitted.

4 Q Those items were not tested; is that
5 correct?

6 A No. We typically begin with the sexual
7 assault kit, and then additional items can be
8 tested, if requested by anyone.

9 Q And no one requested that you test
10 those?

11 A No.

12 Q Okay. And with all of your training and
13 experience, nothing about what you said tells
14 you when the DNA was deposited; is that correct?

15 A That's correct.

16 Q Nothing about it tells you how the DNA
17 was deposited; is that correct?

18 A That's correct.

19 Q Thank you.

20 THE COURT: Anything further?

21 MR. THORNTON: Nothing further. I'd ask
22 that she be allowed to step down and return back
23 to SLED.

24 THE COURT: Thank you.

25 MR. THORNTON: Your Honor, if I could,

1 momentarily, I just, out of an abundance of
2 caution, I am not sure if I moved in State's 22,
3 23, 24 before. I think I did.

4 On the off-chance I did not, I would just
5 move those into evidence. I believe I covered
6 and laid the foundation for those with Sergeant
7 Jordan. Again, I think I did that, but on the
8 off-chance I didn't, I would ask to move that
9 into evidence.

10 THE COURT: Thank you.

11 MR. THORNTON: Your Honor, beyond that, the
12 State rests.

13 **

14 **STATE RESTS**

15 THE COURT: Ladies and gentlemen, at this
16 time the State rests their case. There's a
17 matter of law I need to take up with the
18 attorneys momentarily. I'll bring you right
19 back, and let you know where we will go from
20 here.

21 Do not discuss this case, it would not be
22 appropriate to do so.

23 (Jury exits the courtroom.)

24 BAILIFF: The jury's cleared, the doors are
25 closed, Your Honor.

1 THE COURT: All right, any motions?

2 MS. TOLLEY: Your Honor, at this time we
3 move for a directed verdict. We believe that
4 the State did not meet its burden to go forward
5 at this time.

6 MR. THORNTON: Your Honor, I would ask the
7 Court to respectfully deny that motion. I
8 believe that as to each and every element of the
9 offense, based on all the testimony, especially,
10 frankly, the testimony of [K.P.] and the
11 testimony of all the other witnesses, that the
12 State has met each and every element; and as was
13 pointed out just now by Ms. Tolley, it's the
14 existent of the evidence not its weight.

15 I can give more detail if the Court needs
16 me to, but I believe we've hit every element of
17 each of the three offenses that were indicted.
18 Thank you, Your Honor.

19 THE COURT: Taking the evidence in the
20 light most favorable to nonmoving party as I'm
21 required to do, I think there is sufficient
22 evidence to which this jury can determine
23 whether Mr. Walls is guilty of first-degree,
24 kidnapping, and rape. Ms. Tolley, do you want
25 to present a case?

1 MS. TOLLEY: I don't think we want to
2 present any witnesses today, Your Honor.

3 THE COURT: Okay, and I want to address --
4 as far as your contributing -- seeking to admit
5 would be contributing to the delinquency of a
6 minor murder charge, and we'll do a deep dive
7 into Rule 6 and 9.

8 Obviously, if it meets the elements and
9 being ten years, then we have to look at whether
10 or not its probative value outweighs any
11 prejudice.

12 I think the convictions show obvious
13 prejudice. And at this time I am not gonna let
14 the State ask him about -- if he takes the
15 stand, ask him about the murder, or the --

16 MS. TOLLEY: Contributing to delinquency.

17 THE COURT: Thank you, contributing to the
18 delinquency of a minor; however, you run into a
19 huge danger -- you put your client's character
20 in evidence, if he testifies. There are so many
21 ways that you could open that door, and if it is
22 opened, I'm gonna let the State go in. They
23 can't use it to dirty up his character, but if
24 he says anything like I would never do such a
25 thing, I mean there's such a wide array, if you

1 open that door, it almost seems pretty close to
2 impossible that it wouldn't come out.

3 So I just think you know, obviously, if he
4 testifies, you know, I don't know what your
5 defense is. I mean I have an idea of what it
6 might be, but I don't know, and I just don't
7 know if we're gonna be able to keep within the
8 parameters.

9 You know, it's enrichment evidence and
10 there's so many ways to look at this. At this
11 point, I'm not gonna let them ask, unless he
12 gets on the stand and something triggers it.

13 MS. TOLLEY: Thank you, Judge.

14 THE COURT: Because it would be -- I just
15 think on a probative versus prejudicial, you
16 know, analysis, you know, obviously, you know,
17 the fear you run into is because he has been
18 found guilty of murder and now must be guilty of
19 rape, and, of course, the jury's not allowed to
20 hear that. Again, there are so many ways if the
21 door will be opened, and, again, if it happens,
22 Okay?

23 MS. TOLLEY: Gotcha, we understand that.

24 THE COURT: I just want to make sure you
25 know that.

1 MS. TOLLEY: thank you.

2 THE COURT: Okay?

3 MS. TOLLEY: Is it appropriate at this time
4 to -- well --

5 THE COURT: I can require them -- so I
6 guess what I need to know is this for tomorrow,
7 we're gonna be here before 9 o'clock.

8 We're going to do our hearing with Ms.
9 Brock. Then I assume you're still gonna call
10 Mr. Priester, and, potentially, you gave me a
11 list of these other ones. I need to make sure
12 that if you intend on calling all of these
13 people, I've got on here --

14 MS. TOLLEY: I can tell you that we don't
15 intend to call [K.W.], we don't intend to call
16 [X.W.].

17 THE COURT: Okay. And you may call Travis

18 MS. TOLLEY: That's possible, yes.

19 THE COURT: So you need to call Travis, we
20 need to call John Priester, and then other than
21 those people, and your client potentially?

22 MS. TOLLEY: That's correct.

23 THE COURT: Anyone else?

24 MS. TOLLEY: No, ma'am.

25 THE COURT: I need to make sure all of

1 those people are here tomorrow morning at 9
2 o'clock, so they need to be ready to go. And if
3 they do all testify, we need to go right in
4 order and finish, okay?

5 And we are going to argue a charge tomorrow
6 regardless, so I just want to make sure you
7 understand that. And I'm prepared to talk to
8 you about the jury charges --

9 MS. TOLLEY: Okay.

10 THE COURT: -- as well, so this is the best
11 we can do.

12 MS. TOLLEY: Do you want to inquire with my
13 client as to whether or not he wants to testify?

14 THE COURT: We certainly can do that at
15 this time.

16 MS. TOLLEY: Thank you.

17 THE COURT: We can go ahead and do it right
18 now, and then I'll ask him again in the morning.

19 BY THE COURT:

20 Q So, Mr. Walls, if you'll just stand and
21 raise your right hand? Sir, do you swear or
22 affirm that the testimony you give will be the
23 truth, so help you God?

24 A Yes, ma'am.

25 Q Thank you, sir, you may be seated now.

1 A Yes, ma'am.

2 Q Sir, we've come to that point in the
3 trial, where you and your attorney may present
4 your defense. As you know, the Fifth Amendment
5 to the Constitution states, in part, that no
6 Defendant is ever required to be a witness
7 against themselves.

8 That means the State cannot call you as a
9 witness and cross-examine you, however, you can
10 voluntarily choose to take the witness stand,
11 and if you do that, they can cross-examine you,
12 and they can ask you questions about anything I
13 deem relevant to this case, and, again, that
14 would be from my ruling. So, again, they could
15 ask you questions, and you'd be required to
16 answer them; do you understand that?

17 A Yes.

18 Q If you do take the stand, if they choose
19 to, they could ask questions that don't have
20 anything to do with this, to paint whatever
21 picture they want?

22 A And then if I don't take the stand, they
23 can't.

24 Q No, that's not what I said.

25 A Okay.

1 Q No. They can ask you questions, and if
2 I deem it appropriate, then they can ask, and
3 you have to answer it.

4 A Yes, ma'am, I understand that.

5 Q You understand?

6 A Yeah, I think I do understand.

7 Q Okay? I want you to know though that if
8 you choose not to take the witness stand, in my
9 jury charge to this jury, I'm going to tell this
10 jury, that the fact that you didn't testify in
11 this case cannot even be discussed in the jury
12 room and cannot be held against you. And the
13 reason is, because you're not required to prove
14 yourself innocent, the burden is on the State to
15 prove your guilt beyond a reasonable doubt,
16 okay?

17 So I just want to make sure you understand
18 that. So what I'm gonna do tomorrow morning, I
19 expect you to have talked with Ms. Tolley and
20 Mr. McFadden, and have spoken and determined
21 whether or not you wish to testify, all right?

22 A Yes, ma'am.

23 Q And at that point I'm gonna say, do you
24 understand given your Fifth Amendment
25 protections, you are not required to testify,

1 okay? And I'm going to ask you -- this is
2 something I will expect you to talk to your
3 attorney about, whether or not to invoke the
4 protections given you by the Fifth Amendment is
5 a personal protection that only you can invoke,
6 okay?

7 A Yes, ma'am.

8 Q All right, so with that said -- do I
9 have the jury charge? So I just want to go
10 through what I intend on charging in this case,
11 and I just want to make sure -- and, again, this
12 is fluid, if it changes, it changes, of course.
13 I just want the attorneys to have an idea while
14 tonight they prepare for closing arguments, that
15 they have an idea of what I'm gonna charge.

16 In this case what I see as far as
17 appropriate is criminal sexual conduct in the
18 first degree, obviously, kidnapping, and use of
19 vehicle without permission.

20 There will be a charge about expert
21 witnesses. Direct versus circumstantial
22 evidence.

23 Obviously, if you choose not to testify,
24 I'll put in there not to discuss that back in
25 the jury room. Just that the jury is the judge

1 of the facts, I'm the judge of the law.

2 Anything else from the State?

3 MR. THORNTON: Not really, Your Honor, I
4 mean I think you've covered it.

5 THE COURT: He didn't make any statements,
6 so --

7 MR. THORNTON: No, ma'am, not that we used
8 to --

9 THE COURT: Yeah, so I just don't see any
10 need for that. So anyway, if you can think of
11 anything, let me know.

12 MR. THORNTON: Your Honor, I know we're
13 early, and this could always change, but I do
14 think, however, that -- and I don't know what
15 the defense is gonna be yet, my assumption is
16 that, you know, he didn't do it.

17 So I think CSC second is a necessary
18 lesser-included defense.

19 THE COURT: I always do that.

20 Okay, so the difference between criminal
21 sexual conduct in the first degree and criminal
22 sexual conduct in the second degree is, one is
23 whether or not they engaged in a sexual battery,
24 that's the first degree, and the other is
25 whether or not they -- I'm sorry, they used --

1 okay, sorry, let me back up.

2 So a person is guilty of criminal sexual
3 conduct in the first degree, if the actor
4 engages in a sexual battery, which we know what
5 a sexual battery. It's the typical one we say,
6 you know, sexual intercourse, all of that, and
7 intrusion, right?

8 So -- and any one or more of the following
9 circumstances are proven, the actor uses
10 aggravated force to accomplish sexual battery.
11 Aggravated force means that the actor uses
12 physical force or physical violence of a high
13 and aggravated nature to overcome the victim or
14 includes the threat of the use of a deadly
15 weapon.

16 Now, to go down to criminal sexual conduct
17 in the second degree, a person is guilty of
18 criminal sexual conduct in the second degree if
19 the actor uses aggravated coercion to accomplish
20 this sexual battery.

21 And aggravated coercion means that the
22 actor threatened to use force or violence of a
23 high and aggravated nature to overcome the
24 victim. If a victim reasonably believes that
25 the actor has the present ability to carry out

1 the threat or threatens to retaliate in the
2 future by the infliction of physical harm,
3 kidnapping or extortion under circumstances of
4 aggravation of the victim, or any other person.

5 I just don't think sexual -- I just don't
6 think CSC second is appropriate unless someone
7 can convince me --

8 MR. THORNTON: Well --

9 THE COURT: -- it needs to be done --

10 MR. THORNTON: Judge, the only --

11 THE COURT: -- give me the case law.

12 MR. THORNTON: Yes, ma'am. I just -- I was
13 gonna hand this up, and I've got a copy for Ms.
14 Tolley as well.

15 I've got two copies, one for you, one for
16 your Law Clerk, it's State v. Brown, which is
17 360SC581, I've got two copies. The only reason
18 I thought it might apply was, because of the
19 threat that K.P. testified to of don't
20 scream or I'll kill you.

21 I feel like that might rise to the level of
22 aggravated coercion, because that case
23 specifically talks about a threat of violence
24 during or after-the-fact. In other words, that
25 the violence would be carried out --

1 THE COURT: What I have is under 1B, if the
2 victim submits to sexual battery, under
3 circumstances where the victim is also alleged
4 to be kidnapped, which you're alleging in this.

5 MR. THORNTON: Yes, ma'am, I understand, I
6 just --

7 THE COURT: I still think it's forceable
8 confinement.

9 MR. THORNTON: Yes, ma'am.

10 THE COURT: And I understand all the things
11 that the jury could find, could say did she
12 willingly go in the bathroom? Okay? I just
13 don't see it --

14 MR. THORNTON: The only thing I would
15 submit to Your Honor would be that --

16 THE COURT: I can tell you that I went
17 through and did all the gymnastics for this
18 earlier today, just making sure that I was
19 comfortable. Because, normally, as we all
20 understand, we usually do the lesser-included,
21 but I think that -- Ms. Tolley, what is your
22 thoughts on this?

23 MS. TOLLEY: I'd like to review the case
24 overnight, and --

25 THE COURT: Okay.

1 MS. TOLLEY: -- make a decision in the
2 morning, if that's okay.

3 THE COURT: Okay. I mean, I may change my
4 mind, I may go back and look at the case law,
5 but to me it was a straight CSC first case.

6 MR. THORNTON: Yes, ma'am, if I might, Your
7 Honor?

8 THE COURT: Sure.

9 MR. THORNTON: And I may have missed this
10 one, what Ms. Tolley and you were just talking
11 about a minute ago, since Priester does not have
12 an attorney, do you want to bring him out this
13 afternoon, I think he's there, to see if he
14 wants to exercise his Fifth Amendment right?
15 She may call him, that may be something we can
16 knock out now, as opposed to in the morning.

17 THE COURT: Do you know where he is?

18 MR. THORNTON: I didn't know if he was here
19 or not, but I thought --

20 MS. TOLLEY: Well, I guess we would like an
21 opportunity to speak with him, since we've got
22 him here, before we bring him out, or -- and
23 obviously, if he doesn't want to speak with us,
24 he doesn't have to.

25 THE COURT: Okay, well, that's fine, we'll

1 bring him out. I think everyone just needs to
2 be here by, you know, 8:30 at the very latest
3 tomorrow, and we need to make sure we have
4 Priester and Brock here at 8:30 in the morning.

5 BAILIFF: Do you want me to see if he's
6 here?

7 THE COURT: No, because she wants to talk
8 to him ahead of time first, if he'll see her. I
9 just want to know ahead of time, if possible so
10 we can have you rest in front of the jury, okay?

11 MS. TOLLEY: Thank you.

12 THE COURT: Okay. All right, so anything
13 else? And, again, I'm gonna go back there and
14 I'm gonna read case law on this.

15 MR. THORNTON: Nothing from the State,
16 Judge.

17 THE COURT: Anything?

18 MS. TOLLEY: Nothing, Your Honor.

19 THE COURT: Okay. All right, so everyone's
20 gonna be here and ready to go, including Mr.
21 Walls, to be ready to go at 8:30, if that's okay
22 with you'all.

23 So I'm gonna tell the jury that they're to
24 call back tomorrow night after 6 o'clock, and
25 then the jury line is gonna say come back or you

1 are excused for the week.

2 MR. THORNTON: Thank you, Your Honor.

3 THE COURT: Tomorrow morning, all right.

4 MR. THORNTON: Are we excused for the
5 evening?

6 THE COURT: You are.

7 MR. THORNTON: Did you already send word
8 back to the jury, Judge?

9 THE COURT: We are bringing them in.

10 MR. THORNTON: Yes, ma'am.

11 THE COURT: Let's bring the jury.

12 (Jury enters courtroom.)

13 THE COURT: Ladies and gentlemen, thank you
14 for your patience. At this time I am going to
15 excuse you for the evening.

16 Get a good night's rest, and we will see
17 you back here at 9:30.

18 Do not talk about the case. It would not
19 be appropriate to do so.

20 Have a good evening.

21 (At 5:36 p.m. the trial was continued to
22 the following day without interruption.)

23

**

24

END OF VOLUME II

25

CERTIFICATE OF REPORTER*******

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 27th Day of August, 2024.

I do further certify that I am neither related, counsel, nor interest to any party hereto.

This, the 10th day of February, 2024.

Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA	IN THE GENERAL SESSIONS COURT
COUNTY OF BEAUFORT	14th JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

vs.

CASE NO. 2016-GS-07-02232 - -234

BRIAN DAVID WALLS,

Defendant.

TRANSCRIPT OF JURY TRIAL
VOLUME III
(PAGES 269 - 386)

TRIAL BEFORE:

THE HONORABLE CARMEN T. MULLEN

DATE:

AUGUST 28, 2024

REPORTED BY:

KYMBERLEE M. WILLIAMS, CSR/RPR

APPEARANCES:**Attorneys for the State:**

Sean Thornton, Esq.
Deputy Solicitor
Jared Shedd, Esq.
Assistant Solicitor
State of South Carolina
Solicitor's Office
14th Judicial Circuit
102 Ribault Road
Beaufort, South Carolina 29902

Attorneys for the Defendant:

Juan Tolley, Esq.
Jacob McFadden, Esq.
Assistant Public Defender
State of South Carolina
Public Defender's Office
14th Judicial Circuit
1905 Duke Street
Beaufort, South Carolina 29902

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PROCEEDINGS

WEDNESDAY, AUGUST 28, 2024

BEAUFORT, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

**

THE COURT: Are we ready to bring in the jury?

MS. TOLLEY: Judge, we are not calling John Priester, and I believe Ms. Brock's attorney is here, and she's represented that they are going -- that her client has pleaded the Fifth.

THE COURT: All right.

MS. TOLLEY: And based on that, I think we're gonna not have her called as a witness.

THE COURT: All right.

MS. TOLLEY: -- but if she can verify that on the record, we would appreciate it.

THE COURT: Okay.

Okay, Ms. Delaney, good morning.

MS. DELANEY: Good morning, Judge. My client is asserting her Fifth Amendment privilege, as well as her privilege against incrimination, pursuant to statute and pursuant

1 to Article 1, Section 12 of the South Carolina
2 Constitution, and I'm happy to speak further, if
3 you'd like; otherwise, I'll leave it at that.

4 THE COURT: All right.

5 MS. TOLLEY: It could be part of the
6 record, if you'd like.

7 THE COURT: Pardon?

8 MS. TOLLEY: The more that you put on the
9 record the better.

10 MS. DELANEY: Judge, shall I keep
11 speaking?

12 THE COURT: Please.

13 MS. DELANEY: Thank you.

14 THE COURT: Sure.

15 MS. DELANEY: So my client is the co-
16 defendant of Mr. Walls in a murder case.
17 They've both been convicted of that murder case,
18 but my client's case is pending on appeal, so
19 her conviction is not final.

20 She's still subject to, you know,
21 potentially, a retrial, and anything she says
22 here could be used in that retrial.

23 My other concern that I have is, I spoke to
24 the Solicitor, Mr. Thornton, and asked him, "Do
25 you suspect -- is there anything that leads the

1 State to suspect that my client had some
2 criminal liability in regards to this case, the
3 rape case, and he said, "Potentially, yes."
4 That, to me, is just, you know, the case law is
5 very favorable for the witness in that
6 situation.

7 It says the Fifth Amendment privilege is to
8 be construed broadly, to be construed liberally,
9 anything that could furnish a link in the chain
10 of evidence that could be used against them.
11 So, you know, if I've got the Solicitor saying
12 they're going to be listening to see what they
13 can charge my client with, I absolutely think
14 her privilege applies, and we would ask that she
15 not be compelled to testify.

16 As far as Lawrence goes, that case is very
17 new. As far as I can tell, I've asked around,
18 we would be the first ones doing that kind of
19 procedure. And so if we do get into that, you
20 know, I'd like to be heard on that, but,
21 otherwise, if they're not gonna call my client,
22 you know, I'll get back on my horse and ride to
23 Columbia.

24 THE COURT: So what is your belief? Your
25 belief is we don't even need to have a Lawrence

1 hearing, because? I guess my question is, is
2 pursuant to Lawrence, can you just represent
3 that your client's gonna take the Fifth?

4 MS. DELANEY: Absolutely.

5 THE COURT: And do we even need her to come
6 up here, or take the stand? Obviously, you
7 know, out of view of the jury, and have her take
8 the Fifth?

9 Obviously, you've spoken to her this
10 morning, or last night I would presume; is that
11 correct?

12 MS. DELANEY: I did, yes.

13 THE COURT: Okay. So I don't even know
14 that we need to bring her out here just to do
15 that, even amongst us. So, particularly, if Ms.
16 Tolley is not going to call her at all, correct?

17 MS. TOLLEY: That's correct.

18 THE COURT: Okay, so I think we're fine. I
19 think, as you said though, I think you can speak
20 for her, she intends to take the Fifth, and I
21 think that we've taken care of everything we
22 need to take care of, to make sure that the
23 record is protected.

24 MS. DELANEY: Thank you, Your Honor.

25 THE COURT: Absolutely. I hate that you

1 had to come down, but --

2 MS. DELANEY: It's a lovely drive.

3 THE COURT: Well, good, I'm glad, all
4 right.

5 MS. DELANEY: Thank you.

6 THE COURT: So I appreciate it. You're not
7 gonna call her, so this morning who are you
8 going to call, Ms. Tolley?

9 MS. TOLLEY: We're gonna call Mr. Walls.

10 BY THE COURT:

11 Q Okay, and, sir, I'm gonna ask you to
12 stand, and I'm just gonna remind you that you
13 swear or affirm the testimony you give will be
14 the truth, so help you God, again?

15 A Yes.

16 Q Sir, as I told you yesterday -- you can
17 put your hand down, Mr. Walls.

18 As I told you yesterday, I went through
19 rights whether or not to testify.

20 Have you had an opportunity overnight to
21 speak with your attorneys, and to consider
22 whether or not you wish to testify in this case?

23 A Yes.

24 Q And do you wish to testify?

25 A Yes.

1 Q All right. Sir, I just want to make
2 sure you understand, again, that because you're
3 going to testify, the State can cross-examine
4 you on anything that I deem relevant to this
5 case.

6 Also, sir, I want to make sure that even
7 though I did make a ruling yesterday, as to your
8 prior murder conviction, and your contributing
9 to the delinquency of a minor, there was --
10 could not be asked of you, but you can very
11 likely open the door, if you say something that
12 elicits something that is relevant to this case,
13 then I'm going to allow the State to ask you
14 about that murder conviction, and if it's
15 relevant, contributing to the delinquency of a
16 minor; but I do think because they're so close
17 in time involving so many other people, there is
18 a possibility that something you can say in your
19 answers that would allow them to ask you about.

20 And I'm probably more concerned about the
21 murder conviction, but there could also be the
22 contributing to the delinquency of a minor,
23 based on what you say, or anything that you
24 assert, so I just want to make sure that you
25 understand.

1 Do you?

2 A I think so.

3 Q Okay.

4 THE COURT: Well, Ms. Tolley, I know you've
5 spoken to your client; is that correct?

6 MS. TOLLEY: I have, Your Honor.

7 THE COURT: And we said this early
8 yesterday, you can always open the door to get
9 it introduced, although I'm going to ask Mr.
10 Thornton, that, if, in fact, he believes he has
11 opened the door, I need you to approach me first
12 before you actually ask a question related to
13 the murder, or the contributing to the
14 delinquency of a minor.

15 MR. THORNTON: Yes, ma'am.

16 THE COURT: It's going to be a 404, you
17 know, B, and a 609 rule, okay?

18 MR. THORNTON: Understood, Your Honor, I
19 wouldn't do it any other way.

20 THE COURT: I appreciate it. Other than
21 your client this morning, do you have any other
22 witness?

23 MS. TOLLEY: No, ma'am.

24 THE COURT: Okay. Well, we are a little
25 ahead of ourselves. The jury's coming in at

1 9:45.

2 All right. I just want to go over, since
3 we have a few minutes, and I just want to go
4 over the jury charge with you all. Right now,
5 obviously, I charge that the charge, arrest, and
6 indictments are not evidence.

7 I charge the presumption of innocence,
8 reasonable doubt. That the jury's the judge of
9 the facts, and I'm the judge of the law. Direct
10 and circumstantial evidence, credibility of
11 witnesses, expert witnesses.

12 I'm going to charge criminal sexual conduct
13 in the first degree, and I'm going to charge
14 criminal sexual conduct in the second degree.

15 After going through the case law last night
16 and considering it, I do think there is some
17 evidence in this case from which this jury could
18 find Mr. Walls guilty of the lesser included.
19 And two things, and I'll be very clear for the
20 record, just to make sure when the verdict comes
21 back, so that the Appellate Courts understand
22 it, so nothing would be inconsistent.

23 I think that the jury can find, from the
24 evidence, if they believe that Mr. Walls
25 committed the criminal sexual conduct under

1 portion 1A, which requires aggravated force, or
2 under 1B, which could include confinement,
3 kidnapping, you know, on and on and on, okay?

4 So I think they can find from the evidence,
5 if they chose to believe it, of course, him
6 guilty of that. I also think they could find
7 that based on the testimony of K.P. [REDACTED], if
8 they did not believe that she was kidnapped, in
9 other words, if they thought she literally went
10 into the back, if they found that what he did
11 was not use any type of aggravated force.

12 In other words, whatever they determine,
13 even in her own, you know, rendition of he hit
14 her, I think they could find aggravated force,
15 and that she was in fear that he was going to
16 hurt her.

17 And I think that would be then proper under
18 criminal sexual conduct, and so I'm gonna charge
19 both of those with the lesser included.
20 Obviously, I'm gonna charge kidnapping.

21 I'm gonna charge use of vehicle without
22 permission with attempt to deprive, and pretty
23 much that's it, okay?

24 Anything else the State can think of?

25 MR. THORNTON: No, Your Honor, I think that

1 covers everything, thank you.

2 THE COURT: Okay. Ms. Tolley, anything
3 else?

4 MS. TOLLEY: Nothing, Your Honor, thank
5 you.

6 THE COURT: Okay, so thank you. All right,
7 so other than that, we're good to go?

8 MR. THORNTON: The State's ready, Your
9 Honor, when the jury comes in.

10 THE COURT: Okay. Any chance, Marshall,
11 the jury's all here?

12 BAILIFF: We are still missing a few.

13 THE COURT: I understand, okay. Well, what
14 we're gonna do is this, until then we're gonna
15 be at ease, and when I hear back, please don't
16 go too far so I can come back and talk to you.

17 Ms. Tolley, do you want Mr. Walls to remain
18 in here with you right now so you can speak to
19 him, or -- of course, you're welcome to go back
20 there, if you want to, but I just want to make
21 sure you have access to talk to Mr. Walls.

22 I told the jury to be here this morning at
23 9:45, but I just want to make sure she has
24 access in the next 15 minutes or so, okay?

25 MR. THORNTON: Thank you, Your Honor.

1 THE COURT: Thank you.

2 (RECESS)

3 THE COURT: One thing before we start, I'm
4 gonna have Dale show you both the verdict form,
5 okay? Make sure you approve of it.

6 THE BAILIFF: All the jurors are here, Your
7 Honor.

8 THE COURT: Very good. Bring them in.

9 BAILIFF: The jury's entering the
10 courtroom, Your Honor.

11 THE COURT: Thank you.

12 (Jury enters the courtroom.)

13 BAILIFF: The jury's seated, Your Honor.

14 THE COURT: Thank you. Good morning,
15 ladies and gentlemen, it's a pleasure to see you
16 all.

17 At this time, Ms. Tolley, will you call
18 your witness, please?

19 MS. TOLLEY: Thank you, Your Honor.

20 The defense calls Brian Walls.

21 THE COURT: Come on forward, Mr. Walls.
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BRIAN WALLS,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. TOLLEY:

Q Good morning, Mr. Walls, are you doing
okay?

A Yes, ma'am.

Q How old are you?

A I'm 42-years-old.

Q And where are you from?

A I'm from Beaufort, South Carolina.

Q Okay, and do you know K.P. [REDACTED] ?

A Yes, ma'am.

Q And how do you know her?

A My family and her family's been friends
all my life.

Q Okay, and on December 16th of 2016, did
you have occasion to see her?

A Yes, ma'am.

Q Okay, and under what circumstances did
you see her?

A She came and picked me up at my house.

Q Okay, and when she came to pick you up,
what happened?

1 A When she came to pick me up, we got in
2 the car and left.

3 Q And who was with you?

4 A My son, X.W. [REDACTED], K.W. [REDACTED], John
5 Priester, and Courtney.

6 Q Okay, and so when she picked you up,
7 where did you'all go?

8 A We went to a friend of mine's house.

9 Q Okay, and did you stay there long?

10 A About ten minutes.

11 Q Okay. After you went there, where did
12 you go?

13 A We went to the Parker's gas station.

14 Q And what happened at Parker's?

15 A We got gas for the car. We went and got
16 food for my children, and some drinks, and
17 that's it.

18 Q Okay, and while you were there,
19 everybody was friendly, having a good time?

20 A Yes, ma'am.

21 Q Okay. Did you and K.P. [REDACTED] have
22 occasion to embrace?

23 A Yes, ma'am.

24 Q And when you left Parker's, what
25 happened?

1 A Well, when we left Parker's, we went to
2 that Howard Johnson Hotel that was like pretty
3 much across the road from Parker's.

4 Q And when you got there, what happened?

5 A We got a hotel room.

6 Q Okay, and did everybody go inside the
7 hotel room?

8 A Yes, ma'am, everybody that was riding
9 with us went to the hotel room.

10 Q Okay, and had K.P. given you rides
11 before?

12 A Yes, ma'am.

13 Q So this wasn't unusual that she had
14 given you a ride?

15 A No, ma'am.

16 Q Okay, and so you get into the hotel
17 room, and what happens?

18 A When we got into the hotel room, me and
19 Fuzzy went and talked in the bathroom, and the
20 kids, you know, like kinda was just jumping
21 around, hanging around, you know --

22 Q Whose Fuzzy?

23 A -- being boys. Oh, I apologize, I'm
24 sorry, K.P.

25 Q Okay. You call her Fuzzy?

1 A That's a nickname that everybody that we
2 know calls her, I'm sorry.

3 Q And so you go into the bathroom, and
4 what happens?

5 A We did, we had sex and hung out and
6 talked, we smoked a couple cigarettes.

7 Q Okay.

8 A And we talked about, you know, we --
9 what we were getting ready to be doing.

10 Q Okay. Did she indicate to you that she
11 did not want to have sex?

12 A No, ma'am.

13 Q She didn't say, "Stop?"

14 A No, ma'am.

15 Q She didn't yell?

16 A No, ma'am.

17 Q She didn't scream?

18 A No, ma'am.

19 Q She didn't resist?

20 A No, ma'am.

21 Q Did you hit her over the head?

22 A No, ma'am.

23 Q Had you had sex before?

24 A Yes, ma'am.

25 Q So you have sex, you smoke a cigarette,

1 you're in the bathroom, then what happens?

2 A We came out of the bathroom.

3 Q And then what?

4 A I kind of wrestled around with my sons
5 for a little bit. Her and Courtney was hanging
6 out talking for a little bit. She was dealing
7 with her baby father on the phone back and
8 forth, you know.

9 Q What was going on with her and the baby
10 father?

11 A They were in an argument about her
12 coming home.

13 Q Okay, and so then what? Why was that an
14 issue for you that she was trying to go home?

15 A Oh, we'd already made plans earlier in
16 the week to be able to go -- she gives me a ride
17 often, but we had made plans already to go, and
18 it did become an issue for me, because I had
19 already paid her to -- for the ride that she was
20 getting ready to give me, and we had already put
21 all the gas in the car to make the ride, and
22 so --

23 Q You wanted to go?

24 A Yes, ma'am, I wanted to go.

25 Q And where were you'all going?

1 A Pageland, South Carolina.

2 Q And where is that, in Chesterfield
3 County?

4 A I believe so. It's kinda like at -- I
5 think it's closer to Lancaster. I know it's off
6 the Number 9 Highway, it's a real small place.
7 I lived there for about four years at the --
8 prior, but I'm not really sure of the
9 surrounding area. I know it's like higher, I
10 think it's like over this way, but my wife's
11 family's from there, and so I don't really know
12 the area that well, but that, you know --

13 Q Okay.

14 A -- that's where it is, ma'am.

15 Q So you were still in the hotel room?

16 A Uh-huh.

17 Q At some point, did you leave the hotel
18 room?

19 A Yes, ma'am.

20 Q And what happened?

21 A Well, when we left out the hotel room,
22 we went downstairs to her car. She was trying
23 to get me to kind of hear her out on, you know,
24 her baby's father was, you know, being
25 aggravated to her, and she was wanting to know

1 if we could just go, you know, maybe Monday, or
2 maybe the next day, and, you know, we got in
3 kind of a little bit of an argument, because I'd
4 done put the money in the car for the ride, and
5 I'd done gave her the money for the ride. So I,
6 you know, I really just wanted to, you know, go,
7 and we'd done made the plan to do that all week.

8 Q Okay. And so what happened?

9 A I tried to just tell her final reasons,
10 I don't have a license myself, but Courtney has
11 a license, and I was trying to ask her could,
12 you know, could she let Courtney drive, or, you
13 know, and she didn't want to let me drive,
14 'cause I didn't have a license.

15 And then I asked her, "Could you let
16 Courtney drive?" And then she was going back
17 and forth over whether or not she trusted
18 Courtney, or what not, and, eventually, we got
19 into an argument, to the point where I was,
20 basically, like, "You know, I've done gave you
21 the money to, you know, and you done spent some
22 of it, and I done put the gas in the car, you
23 know, and you knew all week we were going."

24 And, you know, we kind of was in an
25 argument back and forth, to where kind of was

1 like, you know, basically, I kinda tried to tell
2 her, "That, you know, I'll tell your boyfriend
3 that, you know, we're messing around," if you
4 don't keep to your agreement.

5 She got pissy at me, and told me like,
6 "Yeah, really?" I was kinda like, "Yeah,
7 really," you know, but I really wasn't gonna do
8 it, but I said that anyway, trying to get her to
9 go, and -- because --

10 Q Did you go at that point, or what
11 happened?

12 A No, ma'am. I told her basically, "You
13 know, you might as well just go ahead and call
14 you someone else for a ride, you know, because
15 we're going. Either you're gonna drive me, or
16 Courtney's gonna drive me, but we're gonna go."
17 And she wasn't really cool with it, but she
18 wasn't -- she kinda seen my point, because she'd
19 done spent the money --.

20 Q Okay.

21 A -- that I'd given her to go, and so
22 that's what I did. She --

23 Q Okay.

24 A I went up to the room to ask Courtney if
25 she'd drive, and she said she didn't have no

1 problem with driving, and then we left, and she
2 was supposed to be calling somebody for a ride
3 for her. She'd done left off walking, you know,
4 and I -- and when we left out of the parking
5 lot, to be honest, I don't remember seeing her
6 there no more already. You know, I didn't know
7 where she was, or if she was on the sidewalk,
8 and to be honest, I really wasn't looking for
9 her, you know, we were leaving, so --

10 Q Did you chase her into the marsh?

11 A Oh, no, no, ma'am. No, ma'am.

12 Q All right. Did the car spin around in
13 circles?

14 A No, ma'am, there was never no car
15 spinning around in circles, no, ma'am.

16 Q And so when you took the car, you went
17 to Pageland like you had planned on going

18 A Yes, ma'am, we went to Pageland.

19 MS. TOLLEY: Your Honor --

20 THE COURT: Any objection?

21 MR. THORNTON: No objection, Your Honor.

22 MS. TOLLEY: Thank you.

23 BY MS. TOLLEY:

24 Q I'm gonna hand you what's been marked as
25 Exhibits 1, 2 and 3, and just ask if you

1 recognize it?

2 A Yes, ma'am, those are pictures of Fuzzy,
3 I'm sorry, K.P. [REDACTED].

4 MS. TOLLEY: Permission to publish to the
5 jury?

6 MR. THORNTON: I don't have any objections,
7 Judge.

8 THE COURT: Okay, you may.

9 BY MS. TOLLEY:

10 Q So what's Defense Exhibit Number 1?
11 What is that?

12 A What is it?

13 Q Is it her face?

14 A What is it?

15 Q It's a picture of Fuzzy --

16 MR. THORNTON: Objection, Your Honor, now
17 she's leading, so I mean, you know, if he knows,
18 he knows, if he doesn't, I don't think Ms.
19 Tolley can help him.

20 BY WITNESS:

21 A I mean it's just a picture of Fuzzy.

22 Q Yes, okay.

23 A I'm sorry.

24 Q Okay. And this is a picture of Fuzzy,
25 as well?

1 A Yes. Yes, ma'am.

2 Q Okay. And is that what she looked like
3 about the time when this happened?

4 A Yes, ma'am.

5 Q Okay. Are there any bruises on her?

6 MR. THORNTON: Objection, Your Honor. I
7 mean, does she mean that are visible in a
8 picture that was changed from color to black and
9 white? I don't know where we're going.

10 THE COURT: Do we know when this was taken?

11 MR. THORNTON: Yes, ma'am, it would be in
12 the set of pictures, the other photographs that
13 we had. I don't believe the Defendant was
14 present when they were being taken, but, again,
15 I don't have any objection to it -- of
16 introducing it, but I mean, you know, she's
17 basically leading him through exactly what she
18 wants him to say.

19 MS. TOLLEY: I'll try not to.

20 THE COURT: Don't lead him.

21 MS. TOLLEY: Thank you, Judge.

22 BY WITNESS:

23 A I apologize, but, no, ma'am, I -- I'm
24 looking at the pictures, and I don't see no
25 bruises on this picture at all --

1 Q Okay.

2 A -- nowhere. I don't see any.

3 Q Okay.

4 A No, ma'am.

5 Q Thank you.

6 A And I don't see any bruises on this
7 picture nowhere, no, ma'am, I do not see any.
8 And after looking at this very closely, I don't
9 feel like I see any bruises on this picture
10 either.

11 Q Okay. Nothing to indicate that she was
12 punched in the face, or anything like that?

13 A No, ma'am.

14 Q So that's Defense Exhibit 3, Defense
15 Exhibit Number 2, and Defense Exhibit Number 1.
16 Thank you.

17 MS. TOLLEY: I'd like to move these into
18 evidence, Your Honor.

19 THE COURT: Any objection?

20 MR. THORNTON: Still no objection, Judge.

21 THE COURT: Admitted without objection.

22 (Defense Exhibits 1-3 were admitted into
23 evidence.)

24 BY MS. TOLLEY:

25 Q And you didn't grab her by the neck?

1 MR. THORNTON: Objection, Your Honor,
2 leading.

3 THE COURT: Sustained, rephrase it.

4 BY MS. TOLLEY:

5 Q When you went into the bathroom, you
6 didn't physically take her into the bathroom; is
7 that right?

8 MR. THORNTON: Same objection, Judge.

9 THE COURT: State it again. The question
10 is did you?

11 BY MS. TOLLEY:

12 Q Did you?

13 A Can I talk now?

14 Q Yes, you can talk.

15 A Oh, no, ma'am, I most definitely did not
16 grab her.

17 Q Okay. Thank you.

18 THE COURT: Mr. Thornton?

19 MR. THORNTON: Thank you, Your Honor

20 **

21 **CROSS-EXAMINATION**

22 BY MR. THORNTON:

23 Q A couple of things, Mr. Walls.

24 I want to start out with some photographs,
25 some black and white photographs. You were not

1 with K.P. [REDACTED] when she came out of the
2 marsh, were you?

3 A No, sir.

4 Q And you weren't there when she talked to
5 law enforcement officers, were you?

6 A No, sir.

7 Q And you weren't there when the officers
8 were examining her, were you?

9 A No, sir.

10 Q And you weren't there when she saw a
11 paramedic, were you?

12 A No, sir.

13 Q And you weren't there -- and I'm talking
14 about, obviously, on December the 6th of 2016,
15 when she saw a sexual assault nurse, were you?

16 A No, sir.

17 Q One of the things you said earlier was,
18 you said, "Well, she wasn't cool with it." She
19 wasn't cool with you taking her car, correct?

20 A No, sir, I mean -- yeah, when we were
21 arguing about it, she didn't want me to take it
22 at first, no, sir.

23 Q And you took it anyway, didn't you?

24 A I did end up taking the car, yes, sir.

25 Q And you fled to Chesterfield County,

1 Pageland, South Carolina?

2 A I don't know if I'd say fled, but I did
3 end up going to Chesterfield -- well, not -- I
4 don't know if it's called -- I went to Pageland.
5 I don't know if Chesterfield -- but I know where
6 Pageland is, so I know I went to Pageland, yes,
7 sir, I went to Pageland.

8 Q And that's where the police found you,
9 right?

10 A Yes, sir, on Boyd Evans Road, on the
11 road I used to live on.

12 Q And you've been in here the entire time
13 with your attorneys listening to all the
14 witnesses, haven't you?

15 A Yes, sir.

16 Q So you know who -- you've testified you
17 know who K.P. is, don't you?

18 A Yes, sir, I know who she is.

19 Q All right, and you said you've known her
20 all your life, correct, or her family's -- I'm
21 sorry, let me rephrase that. You said that your
22 family and her family have known each other for
23 your whole life, correct?

24 A Our families have been friends for as
25 long as I can remember.

1 Q How long have you known [K.P.]? I mean
2 she's a good bit younger than you, right?

3 A I've known her forever.

4 Q So her whole life?

5 A Her whole life would be correct.

6 Q And [K.P.] is somebody that you asked
7 for a ride on that day, December the 6th, 2016,
8 right?

9 A Yes, sir. Well, I called her to come
10 pick me up when I got off work. We'd already
11 knew that we were going to be going earlier that
12 week.

13 Q So that's a yes --

14 A Right.

15 Q -- and you called her to get a ride?

16 A Yes, sir.

17 Q All right, and you'all went to Parker's?
18 She took you to Parker's gas station?

19 A Well, first we had stopped by a friend
20 of mine's house, but then, yes, we went to
21 Parker's, yes, sir.

22 Q All right. So she did take you to -- I
23 think what she said -- of course, you were in
24 here when she testified, I think she said an
25 associate's house, you say a friend's house, but

1 you admit she did take you to a friend of your's
2 house?

3 A Yes, sir.

4 Q All right, and you'all stayed you said
5 about ten minutes, right?

6 A Yes, sir.

7 Q And then she took you to Parker's?

8 A Yes, sir.

9 Q All right. And did you -- at that point
10 you asked her to take you out to Point South,
11 didn't you?

12 A No, sir.

13 Q So you didn't ask to go to Point South?

14 A No, sir.

15 Q All right. You wanted to go to the
16 Howard Johnson's; is that right?

17 A Yes, sir.

18 Q And you said that Courtney Brock and
19 your -- is it John Priester, he was with you,
20 wasn't he?

21 A Yes, sir.

22 Q And your two sons. How old were they at
23 the time?

24 A If I remember right, X.W. was 14, K.W.
25 was 15. And if it was not that, then it would

1 have just been one step down, because they're
2 twins, and they were born within the same year,
3 so it's either that exactly, or one step down.

4 Q After you took -- let me skip ahead a
5 little bit. After you took -- or when you took
6 K.P.'S car that she wasn't cool with,
7 according to your testimony, did you take your
8 sons with you?

9 A Yes, sir.

10 Q And did you take Ms. Courtney Brock with
11 you as well?

12 A Yes, sir.

13 Q What about John Priester? Did you take
14 him with you?

15 A Yes, sir.

16 Q And you'all all left, including with
17 your kids, in K.P.'S car, when she wasn't cool
18 with it, right?

19 A No, when K.P. left, you know, me and
20 her done come under the understanding by then,
21 so it wasn't that she wasn't cool with it at
22 that time, but when we were arguing about going
23 at first, she wasn't cool with it, but --

24 Q Well --

25 A -- then she was okay with it, you know?

1 Q Did --

2 A She wasn't happy about it, but she, you
3 know, but she was -- so, yeah, she was cool with
4 it, yeah.

5 Q She wasn't happy about it.

6 A But, you know, she didn't want to -- she
7 didn't want me to take it while we was arguing
8 about me taking it, you know what I'm saying,
9 without her being the driver --

10 Q Right.

11 A -- and --

12 Q But you did anyway, right?

13 A Well, we -- yes, we -- yes, sir.

14 Q All right. And earlier what you said
15 was that, basically, you was gonna take it, and
16 either she was gonna drive you, or somebody else
17 was gonna drive you, right? I mean you will
18 admit to that, because that's what you testified
19 to, right?

20 A And that was my argument with her,
21 hoping that she was gonna be the driver, she's a
22 good driver. I would have preferred her to have
23 been the driver than Courtney, but -- and like I
24 said, I'd done paid her, so -- and I put the
25 money in the gas tank already too, that the

1 money was already in the gas tank.

2 Q Mr. Walls, how much do you weigh?

3 A Right now I weigh about 240 pounds, 45
4 pounds.

5 Q Substantially more than K.P.
6 weighs, don't you think?

7 A Yes, sir.

8 Q And you was gonna take the car no matter
9 what, right? Somebody was gonna drive you, one
10 way or the other.

11 A The way you're saying it, it's not the
12 words you're saying so much, but the tone you're
13 using, I would like to say that that is --

14 THE COURT: Mr. Walls, you need to answer
15 the question. You can explain it all you want
16 afterwards, but you have to answer the question.

17 WITNESS: I apologize.

18 MR. THORNTON: Thank you, Your Honor.

19 BY WITNESS:

20 A No, ma'am, I was not gonna just take it
21 no matter what, that's -- no, ma'am.

22 Q So when you testified earlier and said -
23 - I believe that's actually what you said, "That
24 she knew I was going one way or the other."

25 A I was upset, I was, you know, saying

1 whatever I thought was gonna get her to do it,
2 but I just wasn't going to, you know,
3 ultimately, if she wouldn't have allowed it, it
4 wouldn't have happened, but I understand what
5 you're saying, but, no, sir, not like that. Not
6 like it's being said, no, sir.

7 Q Mr. Walls, I'm sorry, at this point, I
8 don't even remember what question I asked you.
9 I'll move on.

10 A Okay.

11 Q So let me ask you this, so you go into
12 the hotel room, who paid for the hotel room?

13 A I paid for the hotel room.

14 Q And whose name was it in?

15 A John.

16 Q Was it in Room 227?

17 A If y'all say it was, I don't know.

18 Q I'm asking you, Mr. Walls, is it in 227,
19 or do you not know?

20 A Yes, sir, it was in 227.

21 Q If you're paying for the room, why did
22 John Priester have to put the room -- why did he
23 actually get the room, if you're paying it?

24 A He had a driver's license, I didn't have
25 one.

1 Q So once you're in the room, your
2 testimony is that you walked into the room, and
3 your testimony is you never struck K.P. [REDACTED]; is
4 that right?

5 A No, sir, I didn't.

6 Q So how did you'all decide to go into the
7 bathroom to have sex?

8 A We just went into the bathroom.

9 Q And just so I understand, your two kids
10 are in the hotel room, correct?

11 A Yes, sir, they are.

12 Q So your testimony is -- because what you
13 said was, you've known K.P. [REDACTED] her whole life,
14 right?

15 A Yes, sir.

16 Q So that means you knew her when she was
17 a baby?

18 A I knew her her whole life, yes, sir.

19 Q All right. So a girl you knew as a
20 baby, you just went into the bathroom, had sex
21 with her, while your kids are sitting in the
22 room with you?

23 A Yes, sir, that happened.

24 Q Now, based on what your version is, you
25 then stand around and talk for a few minutes,

1 right?

2 A Yes, sir. Yes, sir.

3 Q And then you'all walk outside together;
4 is that right?

5 A Yes, sir.

6 Q All right, so why did you need to walk
7 outside with her?

8 A We were gonna be leaving together.

9 Q So you were gonna leave your kids and
10 Courtney Brock and John Priester in the room?

11 A It was the time of the storm. You know,
12 at the time we were all kinda standing outside
13 the room, us, my brother, us, everybody was in
14 my neighborhood that got destroyed by all the
15 storms, you know, so it wasn't --

16 Q That's not what I asked you.

17 A I'm sorry.

18 Q What I asked you was, why did you walk
19 out with K.P., and leave everybody else in the
20 room, if you'all were about to leave? So my
21 question is, were you gonna just leave the kids
22 in the hotel room?

23 A Oh, I apologize. Oh, yes, sir, I
24 understand what you're saying. No, just me and
25 K.P. was gonna be leaving. The kids would

1 have been staying there at the time, yes, sir.

2 Q And according to you, this was all pre-
3 planned?

4 A Yes, sir.

5 Q And go over one more time what you said
6 about when you drove away in the car. So were
7 you -- let me back up for a minute. Were you by
8 yourself in the car?

9 A No, sir.

10 Q So who all was in the car with you?

11 A Courtney and John and my kids was in the
12 car.

13 Q And you'all drove away in the parking
14 lot outside out of the parking lot on your way
15 to Chesterfield County?

16 A No, sir, not -- from there Courtney was
17 leaving, and she was gonna be my driver, and the
18 kids and stuff was wanting to go hang out with
19 somebody else, you know what I'm saying?

20 Q So --

21 A Because she was leaving. I think they
22 mostly wanted to hang out mostly with her there,
23 and since she was leaving with me, they wanted
24 to go hang out somewhere else, you know what I'm
25 saying, so we were gonna drop them off.

1 Q And who was driving?

2 A Courtney was driving.

3 Q She wasn't driving when the cops picked
4 you up in Chesterfield in Pageland though, was
5 she?

6 A No one was driving; we had parked in the
7 yard whenever the cops come and got us.

8 Q Who was in the driver's seat?

9 A I was sitting in the driver's seat.

10 Q So when you and Courtney and John and
11 your kids drove out of the hotel parking lot,
12 where was K.P. ?

13 A I don't know where she was at that time.
14 That I don't know, I can't say that I saw her
15 this way, or that way, I don't -- I didn't see
16 her. I don't know where she was at that time, I
17 don't know.

18 Q So how did you'all decide that you were
19 just gonna take the car, and somebody was gonna
20 drive, and -- well, I mean how did that
21 conversation go?

22 A Well, she left me the keys so that I
23 could take the car.

24 Q So she -- a girl you've known all your
25 life that you just said -- or all her life, when

1 she was a baby, that you decided to have sex
2 with, you're taking her car, and you don't even
3 know where she went when you drove away, or
4 Courtney did with her car, according to you; is
5 that right?

6 A At the time, when I -- when we pulled
7 out the parking lot, I couldn't tell you where
8 she was at, no, I couldn't. If I'm being
9 truthful, I just couldn't say that I saw her.
10 No, sir, I don't know where she was at right
11 then, no.

12 MR. THORNTON: The Court's indulgence,
13 please, Your Honor.

14 BY MR. THORNTON:

15 Q You said that the trip to Pageland was
16 preplanned; is that right?

17 A Yes, sir, we've been before. She drove
18 me there before.

19 Q So you'all had discussed that. Did
20 you'all discuss that prior to K.P. picking
21 you'all up?

22 A You mean me and K.P. discussed it?

23 Q Well, I don't know who else would
24 discuss it, if you're preplanning a trip, yes,
25 sir.

1 A Oh, yes, sir, yes, sir.

2 Q All right. So you already knew you were
3 going that day?

4 A Yes, sir.

5 Q Okay. And on the way you decided to
6 stop and get a hotel room?

7 A Yes.

8 Q No further questions.

9 MR. THORNTON: Thank you, Your Honor.

10 THE COURT: Any redirect?

11 MS. TOLLEY: Thank you.

12 **

13 **REDIRECT-EXAMINATION**

14 BY MS. TOLLEY:

15 Q You got a hotel room for you and the
16 kids; is that correct?

17 A The hotel room would have been -- at the
18 time, it would have been for **K.W.**, **X.W.** and
19 Courtney and John Priester. My brother was
20 staying in a different hotel room at the time.

21 The double-wide trailer we were living in -
22 - I was remodeling it, because of the damages
23 that were done to it from the storm. We were
24 all staying in different motels at that time.
25 Prior to that time, we'd rented hotel rooms

1 earlier throughout the week too.

2 Q Okay.

3 A You know, and at that time, I wouldn't
4 have been staying there, because the trip it
5 wouldn't have had us -- if we came back that
6 night from the trip, it wouldn't have put -- it
7 still would have put us coming back late, and we
8 probably would have ended up getting a different
9 room somewhere else --

10 Q Okay.

11 A -- to be honest.

12 Q When you were in the hotel room, you
13 didn't rape her?

14 A No, ma'am, I did not do that.

15 Q You didn't hit her?

16 MR. THORNTON: Objection, Your Honor,
17 leading. I was going to let the first one go,
18 but, you know --

19 THE COURT: Thank you.

20 BY MS. TOLLEY:

21 Q Did you hit her?

22 A No, ma'am, I didn't hit her.

23 MS. TOLLEY: Nothing else, Judge.

24 THE COURT: Anything further, Mr. Thornton?

25 MR. THORNTON: No, Your Honor.

1 THE COURT: You may step down, sir.

2 WITNESS: Yes, ma'am.

3 THE COURT: Anything else from the defense?

4 MS. TOLLEY: The defense rests, Your Honor.

5 **

6 **DEFENSE RESTS**

7 THE COURT: Ladies and gentlemen, the
8 defense at this time rests their case. There's
9 a matter of law I need to take up with the
10 attorneys.

11 What we have left to do, ladies and
12 gentlemen, is hear the closing arguments from
13 the attorneys, I'm gonna charge you on the law
14 that's applicable to this case, and then we're
15 gonna send it to you for your deliberation, all
16 right?

17 So go back to your jury room, don't discuss
18 this case, it wouldn't be appropriate to do so
19 at this time, and we'll be right back with you
20 shortly. Thank you.

21 (Jury exits the courtroom.)

22 THE COURT: Is the door closed?

23 BAILIFF: Yes, Your Honor, the door's
24 closed and the jury is in the jury room.

25 THE COURT: Thanks.

1 MS. TOLLEY: Judge, we would renew our
2 motion for a directed verdict. We believe that
3 the evidence that's been presented is not
4 sufficient to move forward with the case from
5 the State.

6 THE COURT: All right. Taking the evidence
7 in the light most favorable to the State, I do
8 find there is evidence which this jury could
9 find Mr. Walls guilty of criminal sexual conduct
10 in the first degree, use of a vehicle without
11 permission, and kidnapping, so I'm gonna send it
12 to the jury.

13 I suggest we take about ten minutes,
14 you'all prepare for your closing arguments, and
15 then we'll come out, but we need to talk about
16 any objections we have to the verdict forms.

17 MS. TOLLEY: I guess one of the things is
18 in the indictment, Your Honor, I think it only
19 references Section A1 of the statute, such that
20 it only says, "Didn't engage in sexual battery,
21 abuse with aggravated force," which only
22 references the Part A and not Part B of the
23 criminal sexual conduct statute.

24 And for that reason, I believe that it
25 would only be appropriate to instruct the jury

1 on portion A, criminal sexual conduct in the
2 first degree, I think those two entire sections.

3 MR. THORNTON: I would object, Your Honor.
4 As you know, the indictments are notice
5 documents, and he's also charged with
6 kidnapping, which also a combination of those
7 two, so he's already charged with a kidnapping
8 and ceasing and confining, which is the exact
9 same language that's in the CSC B section.

10 So I would argue that because he is on
11 notice, that he is also considered charged with
12 kidnapping, that the combination of both of
13 those indictments certainly puts him on notice,
14 as to what he is being charged with, and what he
15 has to answer for, and what the sentencing range
16 is, which I think is the requirement.

17 THE COURT: I also note just on here that
18 while the verbiage says, "Did engage in sexual
19 battery with the use of aggravated force upon
20 K.P. [REDACTED]," it then says, "on violation of
21 Section 16-3-652 et al."

22 It doesn't subset and just say A1, so I
23 think he's been properly on notice, and, again,
24 in addition to your argument, he was also
25 charged with kidnapping, so he would be on

1 notice. Anything else?

2 MS. TOLLEY: And, Your Honor, I guess we
3 would object to possibly arguing for the CSC
4 second degree. We don't believe that there's
5 evidence presented so far that would warrant a
6 charge of criminal sexual conduct in the second
7 degree.

8 THE COURT: Mr. Thornton.

9 MR. THORNTON: Yes, ma'am, it's the same
10 argument that I made to Your Honor yesterday. I
11 think that a jury could find that maybe he did
12 not use aggravated force, but the classic case
13 of aggravated coercion is the threat of force,
14 either during or at a future time.

15 And there was testimony from K.P. that
16 he said, "Don't scream, I mean it, I will kill
17 you." And I think that that by itself is enough
18 to send the lesser included of CSC second to the
19 jury, because that's the -- I mean that's the
20 very core of what aggravated coercion is, it's
21 the threat of force rather to the use of force.

22 THE COURT: Well, as I told you, I went
23 through it again, and I believe it is
24 appropriate to charge criminal sexual conduct in
25 the second. As you'all know, the jury can

1 believe some, part, all of K.P.'s
2 testimony, and it could disbelieve the being
3 hit, but I believe the portion of which would be
4 aggravate coercion, so I'm going to send both to
5 the jury.

6 Anything else?

7 MR. THORNTON: Nothing from the State, Your
8 Honor.

9 THE COURT: Other than that, did you have
10 an objection to the verdict form?

11 MS. TOLLEY: No, ma'am.

12 THE COURT: Okay, all right, we've got
13 that. All right, let's take ten minutes. What
14 time do you have? I'm gonna ask that you'all be
15 back here at 10:45, and we're gonna go ahead and
16 go to closing arguments, okay?

17 MR. THORNTON: Thank you, Your Honor.

18 THE COURT: Thank you.

19 (RECESS)

20 **

21 **PROCEEDINGS CONTINUED**

22 BAILIFF: All rise and come to order, the
23 Court is in session.

24 THE COURT: Please be seated.

25 Are you ready to go with closings?

1 MR. THORNTON: We are ready, Judge, I'm
2 assuming that I am opening in full, and then
3 responding after Ms. Tolley. I just wanted to
4 go ahead and make sure that nothing had changed
5 that I didn't know about.

6 MS. TOLLEY: That's correct, Your Honor.

7 THE COURT: That is correct. All right,
8 Ms. Tolley, are you ready to go?

9 MS. TOLLEY: Yes.

10 THE COURT: All right, let's bring the jury
11 in.

12 BAILIFF: The jury's entering the
13 courtroom, Your Honor.

14 THE COURT: Thank you
15 (Jury enters the courtroom.)

16 BAILIFF: The jury is seated, Your Honor.

17 THE COURT: Thank you, sir.

18 Ladies and gentlemen, as I told you, what
19 we have left to do now is hear the closing
20 arguments from the lawyers, and then I'm going
21 to charge you on the law that's applicable to
22 this case. We may or may not take a break
23 between the two of those. The State, because
24 they carry the burden, has the opportunity to
25 open, defense will respond, and then the State

1 can also respond briefly after that, then I will
2 charge you on the law.

3 I will tell you my charge on the law
4 typically takes about ten or 15 minutes, okay?
5 So with that said, give your attention to Mr.
6 Thornton.

7 MR. THORNTON: Thank you, Your Honor, may
8 it please the Court?

9 THE COURT: Yes, sir.

10 **

11 **CLOSING ARGUMENT BY MR. THORNTON**

12 MR. THORNTON: Power, I've been doing this
13 26 years now, and that's really what a rape case
14 is, and that's what you can call criminal sexual
15 conduct, is what we call it, and the Judge is
16 going to tell you what the law is, but it's
17 rape, and kidnapping, and use of control.

18 That's what rape cases are about, they're
19 about power, okay? They're about the Defendant
20 in this case, Brian Walls, wanting to exert
21 power over K.P. [REDACTED], that's what a rape case is
22 about, it's not about sex, it's about exerting
23 your will over someone.

24 The Judge is gonna talk to you about all
25 the elements in all three charges, and I'm gonna

1 spend a little time in a minute with you on
2 kidnapping, because Mr. Shedd, who is my co-
3 counsel in this case, he said something that was
4 a really good description of it.

5 And let me just go ahead and tell you, that
6 anything that I tell you about the law that
7 differs from what Judge Mullen gives you, you
8 take what she says, and you ignore what I say,
9 because she is the finder of the law, just like
10 you are the finders of the facts.

11 I'm going to tell you what I believe she is
12 going to say, but if it at all differs, you have
13 to go with what the Judge says; but, basically,
14 you have to prove in a criminal sexual conduct
15 in a first degree, I believe she's going to
16 charge you that we would have to prove to you
17 beyond a reasonable doubt a sexual battery
18 committed by aggravated force, or a sexual
19 battery committed during the circumstances of a
20 kidnapping, either one of those two will suffice
21 for a criminal sexual conduct in the first
22 degree.

23 And a sexual battery means penetration,
24 okay, which is why I had to ask those
25 extraordinarily uncomfortable questions to

1 **K.P.** . I had to ask her, she had to say that
2 part of his body was placed inside a part of her
3 body, because that's required for a sexual
4 battery, and the Judge is going to give you kind
5 of a basic definition of that. That one's not
6 really overly complicated.

7 Most people understand, you know, maybe the
8 only thing in this entire case, that I agree
9 with Ms. Tolley on, what she said was, "We want
10 you to use your common sense." So your common
11 sense as adults, you know what a rape case is,
12 and the Judge is going to charge you on the
13 exact definitions of what the law is.

14 The use of a vehicle without being given
15 permission, pretty standard stuff, right?
16 That's going to be pretty easy, and the Judge is
17 going to charge you on that.

18 I do want to spend a minute though on
19 kidnapping, because a lot of times, again, I'm
20 getting -- every time I turn around it seems the
21 clock ticks quicker and quicker, so I've been
22 doing this for a while, and it seems like a lot
23 of times people want to see that Hollywood
24 ending, right? There's somebody that gets duct-
25 taped, they're thrown in a trunk, they're driven

1 across state lines, you know, like you see on
2 television.

3 That's not required in kidnapping. It's
4 gonna be a really long definition that I have
5 not memorized, even after all these years, and
6 what it says is, seize, confine, inveigle,
7 decoy, which basically means tricking somebody,
8 but what it means is this, have you restricted
9 somebody's liberty? You will not hear a time
10 limit. It doesn't say for ten minutes, it
11 doesn't say for ten hours, it doesn't say for
12 ten days, all that's required is that you have
13 restricted somebody's movement without the
14 authority of the law.

15 Why do they put that in there? Well, if
16 you're a police officer and you're taking
17 somebody into custody, you are restricting their
18 liberty, but you are doing it with the legal
19 authority to do so. So a kidnapping is simply
20 you have restrained someone, you have seized
21 them, you have confined them, you have prevented
22 their movement, and you don't have the legal
23 authority to do so.

24 A lot fancier definition is going to be
25 given to you shortly, but the thing I want you

1 to remember is seized, confined, inveigled,
2 decoy, several others, it says or this. So when
3 you are thinking about this, you have to
4 remember that it's not and, it's or, so did you
5 seize the person, or did you confine the person,
6 or did you prevent them, or inveigle them or
7 them, or any one of the other definitions, but
8 it's or, not and.

9 Let's talk a little bit about reasonable
10 doubt just in general, okay? Reasonable doubt
11 is generally defined as the kind of doubt that
12 makes a reasonable person hesitate to act.
13 Sometimes it's also referred to as the kind of
14 doubt that might not leave you firmly convinced.

15 So what that means is, if at the end of the
16 day and you've listened to all of the evidence,
17 if you're firmly convinced of the Defendant's
18 guilt, then he's guilty.

19 If you're not, then he's not. It doesn't
20 mean proof beyond all doubt. There's nothing in
21 this world that you know for absolute certainty,
22 okay, it's reasonable doubt. And that is our
23 burden, that's what we have to do, as to each
24 and every element.

25 So let's talk a little bit about the

1 evidence in this case and let me first tell you
2 evidence is the answer to the question, not the
3 question, because -- and I'll be honest with
4 you, I don't remember if Mr. Shedd said this, or
5 Ms. Tolley said this in their openings.
6 Sometimes stuff blends together after you've
7 been sitting here for a while, but what we say,
8 what the lawyers say is not evidence.

9 One of the things that got asked a couple
10 of times was, "Oh, well, could drugs do this?"
11 You know, and was there any evidence of any drug
12 use, and what would the relevance of that be
13 anyway?

14 No person got up there, even Mr. Wallis got
15 up there, nobody said, "Oh, she was drugged out
16 of her mind." What did he say? "Oh, she was
17 just walking away very calmly. I don't know
18 where she went, she left," right? There's no
19 evidence of any drugs, I don't know what the
20 relevance would be anyway, but the questions are
21 not evidence.

22 The answers are evidence, the testimony is
23 evidence, the exhibits, anything that was
24 introduced by either side, that's what you have
25 to decide the case on is the evidence, not what

1 the attorneys say.

2 So let's talk about the evidence, what was
3 the testimony? Well, in a case like this one of
4 the most important things is, the credibility
5 and believability of the witnesses, and the
6 Judge is gonna talk to you about that when she
7 does her charge. So credibility just means
8 believability, is the testimony believable? And
9 the Judge is gonna tell you, you can believe
10 everything a person says, some of what a person
11 says, or none of what a person says, that's your
12 purview as the finders of the fact in this case.
13 One of the things that you can look at, and that
14 you would look at in your everyday life is, is
15 the person consistent?

16 Is the story itself consistent, and is it
17 consistent with the evidence in the case? In
18 other words, does the physical evidence, like
19 photographs, and things like that, does that
20 make the testimony more believable, or does it
21 make it less believable.

22 You can also think of does the person have
23 any bias, is there any reason that they would
24 lie? You can consider all those things when
25 you're trying to find out, is the testimony

1 credible? So let's talk about the testimony
2 that K.P. has given. You have to forgive me,
3 I was raised -- my father was born in the
4 country, he's military, and sometimes I slip
5 into old sayings of my father, or at leave have
6 some, but from Jump Street what does she say?
7 She is on the phone with 911 in the marsh and
8 says, "I was raped, and I was raped by Brian
9 Walls."

10 She identifies her attacker immediately.
11 One of the biggest problems that we have in
12 sexual assault cases are sometimes the delayed
13 disclosure. It's very hard to explain to a jury
14 why somebody would endure such a horrific thing.
15 I mean it happens, it happens all the time,
16 that's not this case. She, literally, calls the
17 minute that she is out of harm's way with Brian
18 Walls.

19 When law enforcement gets there, right, you
20 remember Deputy -- or Office Hayes, Officer
21 Hayes is the one that helps get her out of the
22 marsh. She tells him, "I've been assaulted."
23 He said she probably also said sexually
24 assaulted. And I want you'all to know, and,
25 hopefully, you'all got this as I was going

1 through the questions, the rules do not allow
2 anybody to say anything that a victim in a
3 criminal sexual conduct case says, other than
4 time and place, that's why you've heard that
5 question, and probably wondered to yourselves,
6 why do they keep saying limited to time and
7 place, that's because that's what the rules
8 require us to do, and every single one of them
9 gave the same answers, right?

10 She talked to Officer Hayes, she talked to
11 the paramedic, Ms. Roos. What did she tell her?
12 Chief complaint, "I was raped." Second area of
13 complaint, "I was assaulted."

14 Her heart rate was 160 beats per minute.
15 Does that sound to you like somebody who's just
16 had a consensual sexual relationship, and who
17 calmly walked away, as somebody stole her car?
18 160 beats a minute, covered in mud. Next, she
19 also indicates she's seen evidence of injury,
20 right? I don't know about black and white
21 photos, or, you know, well, let's find this
22 piece of her body that doesn't have a bruise on
23 it.

24 You know, one of the things she says, that
25 I'll talk about in a minute, when she's dealing

1 with all of this, she talks about injuries, and
2 we've got photos of injuries, which I'll show
3 you in just a second, and you'll have these by
4 the way. All the evidence, once the Judge says,
5 "You're ready to begin deliberations," you will
6 be able to look at that, and I apologize,
7 sometimes it works great, and sometimes the
8 lighting's a little bad, but you'll be able to
9 look at the actual photographs when you are back
10 in the back.

11 So we talked about Roos, she says the same
12 thing to Officer Blackwell. Then she goes and
13 sees a SANE nurse, right? Does she give a
14 different version to the SANE nurse? No, she
15 says the same thing. What does the SANE nurse
16 recognize? The SANE nurse also recognizes that
17 there are issues and injuries, and she says that
18 she is, you know, tearful, but calm, and
19 explains what's going on, and was able to
20 communicate with her, is coherent, right?

21 What about the young lady who picked up the
22 -- you know, that's her main function was, she
23 picked up the sexual assault kit and took it
24 into evidence. Once I figured out though, when
25 I asked her if she was steady on her feet, she

1 was laying down, once I got that part straight,
2 she was coherent.

3 She was able to talk to her. Did she give
4 her some different version? No, right? It goes
5 into evidence. She then meets with Josh Dowling
6 with the Beaufort Police Department. Does she
7 give him a different story? No, she does not.
8 And probably one of the most amazing things, and
9 is still amazing, is that she was able to get up
10 here and talk to you'all, and tell you what
11 happened to her, and what she told you was also
12 consistent, and that may be the most impressive
13 of all.

14 What would she possibly have to gain
15 several years later getting up, and having to
16 relive that story, and tell you a group of 12,
17 now 14, strangers, most of whom are men, and
18 have to talk about that? What possible reason
19 would she have to gain by doing that? You know
20 what reason he has to gain.

21 He doesn't want to be convicted, but what
22 does she have to gain? And I've told you
23 credibility is just believability. One of the
24 things you need to look at, or we'd ask you to
25 look at is, you know, what about the other

1 evidence? Okay, well, K.P. got up there and
2 testified that when all this happened, she got
3 out and ran into the marsh, and she called 911.
4 There's a 911 tape, so she told you the truth.
5 She told you that she picked up Brian Walls and
6 they went to Parker's, lo and behold, we checked
7 the Parker's, there they all are. She also said
8 they brought a bunch of bags and backpacks and
9 bought a bunch of beer, wow, found in the trunk
10 of her car. She said this happened in Room 227,
11 lo and behold, 227.

12 She said one of the things that Brian Walls
13 did was, he had some condoms and other things in
14 his pocket, gee, in the bathroom there's condoms
15 strewn across the counter. She said she was so
16 scared that he grabbed her jacket, and she ran
17 off from him. Look what they found right on the
18 edge of the marsh. How did that get there, if
19 she was casually walking away? One of the
20 things she says to the detective is, "Well, we
21 were turning in circles." Circular tire marks
22 examined and photographed by Josh Dowling.

23 She says she was struck in the face. She
24 was examined by a paramedic, she was examined by
25 a SANE nurse, and they noted discoloration to

1 her face, and I think it was -- and, again, if I
2 say something that I think the evidence said,
3 that differs from what your memory is, you're
4 the finders of facts, you've got to take your
5 memory, but I believe that either the paramedic
6 or the SANE nurse noted she had a laceration on
7 her hip; is that consistent with her statement?
8 Does that make her testimony more believable?
9 It certainly seems to.

10 One of the things that she tells you is,
11 that she went out into the marsh, and by the way
12 it's the State's position that those scratches
13 are from crawling out in the marsh. I know that
14 question was asked by the defense. The State's
15 position would be, yes, that's exactly what
16 happened, that's what she got from the marsh,
17 not from casually walking away, after Brian
18 Walls just got finished raping her, and stealing
19 her car. She said she dove out of the car and
20 hurt her knee, lo and behold, one of her knees
21 is -- got a pretty good scrape on it, and the
22 other one has scrapes as well.

23 I said this before, she had a pulse rate of
24 160, does that sound like somebody who just had
25 a nice consensual sexual encounter? It's not

1 just about what she says, it's about what she
2 did.

3 It's not a he said, she said, what did they
4 do? And is what they did, does that match up
5 with the tests? Because what she did was, run
6 into the marsh, which anybody -- you don't even
7 have to be from here to understand how dangerous
8 that is, and she told you that she'd almost died
9 from that once before.

10 She runs into the marsh in December at
11 night, so far in that she's actually in the
12 water, not just close to it. She comes out, her
13 heart rate is through the roof.

14 She appears that she's been assaulted. She
15 tells everybody she's been assaulted. Is that
16 the behavior of someone who has had a consensual
17 sexual encounter? Because that's what you'd
18 have to believe.

19 You'd have to believe that all of this is
20 just wrong, because, again, it's not what she
21 said, it's what she did. What about what he
22 did? So he wants you to believe that this is
23 some -- and, again, he wants you to believe that
24 this person he's known since she was a baby is
25 warm for his form, and wants him so bad, that

1 she just can't stand it.

2 They've pre-planned this whole vacation,
3 and they're just gonna stop off on the way to
4 get a hotel room with his children there. Then
5 he flees in her car. He leaves the
6 jurisdiction. Of course, he says that was part
7 of the plan, but it looks an awful lot like
8 flight to the State.

9 MS. TOLLEY: Objection.

10 MR. THORNTON: Those are the facts. She's
11 upset, she's crying, she's hysterical, she calls
12 911 immediately. She tells multiple people it's
13 a sexual assault.

14 Also, by his own testimony -- so one of the
15 things that was interesting was, as I listened
16 to what Mr. Walls' testimony was, do you
17 remember when K.P. got up and told you that,
18 "Well, he told me that this was because my dad
19 owed money, and he wouldn't let me pay, and it
20 was because I owed it to that guy in there," and
21 who she didn't know at the time, and now knows,
22 that's been referenced as John Priester, so that
23 there was a debt in other words, right?

24 Did you hear the way he described, "Well, I
25 already paid, she owed me, she owed me, she owed

1 me. I've already paid, I paid her money. I
2 paid her money for this trip." A lot of times
3 when people are talking and they get excited, or
4 they get upset, they say things they might not
5 want to say, but he sure was amped up about that
6 money; to the point that he said, "Well, I was
7 just gonna take it regardless, whether she drove
8 me, or somebody else drove me, she owed me."
9 Strikingly like what [K.P.] says the underlying
10 is, that there was money owed.

11 Even when trying to explain it away,
12 sometimes a little kernel of truth slips out.
13 I'm not sure, again, about there was a question
14 asked about her multiple eye surgeries, I don't
15 know what that has to do with anything, it just
16 can't be an ID case.

17 Normally, in a sexual assault case, you're
18 gonna have one of three defenses, right? We
19 call it the SODDI defense as number one, okay?
20 Some other dude did it. That's defense number
21 one.

22 Well, you can't have it in this case
23 because she knows him, and even he admitted to
24 you she's known him her whole life. There ain't
25 gonna be no mistaken identify.

1 Number two, we never did anything, we
2 didn't have sex. Well, that's real hard to do
3 when you've got a number that has 24 zeros after
4 it times two, because there was saliva on the
5 breast, and there was sperm on the vaginal swab.
6 So ask yourselves this, would the story have
7 been the same about admitting to the sex, had we
8 not had that number of septillion?

9 So that leaves us with three, which is,
10 oh, it was consensual, it was consensual. And
11 in order for it to be consensual, and for you to
12 believe that, you'd have to discount everything
13 she said.

14 There cannot be mistaken identity. There
15 cannot be, oops, I got it wrong. Everything she
16 got up here and told you, everything she told
17 Josh Dowling, everything she told Blackwell,
18 told Hayes, told Roos, told the SANE nurse,
19 every single time she'd have to be lying, have
20 to be. There's no other way that could have
21 occurred.

22 There is no mistaken identity, it
23 definitely happened. The only issue is, was it
24 consensual or not, and to figure that out you've
25 got to look at what the testimony was, how

1 believable were they on the stand, and is their
2 testimony consistent with the physical evidence?
3 Why didn't she yell out? There were other
4 people in that room, right? Why didn't she yell
5 out?

6 What did she tell you? She said when she
7 walked in the room, Brian Walls struck her in
8 the head, and he did it in front of everybody,
9 and I said, "Did anybody say anything?" She
10 said, "No." Brian Walls told her, "This is
11 happening, because your dad owes money to
12 people, and he owes money to that guy in there."

13 Now, I'm not saying that's necessarily true
14 that her dad did owe money to those people, but
15 that's what he told her, as he bent her over and
16 forced her down and penetrated her. Would you
17 call out to that person? Is it reasonable to
18 think that you should call out with that guy in
19 the room, his 15-year-old son's in the room?
20 Very reasonable, very logical, very
21 understandable reason.

22 Forget about fight versus flight, and
23 you've got to think might she freeze, forget
24 about all of that. Even if you don't believe in
25 any of fight or flight, or anything else,

1 there's a perfectly valid reason why she would
2 not have cried out.

3 She also testified, I apologize, she also
4 testified that John Priester blocked the door;
5 do you remember that? One of the things that
6 the State would submit to you was important,
7 when you're examining everything is, how much
8 detail has somebody provided? Have you ever
9 heard the expression the devil is in the
10 details.

11 Well, one way to look at that is, it's very
12 easy to tell this kind of a generalized story,
13 you try to weave it in between everything. It's
14 hard to remember all the details, okay? Even
15 when you've been sitting here the entire time
16 paying attention, so you've got to look at that.
17 Do you remember when K.P. got on the stand,
18 and was telling you about what happened in the
19 hotel room, and said, "So I just grabbed my,"
20 she called it her cardigan, "I grabbed my
21 jacket."

22 Did you hear her mention about Chapstick?
23 She said, "I grabbed my phone, and I think I had
24 some Chapstick, and I think I just grabbed it
25 all, and I took off." We found that yesterday

1 after we looked inside the cardigan is, lo and
2 behold, Chapstick. How much detail could she
3 have possibly provided more than she already
4 did?

5 Now, I want to tell you that when I first
6 got up here, I talked to you about that this
7 case was about power, and it's about the power
8 that Brian Walls was determined to exert over
9 K.P. . That is the beginning of the power.
10 The end of it is that when K.P. got up there
11 and took it back.

12 Based on all of the evidence that I've
13 provided you, the testimony, the exhibits, I
14 would ask that you go back to your jury room
15 when the Judge instructs you, and I would ask
16 that you find the only reasonable verdict in
17 this case, which is guilty. Thank you.

18 THE COURT: Ms. Tolley?

19 MS. TOLLEY: May it please the Court?

20 THE COURT: Yes, ma'am.

21 **

22 **CLOSING ARGUMENT BY MS. TOLLEY**

23 MS. TOLLEY: Good afternoon, how are you
24 doing? Shame, this case is about shame. Why
25 would she lie? She was mad that he took her

1 car, red hot mad that he took her car. She
2 didn't want him telling her boyfriend that
3 they'd been together. She didn't want him
4 telling her boyfriend about all the things that
5 they had been doing. There's no physical
6 evidence of forced sexual activity. No one in
7 the room said that she was raped, that they saw
8 her get hit, that she got dragged into the
9 bathroom, no testimony about it.

10 The SANE nurse testified that when she
11 examined her, no tears in the vaginal area,
12 there was no mention about any injury to the
13 vaginal area. The only discussion about any
14 injuries were the little scrapes and bruises
15 that she could have easily gotten from being in
16 the marsh.

17 Mr. Walls didn't have to testify, right?
18 The burden of proving guilt in this case is on
19 the State. He chose to get up here and tell you
20 his side of the story, and what he said was, "I
21 called her for a ride, we had a plan, she was
22 gonna take me to Pageland. I gave her some
23 money, we put gas in the car.

24 We all got in the car, we went to the
25 hotel, we went to Parker's, we went to the

1 hotel. The kids were all in the room. We went
2 in the room, in the bathroom and we had sex. No
3 physical evidence of struggle. Officer Dowling
4 testified that no furniture was knocked over.
5 The food and the plates and things were not
6 strewn about.

7 I think he said something about condoms
8 being strewn about, but you have the picture
9 back there. The condoms are on the counter in
10 the bathroom. She didn't yell out, she didn't
11 scream out. When she came out of the bathroom,
12 she didn't tell anybody else who was out there
13 that she had been raped. Shame, this case is
14 about shame. She didn't want her boyfriend to
15 know, she didn't want anybody else to know.

16 Mr. Walls also testified that they had been
17 together before, shame. And I think when I
18 started with my opening statement, I said that
19 things are not always as they seem, and I took
20 you back to an incident that I had, where I was
21 in a store shopping, found some pants that I
22 liked, pulled them off the rack, walked to the
23 dressing room, told the dressing room wasn't
24 open or available right at that time.

25 Stood in line, and the next thing I knew I

1 heard someone yelling over in the back of me, "I
2 was here first. You need to get behind us, we
3 were here first, we were hear first." And it
4 got louder and louder and louder, and just
5 because he was saying all that, and he was
6 louder than I was, doesn't mean he was right.

7 And just because K.P. has said that
8 he did this, and she said it over and over
9 again, doesn't make her right, doesn't make what
10 she saying more true than what Mr. Walls said.

11 Doubt, Mr. Walls has to be proven guilty
12 beyond a reasonable doubt, and that's a very
13 high standard. And the reason is, is because in
14 our country, under our laws, it's important that
15 we don't charge and convict people of things
16 when there's little or no evidence.

17 Some people use sort of a balancing test,
18 like you have to tip the scale. In civil cases
19 you only have to tip a little bit, but in
20 criminal cases you have to tip it a lot, and I
21 don't think the State has met its burden in this
22 case.

23 The only person who says that this happened
24 is K.P. All the other witnesses presented
25 by the State were simply repeating what she

1 said, and you need more than that, there needs
2 to be more than that. He says that they got
3 into an argument about the car, he took the car.
4 He shouldn't have taken the car. It's that
5 simple, he shouldn't have taken the car, he took
6 the car, but he had paid the money to get the
7 ride, and he needed to go to Pageland, they were
8 going to Pageland, but that's not right, that's
9 not right, that's not kidnapping.

10 Some of what she says doesn't make any
11 sense. One of the things she said during her
12 testimony is that Mr. Walls told her he had to
13 do this because her dad owed John Priester's
14 family some money.

15 That doesn't make any sense. Why would he
16 have to have sex with her, if John Priester's
17 there, if that's the rule? I mean why would
18 that be the rule? John Priester's there, why
19 wouldn't John Priester have sex with her, if
20 that's the rule? That doesn't make any sense.
21 That doesn't make any sense. Shame, they had
22 sex, he took her car, she was mad.

23 She didn't want her boyfriend knowing
24 about. Things aren't always what they seem.
25 People have sex, it's not right. No physical

1 evidence, no one else in the room said it, and
2 you can believe that there are other witnesses
3 who saw any of this, saw them hit her, saw her
4 drug in the room, they would be here, the State
5 would have them here testifying. I'm gonna ask
6 you to give my client the benefit of the doubt
7 in this case.

8 I don't know where that term benefit of the
9 doubt comes from, but if I had to guess, I'd say
10 it comes from the law, to find somebody guilty
11 beyond a reasonable doubt. If you have a doubt,
12 any doubt, a reasonable doubt, one doubt, two
13 doubts, three doubts about any aspect of this,
14 I'm gonna ask you to give Mr. Walls the benefit
15 of the doubt. Thank you.

16 MR. THORNTON: Thank you, Your Honor, may
17 it please the Court?

18 THE COURT: Yes, sir.

19 **

20 **FINAL CLOSING ARGUMENT BY MR. THORNTON**

21 MR. THORNTON: Really, shame? Because of
22 shame you're gonna run into the marsh and risk
23 your life? Shame can cause your heart rate to
24 be 160 beats a minute?

25 Shame is gonna put scratches all over you,

1 bruises all over you, skinned up knees? Shame's
2 gonna do that? You're gonna relive probably the
3 most horrific thing that a woman can live
4 through, you're gonna relive that and tell that
5 to a bunch of men over and over and over again,
6 and then several years later you're gonna get
7 called to Court, you're gonna come in and you're
8 gonna sit on that chair and stare at 14
9 strangers, 15, I'm sorry, and tell that story
10 again, because you didn't want your boyfriend
11 from eight years ago to find out?

12 Really? The only person that ought to be
13 ashamed is Brian Walls. He ought to be ashamed,
14 but, clearly, based on his testimony, he isn't.

15 **

16 **JURY CHARGE**

17 THE COURT: Mr. Foreperson. Ladies and
18 gentlemen of the jury, you have followed very
19 patiently and listened very attentively to the
20 presentation of the evidence in the case. I
21 want to thank you for that. It now becomes the
22 duty of the trial judge under the Constitution
23 of this state to charge and instruct you on the
24 law that is applicable to this case. It's your
25 duty as jurors to accept and apply the law as

1 the Court will now state it to you.

2 As jurors it is your exclusive duty to
3 decide all the issues of fact in this case. You
4 must determine the effect, the value, the weight
5 and the truth of the evidence.

6 Both the State of South Carolina and the
7 defendant Mr. Walls have a right to expect that
8 you will carefully consider and evaluate the
9 evidence and apply the law of the case to the
10 evidence. By doing that both the State and Mr.
11 Walls will receive a fair and impartial trial in
12 this matter

13 Now the state of South Carolina by its
14 bills of indictment in this case charge the
15 defendant Brian David Walls with the offense of
16 criminal sexual conduct in the first degree,
17 kidnapping, and use of a vehicle without
18 permission with the intent to deprive.

19 Now I remind you that the fact that the
20 defendant was arrested, charged, and indicted in
21 this case is not evidence in this case. It
22 cannot be considered by you as evidence of guilt
23 in this case. Nor does it create any
24 presumption or inference of guilt. An
25 indictment is simply the formal written

1 instrument which contains a charge that is made
2 against the defendant. It's the formal document
3 by which the case is brought into the Court.

4 The defendant has pled not guilty to
5 these indictments. That plea puts the burden on
6 the State to prove the defendant guilty.

7 A person charged with committing a
8 criminal offense in South Carolina is never
9 required to prove himself innocent. I charge
10 you that it's an important rule of law that the
11 defendant in a criminal trial, no matter what
12 the seriousness of the charge may be, will
13 always be presumed to be innocent of the crime
14 for which an indictment was issued unless guilt
15 has been proven by evidence satisfying you of
16 that guilt beyond a reasonable doubt.

17 This presumption of innocence does not
18 end when you begin your deliberations. It
19 accompanies the defendant throughout the trial
20 until you reach a verdict of guilt based on
21 evidence satisfying you of that guilt beyond a
22 reasonable doubt.

23 The presumption of innocence is like a
24 robe of righteousness that is placed about the
25 shoulders of the defendant. It remains with the

1 defendant until it has been stripped from the
2 defendant by evidence satisfying you of the
3 defendant's guilt beyond a reasonable doubt.

4 The presumption of innocence is not a mere
5 legal theory. It's not just a legal phrase we
6 use. It the substantial right to which every
7 defendant is entitled unless you the jury are
8 satisfied from the evidence of the defendant's
9 guilt beyond a reasonable doubt.

10 So what is a reasonable doubt in the
11 law? A reasonable doubt is the kind of doubt
12 that would cause a reasonable person to hesitate
13 to act in their most important decisions. The
14 State has the burden of proving the defendant
15 guilty beyond a reasonable doubt. The term
16 reasonable doubt must be given its plain and
17 ordinary meaning; however, to the extent that I
18 will define it for you again. A reasonable
19 doubt is the kind of doubt that will cause a
20 reasonable person to hesitate to act in the most
21 important of their personal decisions.

22 The defendant is entitled to every
23 reasonable doubt arising in this case. If upon
24 any issue of fact essential to a conviction and
25 you have a reasonable doubt as to how that issue

1 should be resolved, you must resolve that
2 reasonable doubt in favor of the defendant.

3 Now some of you may have served as
4 jurors in civil cases where you were told it was
5 only necessary to prove that a fact is more
6 likely true than not true; such as, by the
7 greater weight or the preponderance of the
8 evidence.

9 In criminal cases, the State's proof
10 must be more powerful than that. It must be
11 beyond a reasonable doubt.

12 Suspicion, no matter how strong, is
13 insufficient to convict a person charged with a
14 crime. If the facts and circumstances presented
15 may seem suspicious and a defendant's guilt may
16 seem probable, this is not sufficient in the law
17 to convict.

18 Proof beyond a reasonable doubt is proof
19 that leaves you firmly convinced of the
20 defendant's guilt. There are very few things in
21 this world that we know with absolute certainty.
22 In criminal cases, the law does not require
23 proof that overcomes every possible doubt. If
24 based on your consideration of the evidence you
25 are firmly convinced that the defendant is

1 guilty of the crime or crimes charged, you must
2 find the defendant guilty.

3 If on the other hand you think there is
4 a real possibility the defendant is not guilty,
5 you must give the defendant the benefit of the
6 doubt and find him not guilty.

7 I remind you that during this trial you
8 and I have certain duties to perform. As the
9 trial judge, it's my responsibility to preside
10 over the trial of the case. I also have a duty
11 to rule on the admissibility of the evidence
12 that is offered during the trial.

13 You are to consider only the competent
14 evidence before you. You are to consider only
15 the testimony which has been presented from the
16 witness stand as well as any exhibits which have
17 been made a part of the record in this case.

18 I have the additional duty to charge you
19 the law that is applicable to this case. As the
20 presiding judge I am the sole judge of the law.
21 It's your duty as jurors to accept and apply the
22 law as I will now state it to you. If you
23 already have an idea as to what the law is or
24 what you think the law ought to be and it does
25 not agree with what I now you tell what that is,

1 you must abandon this idea because you are sworn
2 to accept the law and apply the law exactly as I
3 state it to you.

4 In every case tried in this court before
5 a jury, the jury becomes the sole and exclusive
6 judge of the facts in a case. A trial judge
7 cannot intimate, state, comment on, or make any
8 statement to a trial jury about the facts in the
9 case.

10 Since you the jury are the sole judge of
11 the facts in this case, you are not to infer
12 from what I said during the progress of this
13 trial in ruling upon the admissibility of
14 evidence or otherwise or anything I say now
15 during the course of this instruction to you
16 that I have any opinion about the facts in this
17 case. The law does not allow me to have an
18 opinion about the facts in this case. This is a
19 matter solely for you the jury to determine.

20 There are two types of evidence which
21 are generally presented during a trial. Direct
22 evidence and circumstantial evidence. Direct
23 evidence directly proves the existence of a fact
24 and does not require deduction.

25 Circumstantial evidence is proof of a

1 chain of facts and circumstances indicating the
2 existence of a fact. Crimes may be proven by
3 circumstantial evidence. The law makes no
4 distinction between the weight or value to be
5 given to either direct or circumstantial
6 evidence. However, to the extent that the State
7 relies on circumstantial evidence, only the
8 circumstances must be consistent with each
9 other, and when taken together point
10 conclusively to the guilt of the accused beyond
11 a reasonable doubt.

12 If these circumstances merely portray
13 the defendant's behavior as suspicious, the
14 proof has failed. The State has the burden of
15 proving the defendant guilty beyond a reasonable
16 doubt. This burden rests with the State
17 regardless of whether the State relies on direct
18 evidence, circumstantial evidence, or some
19 combination of the two.

20 Now, necessarily you must determine the
21 credibility of witness who have testified in
22 this case. Credibility simply means
23 believability. It's your duty as jurors to
24 analyze and to evaluate the evidence and to
25 determine which evidence convinces you of its

1 truth.

2 In determining the believability of
3 witnesses who have testified in this case, you
4 may believe one witness over several witnesses
5 or several witnesses over one witness. You may
6 believe a part of the testimony of a witness and
7 reject the remaining part of the testimony of
8 that same witness.

9 You may believe the testimony of a
10 witness in its entirety or reject the testimony
11 of a witness in its entirety. You may consider
12 whether any witness has exhibited to you any
13 interest, bias, prejudice, or other motive in
14 this case. You may also consider the appearance
15 and the manner of a witness while on the witness
16 stand.

17 Now the rules of evidence ordinarily do
18 not permit witnesses to testify to opinions or
19 conclusions. An exception to this rule exists
20 for witnesses we call expert witnesses. A
21 witness who by education and experience has
22 become an expert in some art, science,
23 profession, or calling may state an opinion as
24 to relevant and material matter in which the
25 witness claims to be an expert.

1 They may also state the reasons for
2 their opinion. You should consider any expert
3 opinion received into evidence in this case and
4 like with any other evidence give it the weight
5 you think it deserves.

6 If you decide the opinion of an expert
7 witness is not based on sufficient education and
8 experience, or if you conclude that the reasons
9 given in support of the opinion are not sound or
10 that the opinion is outweighed by other
11 evidence, you may disregard the opinion
12 entirely.

13 An expert witness' testimony is to be
14 given no greater weight than that of other
15 witnesses simply because the witness is an
16 expert.

17 Further, you are not required to accept
18 an expert opinion even though it is not
19 contradicted. In this case the defendant has
20 been charged with three separate offenses. I am
21 going to now charge you on each of those
22 offenses.

23 The defendant has been charged with
24 criminal sexual conduct in the first degree. To
25 prove criminal sexual conduct in the first

1 degree, the State must that the defendant
2 engaged in sexual battery with the victim and
3 that the defendant either used aggravated force
4 to accomplish the sexual battery or the victim
5 submitted to sexual battery by the defendant
6 under circumstances where the victim is also the
7 victim of forcible confinement, kidnapping,
8 trafficking of persons, robbery, extortion,
9 burglary, house breaking, or any other similar
10 offense or the defendant caused the victim
11 without the victims defense to become mentally
12 incapacitated or physically helpless by
13 administering, distributing, dispensing,
14 delivering, or causing to be administered
15 distributed, dispensed, or delivered a
16 controlled substance, a controlled substance
17 analog or any intoxicating substance.

18 Sexual battery is defined as sexual
19 intercourse, cunnilingus, fellatio, anal
20 intercourse, or any intrusion, however slight,
21 of any part of a person's body or of any object
22 into the genital or anal opening of another
23 person's body, except when such intrusion is
24 accomplished for medically recognized treatment
25 or diagnostic purposes.

1 Aggravated force is defined as the use
2 of physical force or physical violence of an
3 high and aggravated nature to overcome the
4 victim or the use of threat of the use of a
5 deadly weapon.

6 Ladies and gentlemen, in this case if
7 you find the defendant is not guilty of criminal
8 sexual conduct in the first degree you must then
9 consider whether or not the defendant is guilty
10 of criminal sexual conduct in the second degree.
11 Criminal sexual conduct in the second degree is
12 simply a lesser offense to criminal sexual
13 conduct in the first degree.

14 Now, to prove criminal sexual conduct in
15 the second degree, it's simply a lesser offense
16 of criminal sexual conduct in the first degree.

17 To prove criminal sexual conduct in the
18 second degree, the State must prove that the
19 defendant used aggravated coercion to accomplish
20 sexual battery.

21 Aggravated coercion is defined as a threat
22 to use force or violence of a high and
23 aggravated nature to overcome the victim or
24 another person if the victim reasonably believes
25 that the defendant has the present ability to

1 carry out the threat or a threat to retaliate in
2 the future by the affliction of physical harm,
3 kidnapping or extortion under circumstances of
4 aggravation against the victim or any other
5 person.

6 Again, sexual battery for the lesser-
7 included offense is defined as intercourse,
8 cunnilingus, fellation, anal intercourse, or any
9 intrusion, however slight, of any part of the
10 person's body or any object into the genital or
11 anal opening of another person's body except
12 when such intrusion is accomplished for
13 medically recognized treatment or diagnostic
14 purposes.

15 Ladies and gentlemen, secondly the
16 defendant has been charged with kidnapping in
17 this case. To prove kidnapping, the State must
18 prove that the defendant unlawfully seized,
19 confined, inveigled, decoyed, kidnapped,
20 abducted, or carried away any other person by
21 any means whatsoever without authority of law
22 except when a minor is seized or taken by their
23 parents.

24 Lastly, ladies and gentlemen, the
25 defendant is charged with use of a vehicle

1 without permission with the intent to deprive.
2 To prove that charge, the State must prove that
3 the defendant used a vehicle without permission
4 with the intent to deprive. The State must
5 prove the defendant was not entitled to
6 possession of the vehicle and the defendant
7 took, used, or drove the vehicle without consent
8 of the owner and that the intent to deprive the
9 owner temporarily or otherwise of the vehicle or
10 its possessions.

11 Now, ladies and gentlemen, in this case
12 you were permitted to take notes during the
13 trial. Please, ladies and gentlemen, remember
14 that some people are better notetakers than
15 others. Juror's notes should not be given any
16 greater weight than the recollection of other
17 jurors. The recollections of individual jurors
18 should be considered as reliable as notes taken
19 by any other juror.

20 Mr. Foreperson, members of the jury, as
21 you retire to begin your deliberations in this
22 case, I wish to express the hope that you will
23 be mindful of the importance of your
24 responsibility here today. You are not called
25 very often to serve as jurors. The proper

1 performance of that duty requires each of you to
2 reach the height of freeing your mind of all
3 improper influences.

4 Please do not get the idea that I am
5 trying to intimate to you how I think you should
6 decide this case. As I already told you, under
7 the laws of the State of South Carolina, you the
8 jury are the sole judge of all facts in this
9 case. It would be highly improper for me to
10 influence you in the performance of that duty.

11 As the presiding officer of this court,
12 I am vitally concerned that whatever verdict you
13 find will be the result of going back into your
14 jury room and confining your consideration of
15 the evidence and the law that you have heard
16 here in this courtroom, and weighing it fairly
17 and impartially, as I have every confidence you
18 will.

19 Mr. Foreperson, I must remind you that
20 your verdict must be unanimous. It must be the
21 verdict of all 12 jurors as to each charge.

22 To that end, my law clerk has prepared a
23 verdict form. It simply has the caption of the
24 case. The State of South Carolina v. Brian
25 David Walls. It said, verdict.

1 There are on this form four questions.
2 The first question is, as to the charge of
3 criminal sexual conduct in the first degree, we
4 the jury unanimously find the defendant, Brian
5 David Walls either not guilty or guilty. You
6 are just going to place a checkmark.

7 Ladies and gentlemen, do not infer
8 anything from the order of not guilty or guilty
9 is placed on here. For every trial, we just
10 reverse them.

11 Ladies and gentlemen, if you find the
12 defendant guilty of criminal sexual conduct, you
13 would then skip question number 2 and go
14 straight to questions number 3 and 4.

15 However, if you find the defendant not
16 guilty of question number 1 as to criminal
17 sexual conduct in the first degree, you then
18 would answer question number 2. It gives you
19 directions for when you check which numbers to
20 go to.

21 Question 2, if you find the defendant
22 not guilty of criminal sexual conduct in the
23 first degree, then you may consider the lesser-
24 included offense of criminal sexual conduct in
25 the second degree.

1 Again, you would only go to that second
2 question if you found Mr. Walls not guilty of
3 the first question.

4 Question number 3 says, as to the charge
5 of kidnapping, we the jury unanimously find the
6 defendant, Brian David Walls, again, guilty or
7 not guilty. Then the same thing as to the
8 charge of use of vehicle without permission with
9 the intent to deprive. We the jury unanimously
10 find the defendant, Brian David Walls, either
11 guilty or not guilty. You will just check
12 those.

13 After that, Mr. Foreperson, there is a
14 place for you to sign your name and also date
15 this form. When you have reached a unanimous
16 verdict, I am requesting that you knock on your
17 jury room door, and we will bring you back into
18 the courtroom to take your verdict.

19 A couple of housekeeping measures to
20 begin with. I know you have seen my court
21 reporter

22 taking down everything that everyone says
23 in the trial of the case. I want you to know
24 there is no printed transcript of what has
25 transpired over the last few days.

1 If you want to hear certain testimony
2 played back, you can send me a note through your
3 foreperson. What I can do is bring you back
4 into the courtroom, and I will play you the
5 audio backup of that testimony. The only thing
6 you need to fully understand is that if you ask
7 me for a certain witness' testimony, I am
8 required to play that entire witness' testimony.
9 The direct exam, the cross-exam. Any redirect,
10 any re-cross.

11 Additionally, you are going to have back
12 in the jury room with you the verdict form to
13 fill out, the law that I just charged you is all
14 right here. You will have a copy of that. You
15 will have all of the evidence that was entered
16 into this case.

17 Ladies and gentlemen, if you don't have
18 something back in your jury room as evidence,
19 you are not entitled to it. For instance, I
20 think we did have one board which is what is
21 called a demonstrative exhibit. That was not
22 entered into evidence so you are not going to
23 have that back in your jury room.

24 All that evidence that has been tagged
25 as a State's or as a defense's exhibit will be

1 back in that jury room for you to go through.

2 Ladies and gentlemen, I am going to tell
3 you for the very last time not to begin
4 discussing this case. I am going to ask the
5 attorneys if there is anything further in the
6 law that they want me to instruct you. If there
7 is, I will bring you back into the courtroom and
8 I will instruct you further. If not, you will
9 get, again, the verdict form, the jury charge,
10 any evidence taken back by the bailiffs from the
11 courtroom, and that's going to be your signal,
12 Mr. Foreperson, to begin your deliberations.

13 At this time, you are excused. Again,
14 don't begin your deliberations until you have
15 received the evidence and the verdict form and
16 the charge on the law. Thank you.

17 (Jury exits courtroom.)

18 THE BAILIFF: The door is closed. The
19 jury is clear, Your Honor.

20 THE COURT: Thank you. Any exceptions
21 to the charge from the State?

22 MR. THORNTON: None from the State, Your
23 Honor.

24 MS. TOLLEY: Judge, we apologize for not
25 asking for this earlier, but we would like a

1 charge on the consent. I believe there was
2 testimony by Mr. Walls that there was consensual
3 sex, and that would be an appropriate charge at
4 this time.

5 THE COURT: If you have anything for me
6 to consider it. You are right. It's late.

7 While she is looking for that, why don't
8 you all go through the evidence and make sure
9 it's all there.

10 MR. THORNTON: Yes.

11 THE COURT: I will tell you that I am
12 comfortable with the charge as already stated.
13 We already know that the State has the burden of
14 proving the defendant guilty beyond a reasonable
15 doubt. That would include of the burden of
16 having to show that it wasn't consensual. I
17 think the charge already covers it.

18 MR. THORNTON: Yes, ma'am. For the
19 record, Judge, I agree. I am certainly not
20 saying that it's beyond the realm that I am
21 wrong, but I have never seen that charge given.
22 I am sure there may be an old charge, but as you
23 know the charges have been redone and are
24 constantly being updated. I have not seen it
25 given in the 26 years I have been doing it.

1 MS. TOLLEY: The only thing I can saw is
2 that we believe it's a critical charge. It's
3 very central to our defense. It would not be
4 unreasonable to provide a charge of consent
5 under these circumstances, and we would be
6 asking for that, Your Honor.

7 THE COURT: I understand that. I also
8 think for appellate purposes, the right to
9 charge consent at this point would place undue
10 influence on it. It is very close to the
11 alleged facts in this case that it was consent.
12 I think that would be too close to the Court
13 commenting on specific circumstances in the
14 case.

15 Obviously, you argued it. I think it's
16 adequately covered in the standard charges, and
17 I am comfortable for appellate purposes that it
18 was covered.

19 Make sure you bring the two alternates
20 out for me and let me know about lunch.

21 (Alternate jurors released.)

22 THE COURT: We will be in recess until
23 we hear from the jury.

24 (Court in recess during deliberations.)

25 THE COURT: There is a question from the

1 jury. It says, the jury would like to see
2 Howard Johnson videotape of the vehicle. How
3 long is it? We do not need to watch all of it.
4 We are interested in seeing the part where the
5 headlights are seen driving in a circle.

6 Signed by the foreperson. It was
7 entered. Did you play it or not play it for the
8 jury?

9 MR. THORNTON: We did not play it for
10 the jury.

11 THE COURT: It was entered into
12 evidence.

13 MR. THORNTON: It was entered into
14 evidence.

15 About eight clips. Less than 16
16 seconds, each played back-to-back.

17 MS. TOLLEY: We don't mind showing them
18 the clips.

19 THE COURT: That is what we will do.

20 (Jury enters courtroom.)

21 THE COURT: Mr. Foreperson, you have
22 sent me a note. For these purposes, these are
23 very short clips. There are 16 less than 30-
24 second clips, as you can see from your own
25 vantage point.

1 (Video playing for the jury.)

2 THE COURT: All right.

3 Ladies and gentlemen of the jury, we
4 will send you back to your jury room to continue
5 your deliberations. I am being told by the
6 bailiff that your sandwiches are coming in the
7 next few minutes.

8 (Jury exits courtroom.)

9 THE COURT: We will continue to be at
10 ease.

11 (Court stood in recess during
12 deliberations.)

13 **

14 **PROCEEDINGS CONTINUED**

15 THE COURT: I understand the jury has
16 reached a verdict.

17 Is the State ready to bring them in?

18 MR. THORNTON: The State is ready, Your
19 Honor.

20 THE COURT: Is the defense ready?

21 MS. TOLLEY: Yes, Your Honor.

22 THE COURT: All right. Let's bring the
23 jury in, please.

24 (Jury enters courtroom.)

25

1 **READING OF THE VERDICT**

2 THE COURT: Mr. Foreperson, I understand
3 the jury has reached a verdict.

4 THE FOREPERSON: Yes, Your Honor, we
5 have.

6 THE COURT: Thank you. Please hand it
7 to the bailiff.

8 THE CLERK: In the State of South
9 Carolina v. Brian David Walls, as to the charge
10 of criminal sexual conduct in the first degree,
11 we, the jury, unanimously find the Defendant,
12 Brian David Walls, guilty.

13 As to the charge of kidnapping, we, the
14 jury, unanimously find the Defendant, Brian
15 David Walls, guilty.

16 As to the charge of use of a vehicle
17 without permission with the intent to deprive,
18 we, the jury, unanimously find the Defendant,
19 Brian David Walls, guilty.

20 THE COURT: You may be seated.

21 Ladies and gentlemen, I'm going to call
22 each of the juror's number, and I'm going to ask
23 you two questions, and the question is, is this
24 your verdict, yes or no, is this still your
25 verdict, yes or no.

1 And if you don't mind, when I call your
2 number, if you can just wave to me so I know who
3 I've addressed, all right?

4 Juror number 30. Sir, is this your
5 verdict?

6 JUROR 30: Yes, ma'am.

7 THE COURT: Is this still your verdict?

8 JUROR 30: Yes, ma'am.

9 THE COURT: Juror number 160. Ma'am, is
10 this your verdict?

11 JUROR 160: Yes.

12 THE COURT: Is this still your verdict?

13 JUROR 160: Yes.

14 THE COURT: Juror number 321. Sir, is
15 this your verdict?

16 JUROR 321: Yes.

17 THE COURT: Is this still your verdict?

18 JUROR 321: Yes.

19 THE COURT: Thank you. Juror number
20 164. Sir, is this your verdict?

21 JUROR 164: Yes.

22 THE COURT: Is this still your verdict?

23 JUROR 164: Yes.

24 THE COURT: Juror number 243. Sir, is
25 this your verdict?

1 JUROR 243: Yes.

2 THE COURT: Is this still your verdict?

3 JUROR 243: Yes.

4 THE COURT: Juror number 135. Sir, is
5 this your verdict?

6 JUROR 135: Yes.

7 THE COURT: Is this still your verdict?

8 JUROR 135: Yes.

9 THE COURT: Juror number 291. Ma'am, is
10 this still your verdict?

11 JUROR 291: Yes.

12 THE COURT: Is this still your verdict?

13 JUROR 291: Yes.

14 THE COURT: Juror number 242. Sir, is
15 this your verdict?

16 JUROR 242: Yes.

17 THE COURT: Is this still your verdict?

18 JUROR 242: Yes.

19 THE COURT: Juror number 292. Sir, is
20 this your verdict?

21 JUROR 292: Yes.

22 THE COURT: Is this still your verdict?

23 JUROR 292: Yes.

24 THE COURT: Juror number 380. Sir, is
25 this your verdict?

1 JUROR 380: Yes.

2 THE COURT: Is it still your verdict?

3 JUROR 380: Yes.

4 THE COURT: Juror 369. Ma'am, is this
5 your verdict?

6 JUROR 369: Yes.

7 THE COURT: Is this still your verdict?

8 JUROR 369: Yes.

9 THE COURT: Juror number 142. Sir, is
10 this your verdict?

11 JUROR 142: Yes.

12 THE COURT: Is this still your verdict?

13 JUROR 142: Yes.

14 THE COURT: Thank you.

15 Is there anything further required of
16 this jury panel from the State?

17 MR. THORNTON: Not from the State, Your
18 Honor, other than our thanks.

19 THE COURT: From the defense?

20 MS. TOLLEY: Nothing from the defense,
21 Your Honor.

22 THE COURT: Ladies and gentlemen, at
23 this time what I am going to do is sentence Mr.
24 Walls on these charges.

25 Additionally, I need to tell you certain

1 things. At this point, when you go home, you
2 are permitted to discuss what you've been doing
3 up here, there's nothing wrong with that.
4 Sometimes the attorneys or the investigators
5 want to know your thoughts or impressions about
6 something in particular.

7 You're free to talk to them, if you want
8 to, but you're certainly not required to. If
9 anyone persists in any way after you've politely
10 said, "No, thank you, I don't wish to discuss
11 it," if they were to persist, I need you to call
12 into the Clerk's Office, and give us your name,
13 and I will take care of that. You're not
14 required to talk to anybody, and, again, you are
15 permitted to, if you want to.

16 I will tell you for the remainder of the
17 week I am pulling another jury tomorrow morning
18 for a drug case, although I have enough jurors,
19 so I'm not going to bring you'all back, I'm
20 going to release you for the remainder of the
21 week, so this panel is fine and as well as the
22 alternates. The rest of them are going to come
23 back and then try either a one or two-day drug
24 case.

25 So, ladies and gentlemen, you're welcome

1 to stay or not stay when I sentence Mr. Walls,
2 that is completely up to you. The only thing
3 I'm going to say is that if you do want to go,
4 I'll invite you to go now, and, if not, just
5 keep your seats exactly where you are, if you're
6 interested in staying. It should be a very
7 quick sentencing for different reasons and
8 circumstances. If you stay, you'll understand,
9 but I'm going to go ahead and do it right now.

10 So, again, it's up to you, if you don't
11 wish to stay, and you want to go, you're welcome
12 to go, and I would advise you to do so now, but,
13 if not, just keep your seats, okay? Anyone?
14 Okay. All right.

15 MR. THORNTON: your Honor, may we
16 briefly approach?

17 THE COURT: You may.

18 (Bench conference.)

19 MR. THORNTON: Your Honor, if I could
20 just have one moment to explain that to co-
21 counsel?

22 THE COURT: Okay.

23

24

25

SENTENCING HEARING

MR. THORNTON: Thank you, Your Honor,
the State's ready to go forward.

THE COURT: All right.

MR. THORNTON: Your Honor, may it please
the Court? I'm not going to belabor a lot of
this with you. Obviously, you've tried the
case, we had a lot of discussions that were,
obviously, outside the presence of the jury, as
they're supposed to be in regards to Mr. Walls'
prior record.

I will simply ask the Court to take note
of the fact that Mr. Walls was convicted and is
currently serving a 40-year sentence for murder.
The murder he committed was 24 hours, roughly,
prior to this incident, now he's been convicted,
so prior to the rape and kidnapping of K.P.

He also has a prior contributing to the
delinquency of a minor. As Your Honor is well
aware, the State served Mr. Walls and his
counsel with a notice to seek life without
parole, which was done in this case.

I would, Your Honor, also ask the Court
at this time, and, you know, Judge, I've been in

1 front of you for, I don't know, 20 years now. I
2 don't know that I've ever asked you for this,
3 but I think that Mr. Walls is the kind of
4 Defendant that never needs to get out of jail
5 ever, and I realize that life without parole
6 means that, but I would ask the Court to do
7 consecutive life without parole sentences, as to
8 the CSC first, as to the kidnapping.

9 I know you have to sentence him to three
10 years, I believe, or up to three years on the
11 use of vehicle, and I would ask that they all be
12 made consecutive to the 40 years he is already
13 serving.

14 I mean, this is a person who, basically,
15 murdered a woman over her pills that she had,
16 that he's doing 40 years for that we had to try
17 him on, and then 24 hours later he's committing
18 a rape and a kidnapping on a different victim.

19 At this time, Your Honor, I would ask
20 that K.P. come up, she wanted to address, Your
21 Honor, and once she is done, Judge, that will be
22 it from the State's presentation, unless you
23 need anything further.

24 THE COURT: That's fine. And you're
25 printing the sentencing sheets?

1 MR. THORNTON: The sentencing sheets are
2 being printed out now, Judge, they will,
3 hopefully, be ready soon.

4 THE COURT: Okay. K.P. , I'm happy
5 to hear whatever you have to say. Right here.

6 K.P. : My name is K.P. ,
7 K.P. . The only
8 thing that I have to say here is that I fully
9 believe that if I did not fight as hard as I did
10 that night, that, unfortunately, I would have
11 lost my life as well.

12 And it was Brian's mistake in choosing
13 me as a victim that cost him his own life,
14 because I am stronger than him, and he did not
15 realize that. And I'm very thankful that I got
16 the opportunity to be here today, because there
17 are a lot of people who may have been victimized
18 by him that did not get that chance, so thank
19 you to everyone.

20 THE COURT: Thank you.

21 MR. THORNTON: That's everything from
22 the State, Judge.

23 THE COURT: All right.

24 On behalf of the defense, anything?

25 MS. TOLLEY: Your Honor, we would simply

1 ask that the sentences run concurrently and not
2 consecutively.

3 THE COURT: Does Mr. Walls wish to
4 speak?

5 MR. WALLS: Yes, ma'am.

6 THE COURT: You would like to speak?

7 MR. WALLS: Yes, ma'am.

8 THE COURT: All right, sir, please
9 stand.

10 MR. WALLS: I'm gonna take a second and
11 breathe for a moment, okay?

12 THE COURT: Okay.

13 MR. WALLS: Okay, they were correct when
14 they told you that I was convicted of a murder,
15 and I am currently serving 40 years.

16 I was also offered a plea of 30 years
17 for this charge, and it would have ran together.
18 My 40 years outweighed that 30 years, and made
19 me understand completely and fully that by
20 taking this to trial, that I would be found
21 guilty, that I would most definitely be given a
22 life sentence.

23 I wasn't able to take a plea for my
24 murder charge, because I wasn't guilty -- well,
25 first of all, I wasn't able to point fingers at

1 family members, and others that were involved.
2 Then they tried me as a hand of one is a hand of
3 all. My appeal was in place finally for the
4 relief, and the moment it went through is when
5 the State pushed this.

6 My original lawyer was Trasi Campbell,
7 she represented me on these charges of murder --
8 for the murder. Since then, Ms. Campbell had to
9 pass this onto Ms. Tolley, because she went from
10 my counsel to the Solicitor side of things.
11 I've had my doubts in the beginning of this
12 case. I asked for relief counsel. I wasn't
13 comfortable with the counsel that I was
14 presented.

15 I was told by the Judge that the charges
16 were too old to allow me to relieve my counsel
17 and that she knows my counsel had plenty enough
18 competence to handle this case, and she made it
19 so happen.

20 Since that time I'd like to say I think
21 Ms. Tolley did her best to defend me. She told
22 the facts and the truth. I knew the whole time
23 how the trial works.

24 They bring up a bunch of things that
25 undisputedly are the facts, and they did happen,

1 there's no doubt about them, because this is how
2 it works. And then they wiggle in their version
3 of what happened, and that's what it is.

4 With that being said, and I know the
5 decision's all been made, and that can't get
6 turned around now, it would have to be fought in
7 an appeal, I just wish that you'all would have
8 been able to hear that.

9 This took place in the parking lot
10 before she enters the marsh. I asked my brother
11 to make sure. She said in her statement that
12 while I was -- she was spinning circles and I
13 ran the car down. And then while I was in the
14 car she takes off spinning circles again. Now,
15 in these eight years I've been given what they
16 call a Rule 5, which is the evidence they have
17 against you, and I studied all the pictures, and
18 I studied it, and I studied it, and I didn't
19 know she was gonna get up there and say on that
20 stand, but I did listen, and I listened
21 carefully to what she said on that stand.

22 And I know for a fact, because there is
23 no pictures that shows spinning tires around and
24 around, around. I was pretty -- when I -- I
25 wanted to say what I'm saying, and however -- I

1 don't know how else -- because of the murder,
2 they put some laws in, and they caused it to
3 where the prosecution weren't gonna be allowed
4 to let you guys know that I had a murder, so I'd
5 get a fair trial, and that was the reason for
6 it, or -- 'cause I've never been convicted, they
7 wanted me to have a fair trial, because they
8 know how it works. What they do is, they paint
9 a bad character evidence with that information.

10 So she knew the tactic that would be
11 used to convict me. And they are correct, the
12 murder and the alleged rape did take place on
13 the 6th, it all took place on the 6th.

14 And I don't know how to better to say
15 this, to say what it is. I should have listened
16 to my lawyer, and she's right, she is smarter
17 than me, because she's been a friend in my
18 family for a long time.

19 I don't understand fully still right now
20 why she told the lie originally, or why she held
21 onto it so tightly; but what I do know is, I've
22 never ever in my life killed someone, that has
23 never happened, and I've never in my life forced
24 myself on a woman in my life. I

25 'm telling you this, because I wanted

1 you to hear it from me. Also, because the State
2 has the burden of proof to prove that I did or
3 didn't do something, and she advised me strongly
4 not to take the stand.

5 She said that just gives them a way to
6 poke at you to bring bad character evidence. I
7 told her in my last letter to take the stand. I
8 told her that there was no way possible I would
9 allow myself to go through this trial, and not
10 at least allow you guys who's going to make a
11 decision over my life, that would make me stay
12 in prison for the rest of my life, without
13 hearing from me, telling you myself that I did
14 not do that.

15 There were things said about being hit.
16 At the time I was a 280-pound man, if I ever hit
17 someone, I promise you, if you're in the
18 timeframe, it's noticeable. There's not gonna
19 be not a mark. We showed you guys pictures of
20 the marks.

21 There was no wound on her face, there
22 was none of these things, but I -- when they
23 told me that you guys wanted to see that video
24 of the circling around --

25 THE COURT: Okay, Mr. Walls, you need to

1 be addressing me, not the jury.

2 MR. WALLS: When they told -- when you
3 told me that the jury was going to see the
4 video, because they wanted to see this
5 supposedly circling around, I was thinking if
6 you were showed that, and I was so confident, I
7 started crying, I really cried because I was so
8 happy that I knew they were doing their job back
9 there, and I thought to myself -- because I knew
10 that one of the jurors is an officer, so I said
11 he must be making them look at the thing, is
12 what I thought to myself, whether I was right or
13 wrong, I thought that.

14 And I said to myself, they're doing
15 their job. The longer it was taking, the longer
16 I thought you guys were doing your job, and you
17 did a good job, you know.

18 The -- I had a problem. So too many
19 times, so I'm gonna -- I think I'm gonna just
20 say right now to the Solicitors, I have
21 something to say as well. And all I want to say
22 is there is --

23 THE COURT: Sir, again, you cannot
24 address the Solicitors --

25 MR. WALLS: Okay.

1 THE COURT: -- you can only address me.

2 MR. WALLS: Yes, ma'am.

3 Your Honor, I just would like to say
4 that I think that this type of Solicitors that
5 handled my case did handle it in a professional
6 manner, I want to say that. At least he didn't
7 under-ball nothing.

8 He used a couple tactics that I didn't
9 think right, but nonetheless he didn't do me bad
10 like Hunter Swanson tried to do, you know? And
11 I wanted to say this again, I've never committed
12 rape in my life, I haven't committed a murder in
13 my life.

14 Thank you, counsel, for the life that
15 you forced me to take. Thank you for --
16 everybody that was here. Thank you for at least
17 allowing my voice to be heard. I'll be fighting
18 this on appeal, and I'll be trying to fight for
19 my life.

20 I'm sorry that all you'all are put in a
21 position to where you had to make a decision
22 for something I did not do, and I think that's
23 all I really want to say. I really think that's
24 all I want to say.

25 THE COURT: Thank you. Anything else on

1 the behalf of Mr. Walls?

2 MS. TOLLEY: Nothing, Your Honor.

3 THE COURT: On Indictment 2016-GS-07-
4 2232, for criminal sexual conduct in the first
5 degree, the sentence of this Court is you be
6 committed to the Department of Corrections for a
7 period of life without parole.

8 On Indictment 2016-GS-07-2234, for
9 kidnapping, the sentence is you be committed to
10 the Department of Corrections for a period of
11 life without parole.

12 On Indictment 2016-GS-07-2233, for use
13 of vehicle without permission with intent to
14 deprive, the sentence is you be committed to the
15 Department of Corrections for a period of three
16 years.

17 Those are all to run consecutive to each
18 other, and consecutive to your murder sentence.
19 Good luck to you, Mr. Walls.

20 All right, ladies and gentlemen of the
21 jury, I'm going to go ahead and excuse you just
22 very briefly back to your jury room.

23 Mr. Foreperson, I'm gonna need you to
24 sign the original indictment, and I'll be right
25 back there for just a minute, okay? Thank you.

1 Do you have the original indictments? He's
2 already signed it?

3 CLERK: Already taken care of.

4 THE COURT: Great.

5 Anything further from the State?

6 MR. THORNTON: Nothing from the State,
7 Your Honor, thank you.

8 THE COURT: Okay.

9 MS. TOLLEY: Judge, we'd ask to renew
10 all our previous motions.

11 THE COURT: And you're renewing all your
12 previous objections as well, correct?

13 MS. TOLLEY: That's correct.

14 THE COURT: Any before, during and all
15 of them; is that correct?

16 MS. TOLLEY: That's correct.

17 THE COURT: All right.

18 Okay, do you want to argue, or do you
19 want me to just go ahead and --

20 MS. TOLLEY: Well, Judge --

21 THE COURT: Do you want to argue it, or
22 no, or think about it, or not?

23 MS. TOLLEY: No, I can do it right now.

24 THE COURT: Okay, go ahead.

25 MS. TOLLEY: We would ask for a judgment

1 notwithstanding the verdict. We believe that
2 the evidence showed a not-guilty verdict in this
3 particular case. We find that the only witness
4 here testified to the fact that K.P. [REDACTED],
5 that the other witnesses were merely reiterating
6 what she said. That Mr. Walls testified that
7 there was consensual intercourse in this
8 particular case, which would negate a criminal
9 sexual conduct in the first degree and convicted
10 for a kidnapping, and unlawful use of a car.

11 And for those reasons we're asking for a
12 judgment notwithstanding the verdict. We are
13 renewing all of our motions and objections at
14 this time.

15 THE COURT: Thank you.

16 Mr. Thornton, do you want to answer?

17 MR. THORNTON: Judge, I would just say
18 we would rely on all of the arguments already
19 made. I think, you know, I will tell you, and I
20 said this to the jury, K.P. [REDACTED] is one of the
21 most consistent witnesses I've ever had that are
22 victims in a case of criminal sexual conduct.

23 I mean her testimony, while I agree,
24 there's only two of them in the bathroom at the
25 time this happens, you know, her testimony was

1 not only internally consistent, but it was
2 consistent with the other evidence. I think
3 that all the elements have been met, as to each
4 of the three offenses, and unless the Court
5 needs me to go into more detail, I would just
6 simply rely on all the arguments and the
7 evidence that was placed in the record.

8 THE COURT: All right, I'm going to deny
9 the motion for a judgment, notwithstanding the
10 verdict. I think there was plenty of evidence.
11 The jury were the finder of facts, and this is
12 their decision, and I'm going to deny the
13 motion. All right?

14 MR. THORNTON: Thank you, Your Honor.

15 THE COURT: Thank you.

16 (At 4:12 p.m. the proceedings were
17 concluded.)

18 ***

19 END OF TRANSCRIPT

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CERTIFICATE OF REPORTER

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate, and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 28th Day of August, 2024.

I do further certify that I am not related, of counsel, nor interest to any party hereto.

This, the 10th day of February, 2025.

[REDACTED]

Kymberlee M. Williams, CSR/RPR

WITNESSES

J Dowling- Beaufort PD

DOCKET NO. 2016GS0702232

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

June Term 2017

THE STATE

vs.

Brian David Walls

Indictment For

Criminal Sexual Conduct 1st Degree

SC Code: 16-3-652

CDR Code: 0160

After being fully advised ³⁸⁷ as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2016A0720100096

Nully G. Brainerd
Foreperson of Grand Jury

Date: JUN 22 2017

VERDICT

Guilty

True Bill

Burt R

Foreperson of Petit Jury

Date: 8/28/24

INDICT

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

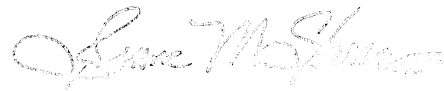
2016GS0702232

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct 1st Degree

That in Beaufort County, South Carolina, on or about December 6, 2016, the Defendant, Brian David Walls, did engage in sexual battery with the use of aggravated force upon K.P. [REDACTED] all in violation of Section 16-3-652, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

True Bill

WITNESSES

J Dowling- Beaufort PD

DOCKET NO. 2016GS0702233

The State of South Carolina

County of Beaufort

389
After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

June Term 2017

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2016A0720600336

THE STATE

vs.

Brian David Walls

Indictment For

**Use of Vehicle Without Permission
with the Intent to Deprive**

SC Code: 16-21-60(A)

CDR Code: 0756

Defendant

VERDICT

Guilty

Witness:

True Bill

Foreperson of Petit Jury

Date: 8/28/21

INDICT

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

INDICTMENT

2016GS0702233

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Beaufort County present upon their oath:

Use of Vehicle Without Permission with the Intent to Deprive

That in Beaufort County, South Carolina, on or about December 6, 2016, the Defendant, Brian David Walls, did, while not entitled to possession of a vehicle, take, use, or drive a vehicle, without the consent of the owner and with intent to deprive her, temporarily or otherwise, of the vehicle or its possession, all in violation of Section 16-21-60(A), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

True Bill

WITNESSES

Beaufort PD -

Inv. Anthony M. Re

ARREST WARRANT NUMBER

2016A0720600337

ACTION OF GRAND JURY

True Bill

Melinda Haggins

Foreperson of Grand Jury

Date:

JUL 07 2022

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury

Date:

8/28/22

INDICT

DOCKET NO. 2016GS0702234

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

July Term 2022

THE STATE

vs.

Brian David Walls

Indictment For

Kidnapping

SC Code: 16-3-910

CDR Code: 0095

391
After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

INDICTMENT

2016GS0702234

At a Court of General Sessions, convened on July 7, 2022, the Grand Jurors of Beaufort County present upon their oath:

Kidnapping

That in Beaufort County, South Carolina, on or about December 6, 2016, the Defendant, Brian David Walls, did seize, confine, inveigle, decoy, kidnap, abduct or carry away K.P. [REDACTED] without authority of law, all in violation of Section 16-3-910, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

STATE

BRIAN DAVID WALLS

INDICTMENT/CASE#: 2016GS0702232

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

VS.

INDICTMENT/CASE#: 2016GS0702232

BRIAN DAVID WALLS

AKA: _____ A/W#: 2016A0720100096

Race: White Sex: Male Age: _____ Date of Offense: 12/6/2016

DOB: [REDACTED] SS#: [REDACTED] S.C. Code §: 16-3-652

Address: _____ CDR Code #: 0160

City, State, Zip: _____

DL#* _____ SID# _____

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Criminal Sexual Conduct – First DegreeIn violation of § 16-3-652 of the S.C. Code of Laws, bearing CDR Code # 0160☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor _____ SC Bar # _____ Defendant _____ Attorney for Defendant _____ SC Bar # _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of _____ days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. _____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

STATE

BRIAN DAVID WALLS

INDICTMENT/CASE#: 2016GS0702232

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmnts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$ 3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: Robert L. Stone

Court Reporter: Kymberlee Williams

Presiding Judge: CJ

Judge Code: 2142

Sentence Date: 8-28-24

IN THE COURT OF GENERAL SESSIONS

STATE

INDICTMENT/CASE#: 2016GS0702233

VS.

BRIAN DAVID WALLS

AW#: 2016A0720600336

AKA:

Date of Offense: 12/06/2016

Race: White Sex: Male Age:

S.C. Code §: 16-21-60(A)

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 0756

Address:

City, State, Zip: _____

DL#*	SID#

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Use of Vehicle without permission with intent to deprive

In violation of § 16-21-60(A) of the S.C. Code of Laws, bearing CDR Code # 0756

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor	SC Bar #	Defendant	Attorney for Defendant	SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Correction** ☐ **County Detention Center,**

for a determinate term of 3 days/months/years/Time Served ☐ **Youthful Offender Act** not to exceed 1 years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

STATE

BRIAN DAVID WALLS

INDICTMENT/CASE#: 2016GS0702233

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$		
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ 40.00
3% to County (if paid in installments)	TBD		\$ 3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 1168.75

Clerk of Court/Deputy Clerk:
Court Reporter:

Kimberlee Williams

Presiding Judge:
Judge Code:
Sentence Date:

2142
8-29-24

STATE BRIAN DAVID WALLSINDICTMENT/CASE#: 2016GS0702234

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

INDICTMENT/CASE#: 2016GS0702234

VS.

BRIAN DAVID WALLSA/W#: 2016A0720600337

AKA: _____

Date of Offense: 12/06/2016Race: White Sex: Male Age: _____S.C. Code §: 16-3-910DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 0095

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: KidnappingIn violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor _____ SC Bar # _____ Defendant _____ Attorney for Defendant _____ SC Bar # _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of Life Sentence Without Parole days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. _____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

STATE

BRIAN DAVID WALLS

INDICTMENT/CASE#: 2016GS0702234

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

 Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114 (BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$ 3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk:

Court Reporter:

Presiding Judge:

Judge Code:

Sentence Date:



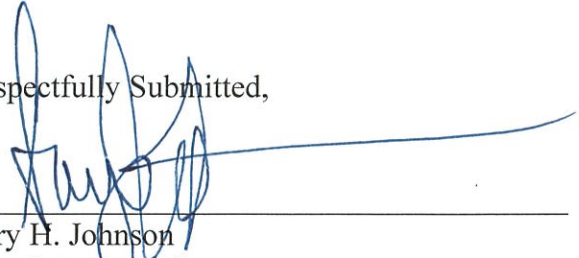
 Kimberlee Williams

2142
 8-20-24

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Gary H. Johnson
Appellate Defender
SC Bar #8898

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

ATTORNEY FOR APPELLANT

This 21st day of November 2025.

RECEIVED

Nov 21 2025

SC Court of Appeals

RECEIVED

Nov 21 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

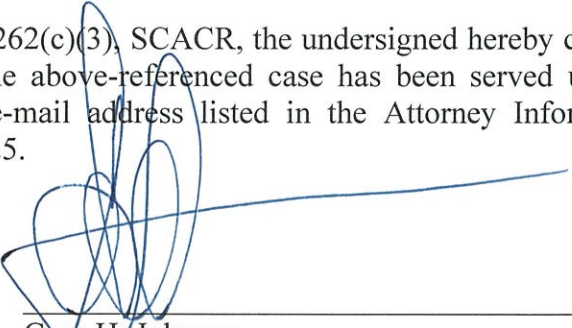
BRIAN DAVID WALLS,

APPELLANT

APPELLATE CASE NO. 2024-001452

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 21st day of November 2025.



Gary H. Johnson
Appellate Defender
SC Bar #8898

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

ATTORNEY FOR APPELLANT