

VOLUME 1 OF 2

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

ORIGINAL

Appeal from Florence County

Thomas A Russo, Circuit Court Judge

RECEIVED

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S C. Supreme Court

STACY L EVANS,

PETITIONER,

V

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEASE
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
THE STATE OF SOUTH CAROLINA	)	
	)	
PLAINTIFF	)	08-GS-21-1827
	)	
VERSUS	)	
	)	December 8, 2008
STACY LEE EVANS	)	
DEFENDANT	)	

BEFORE

THE HONORABLE J ERNEST KINARD, JR

Patricia Singleton-Parr, Esquire
Robert M Wells, Esquire
Attorney for The State

Jack Lawson, Esquire
Attorney for the Defendant

Pamela Ozment-Cartee
Circuit Court Reporter

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Gloria Williamson		50	94	110	111
Robin Hope Gibson	116	121	125	130	131
LeGrand Poston		132	148		
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Juror #	Juror Name	Race	Sex	Court	State	Defd
125	Troy Severance	W	M		✓	✓
061	Loretta Hannah	B	F		X	--
042	Michael G Ford	B	F	X		
127	Linda Ann Singleton	B	F		N/C	X
092	Derick McClam	B	F		N/C	✓
079	Monica Kennedy	B	F		✓	X
114	Renee Rhales	W	F		✓	X
002	James Alston	B	M		✓	N/C
046	Jeremy Gamble	B	M		✓	--
147	Priscilla Woods	B	F		✓	X
057	Patricia N Green	B	F		N/C	X
115	Rufus Richard	B	M	X		
157	George B Eggleston	B	M		N/C	N/C

NO COURT EXHIBITS

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1 (Whereupon, court comes to order at 11 30 a m on Monday
2 December 8, 2008)

-- DAY ONE OF TRIAL --

3
4 **THE COURT** Jurors, my name is Ernest Kinard I am a
5 Resident Circuit Judge of the Fifth Circuit, that's Kershaw
6 and Richland I am actually the longest serving Circuit
7 Judge, just something to say And I have been here --- Y'all
8 haven't been here, you know, I just haven't been sitting back
9 there, I haven't been drinking coffee and so forth

10 I have just been handed by the Clerk of Court an
11 Indictment now, it has other things What are we going
12 forward on, y'all tell me, which counts?

13 **MS PARR** Your Honor, we are going forward on all four
14 counts of the Indictment

15 **THE COURT** Okay All right I am just looking at this
16 document, because I haven't seen it before What was handed
17 to me by the Deputy Clerk of Court, Ms O'Hara was an
18 Indictment An Indictment is not evidence It just contains
19 allegations And this Indictment alleges that one, Stacy Lee
20 Evans, committed four crimes All right, now these are just
21 allegations

22 Mr Evans is presumed innocent of all charges There is
23 no burden on his part to prove that he is not guilty In
24 order to, obtain a conviction on any of the four charges, it
25 is incumbent upon The State to prove beyond a reasonable

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1 doubt, that is they have got to convince twelve jurors
2 unanimously, beyond a reasonable doubt, that he committed one
3 or more of these crimes before he could be convicted

4 Now, again the Indictment just contains allegations

5 Count one of the Indictment alleges that Stacy Lee Evans,
6 back in February of this year committed the crime of
7 kidnaping, in that he kidnaped one Gloria Williamson

8 Kidnaping, is just restraining, moving one person from
9 one place to another

10 MS PARR Your Honor, I apologize Can we approach?

11 THE COURT You can do it

12 (Whereupon, a bench conference was held in the presence
13 of the jury but out of the hearing of the jury)

14 THE COURT Apparently, they handed me the wrong
15 Indictment Inefficiency, will not be tolerated

16 They have got to go and get another Indictment, and I
17 don't know what they call it, until they hand it to me jurors
18 That is how it works

19 Civil cases, the judge runs the docket

20 (Whereupon, a bench conference was held in the presence
21 of the jury, but out of the hearing of the jury)

22 (PAUSE)

23 THE COURT Okay, just so the jury doesn't start
24 throwing things, what happens after we pick this jury? We are
25 going to pick this jury, and they are going to go to lunch,

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1 and then we will start the trial, as I understand it What
2 about the rest of the jurors, are they going to call in, or do
3 they have another trial or what?

4 MR CLEMENTS Your Honor, if they would call back after
5 six tonight

6 THE COURT All right This is the Indictment that was
7 just handed to me that we are going to proceed on

8 MS PARR That is Indictment 08-GS-21-1827

9 THE COURT The Solicitor and the Defense Counsel asked
10 that I tell you that he has just Indictment for one charge
11 They are not two different charges There are just some typos
12 or something in the first Indictment?

13 MR LAWSON A charge was changed, Your Honor

14 MS PARR Changed, Your Honor, inadvertently

15 THE COURT Inadvertently But, it all arises out of
16 the alleged same transaction that occurred, or didn't occur on
17 February 23, 2008 Is that correct?

18 MR LAWSON That is correct

19 THE COURT So this Indictment alleges the same thing,
20 and it creates no inference of guilt against Mr Evans, not
21 exactly the same thing in words, but the same charges It
22 charges him with kidnaping He is presumed innocent There
23 is no burden on his part to prove that he is not guilty

24 Count one alleges, that he kidnaped Gloria Williamson
25 If you get on the jury, kidnaping will be explained to you,

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1 but the bottom line, you don't have to tie somebody up
2 blindfold them, and carry them away You just have to
3 restrain somebody unlawfully It could be that somebody is
4 tied up, hauled up, and so forth, that is, also kidnaping

5 But, since I don't know anything about the case,
6 kidnaping is just a generic term as far as these allegations
7 are concerned, it just alleges that Mr Evans kidnaped Gloria
8 Williamson

9 All right There are three other charges on this
10 Indictment Mr Evans is presumed innocent of all charges
11 They all alleged --- The remaining three charges, criminal
12 sexual conduct in the first degree

13 Apparently, alleged happened at the same time Count
14 two of this Indictment alleges that Mr Evans committed
15 criminal sexual conduct in the first degree by committing, or
16 attempting to commit a sexual battery upon Gloria Williamson,
17 by using aggravated force or coercion while committing
18 kidnaping, assaulting her, threatening to kill her while
19 possessing a knife

20 It alleges that he had vaginal intercourse with her while
21 doing those things He possessed a knife, kidnaping her,
22 assaulting her, and so forth

23 The third count of the Indictment alleges that Mr Evans
24 committed criminal sexual conduct in the first degree while
25 committing the crime of kidnaping, assaulting her, threatening

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1 her, killing her, he forced her to perform oral sex on him

2 Count four alleges that he did commit or attempted to
3 commit a sexual battery upon Gloria Williamson, by using
4 aggravated force and/or coercion by having vaginal intercourse
5 with her while committing the crime of kidnaping, and by
6 assaulting her and threatening her while possession a knife

7 Jurors, while there are three counts of criminal sexual
8 conduct in the first degree alleged, there are some, little
9 differences in them, but it all arises out of whatever
10 happened or didn't happen on February 23, 2008 And, if you
11 get on a jury, the elements that constitute the crime of
12 criminal sexual conduct in the first degree will be explained
13 to you in some detail

14 All right Now, Mr Evans is present?

15 **MR LAWSON** He is, Your Honor

16 **THE COURT** Mr Evans, if you would just stand and face
17 the panel

18 (Whereupon, Mr Evans stands and faces the jury panel)

19 **THE COURT** All right Jurors, does he look familiar to
20 any of you, are you related to him directly or indirectly,
21 have any connection with him, ever worked with him, live in
22 the neighborhood with him, belong to any group that he belongs
23 to, like a service club, go to church with him, know him at
24 all If so, please stand

25 All right The State is represented by the Solicitor's

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1 Office One of the Solicitors, or more, are going to
2 prosecute the case Would the prosecution team stand, and
3 identify herself or themselves?

4 MS PARR My name is Patricia Singleton-Parr with the
5 Solicitor's Office Also, Robert M Wells, will also be
6 assisting me in this case

7 THE COURT All right Jurors, do any of y'all have any
8 connections direct or indirect with, the Twelfth Circuit
9 Solicitor's Office or anybody that is employed currently or in
10 the past with that office, if so, please stand?

11 JUROR I do I don't know if she is one of the
12 attorneys, but my sister Karen Parrott

13 MS PARROTT Your Honor, it is not for the Solicitor's
14 Office, it would be the Public Defender's Office

15 THE COURT That's fine Anytime anybody stands, you
16 know, believe it or not, we really don't know who you are
17 chances are If you would, just tell us who you are So, who
18 are you?

19 JUROR Donna Trembel

20 THE COURT All right Just have a seat Okay Now,
21 Mr Evans is represented by attorney or attorneys that he or
22 they will tell us who he or they are

23 MR LAWSON Ladies and gentlemen, my name is Jack
24 Lawson with the Public Defender's Office Other members of
25 our office that are here are Scott Floyd, Karen Parrottcar,

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14

1 Michael Bell A number of us will be in and out of the
2 courtroom during the trial of the case Thank you

3 THE COURT Okay Jurors, Mr Evans is represented by
4 the Public Defender's Office, Twelfth Circuit Is there
5 anybody connected with any member of that organization?

6 You already stood You need to stand again Can you be
7 fair and impartial?

8 MS TREMBEL Yes, sir

9 THE COURT Have you heard anything about the case?

10 MS TREMBEL No, sir

11 THE COURT Okay Thanks All right Jurors, the
12 attorneys indicated to me that this case will take at least
13 through Wednesday, it may even take into Thursday, I do not
14 know Part of the reason is because of the number of
15 witnesses I am going to run over a witness list All of
16 these individuals may not testify If you have any connection
17 with anybody who I read out, and I just really basically have
18 a name and occasionally something about where they work and so
19 forth, if you know someone with the same or similar name, if
20 you would stand, the attorneys can tell us if you are related
21 to, or know the person, or have any connection with the person
22 whose name I read out If a witness is in fact in the
23 courtroom, I would ask the witness to stand They don't have
24 to say anything

25 Potential witnesses are, Grant Sumersett, Florence

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1 County Sheriff's Department Investigator Helen Cain, Adam
2 Moore, also with the Florence County Sheriff's Department A
3 Lieutenant Keith Lutken, Florence County Sheriff's Office
4 Deputy G B Johnson, Florence County Sheriff's Office
5 Andrew Clendenin, Florence County Sheriff's Office Tammy
6 Edwards, who is a Registered Nurse Kim Cockfield, Manuel
7 Fonseca, who is a M D Nancy Buxton, Registered Nurse Peggy
8 Tominlinson, Registered Nurse Betty Butler, SLED Katie
9 Coy, SLED Jeremy Weis, SLED Joseph Powell, SLED Gloria
10 Williamson, LeGrand Poston, Mona LaBranche, Dena Seigler,
11 Agnes Creel, Brent Townsend, Bo Turner, Robin Gibson, James
12 Lankston All right, attorneys, is that everybody as far as
13 we know?

14 MR LAWSON Yes, Your Honor

15 THE COURT Is somebody standing?

16 JUROR My name is Pam Neal, and I do know Ms
17 Williamson, I go to church with her

18 THE COURT All right She is the alleged victim, can
19 you be fair and impartial?

20 MS NEAL Yes, sir

21 THE COURT Okay Thanks

22 THE COURT What number?

23 JUROR Mike Godwin, I know Keith Lutken, with the
24 Sheriff's Department

25 THE COURT Can you be fair and impartial?

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1 **MR GODWIN** Yes, sir

2 **THE COURT** Okay

3 **JUROR** Eugene Cooke I know Keith Lutken, from the
4 Sheriff's Department

5 **THE COURT** Okay

6 **JUROR** Jennifer Train, and I know Keith Lutken from the
7 Sheriff's Department

8 **THE COURT** All right

9 **JUROR** Cindy Keels, I know the doctor, because I work
10 EMS

11 **THE COURT** Okay All right Jurors, I am going to
12 ask a series of questions, and if it applies to you or an
13 immediate family member, and by immediate family member I am
14 just talking about up and down and across, I am talking about
15 parents, brothers, sisters, children I am not talking about
16 third cousins twice removed, all right You are an immediate
17 family member If you are or an immediate family member, now
18 or in the past, have been employed in law enforcement at any
19 level, that would be anything from the FBI, to SLED, to Marion
20 County Deputy, would you please stand? It could be a highway
21 patrolman, wildlife officer, anybody employed now or in the
22 past with law enforcement, it could be a dispatcher, all
23 right

24 **JUROR** I am juror number 40, Raymon Eason I may have
25 misunderstood you, but my father was a city policeman

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1 **THE COURT** That's what I am talking about Thank you

2 **JUROR** My mother --

3 **THE COURT** I can't hear

4 **JUROR** I mother is a police officer

5 **THE COURT** And, your name is?

6 **JUROR** Jennifer Eaddy

7 **THE COURT** Thanks

8 **JUROR** Ellie Snider, my father was a wildlife refuge
9 agent

10 **THE COURT** Same thing Jurors, if you or an immediate
11 family member currently, or in the past, while not directly
12 not employed by law enforcement, have been in a quasi-law
13 enforcement position, such as a security guard, a night
14 watchman, or somebody that walks through the chain stores,
15 looking for shoplifters

16 **JUROR** I am a security Officer

17 **THE COURT** All right You need to tell us your name

18 **JUROR** Cleveland Thomas

19 **THE COURT** Thank you

20 **JUROR** Keith Hyatt I was a security guard about
21 twenty-years ago

22 **THE COURT** Okay, thanks Jurors, if you or an
23 immediate family member currently or in the past have ever
24 been employed by any individual or entity that prosecutes
25 cases for The State, County, or Municipality, or the Federal

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1 Government, such as any Solicitor Officer, I asked you about
2 this Solicitor's Office Any District Attorney, some county
3 attorney's prosecute cases, some city attorneys prosecute
4 cases

5 All right, jurors if you or an immediate family member
6 currently or in the past, have ever been employed by a public
7 defender corporation, that is a corporation that represents
8 individuals accused of commissions of crimes, or an individual
9 public defender, or an attorney who represents individuals
10 accused with the commission of a crime? Yes, sir

11 **JUROR** Your Honor, my sister in another state, it is in
12 North Carolina, and I have another sister who is a D A in
13 Georgia, Atlanta, Georgia, would that apply to me?

14 **THE COURT** Oh, yeah, it would apply Just that
15 information Thank you I need to get your name though

16 **JUROR** Carolyn Byrd

17 **THE COURT** All right, Ms Byrd All right, jurors on
18 the next series of questions, if it applies to you, I need for
19 you to come up Don't stand up there, just wait until I
20 finish asking the question

21 If you or to your knowledge an immediate family member
22 has ever been the victim of what you conceive to be a violent
23 crime, it doesn't matter whether it was a violet crime or not,
24 you know, if you felt like you or an immediate family member
25 has been the victim of a violent crime, I need for you to come

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1 up If you or an immediate family member, to your knowledge,
2 has ever been accused of committing what you would consider to
3 be a violent crime A violent crime obviously would be
4 criminal sexual conduct, kidnaping, armed robbery, murder,
5 voluntary manslaughter, the list goes on and on But, if you
6 feel like, in your mind, the crime --- somebody in your family
7 has been impacted by a crime that you think was a violent
8 crime, you come up whether it is classified as a violent crime
9 or not Some burglaries are classified as violent crimes for
10 instance So, I need for you to come up, if you perceive to
11 be the victim of a violent crime, you or a family member
12 Attorneys, you can come up

13 (PAUSE)

14 THE COURT How are you?

15 JUROR My sister was raped thirteen years ago And,
16 this past year I was a victim of a violent crime I am a cab
17 driver, and was shot multiple times

18 THE COURT Bottom line, can you be fair and impartial,
19 or rather not sir?

20 JUROR No

21 THE COURT No, you can't?

22 JUROR No, I can't be impartial

23 THE COURT Okay Just go ahead and have a seat
24 How are you doing?

25 JUROR Mike Godwin My daughter was held at gunpoint

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20

1 during a robbery, and my son was also committed as a criminal
2 and sentenced

3 THE COURT How long ago did this happen?

4 MR GODWIN A couple of years

5 THE COURT Can you be fair and impartial?

6 MR GODWIN No

7 THE COURT What is your juror number?

8 MR GODWIN Fifty-five

9 THE COURT Just have a seat

10 JUROR My sister has been the victim of a crime, abused
11 at school, being kicked It is all going down

12 THE COURT Your name?

13 JUROR Michele Ford

14 THE COURT All right, Ms Ford, can you be fair and
15 impartial, not knowing anything about this case?

16 MS FORD I can be fair

17 MR LAWSON I didn't hear her

18 MS FORD That my son is a victim at school, and I can
19 be fair

20 MR LAWSON And, what is your name?

21 MS FORD Michelle Ford

22 MS HYATT I have been accused --- I was accused of
23 assaulting a police officer, and resisting arrest

24 THE COURT Can you be fair and impartial?

25 MS HYATT Yes

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1 (Whereupon, a conversation took place off of the record
2 between counsel and Judge Kinard)

3 JUROR I am not sure if I needed to come up here or
4 not, but it was necessarily violent, per se by nature, but I
5 guess it was Child abuse, sexual abuse

6 THE COURT Your name is?

7 JUROR Kathy Sikes

8 THE COURT Can you be fair and impartial?

9 MS SIKES I think so, I'll try

10 THE COURT No, no

11 MS SIKES Yes

12 THE COURT You can?

13 MS SIKES Yes

14 THE COURT Were you a victim?

15 MS SIKES (Affidavit response)

16 MS PARR And, you are Kathy Sikes?

17 MS SIKES Yes

18 (Whereupon, a bench conference was held in the presence
19 of the jury but out of the hearing of the jury)

20 THE COURT Okay, jurors, is there anything in the
21 nature of the charges that would keep you from being fair and
22 impartial? I am talking about criminal sexual conduct,
23 kidnaping, is there anything in the nature of the charges that
24 would keep you from being fair and impartial?

25 Does anybody have any --

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1 I need for you to come up and tell me about that

2 And, while he is coming up, is there anybody that has any
3 religious or moral convictions that would prevent you from
4 being a fair and impartial juror in a case involving kidnaping
5 and criminal sexual conduct?

6 Is any juror aware of any reason why you couldn't be fair
7 and impartial, whether I have questioned you about it or not?

8 In addition jurors, I have explained to you that the
9 trial might well run into Thursday So, if you get on the
10 jury, it is too late to tell me that you are going to have
11 dental surgery Tuesday morning You need to tell me before
12 you get on the jury

13 Attorneys, y'all step up

14 You have already been excused, only from this trial
15 Just go have a seat

16 Yes, ma'am

17 **JUROR** My name is Cindy Baker I don't think there is
18 anyway to change my mind, whether a victim or not

19 **THE COURT** What is your name?

20 **MS BAKER** Cindy Baker

21 **THE COURT** We are going to excuse Ms Baker

22 **MS BAKER** I just wanted to be honest

23 **THE COURT** Just go have a seat, and please don't talk
24 about ths trial

25 (Whereupon, a bench conference was held in the presence

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1 of the jury but out of the hearing of the jury)

2 THE COURT All right, jurors Ms O'Hara is going to
3 call your names out one at a time When she calls your name,
4 just stand Don't do anything but stand There is no nice
5 way to say this The attorneys will either accept you or
6 reject you They say present or whatever Whichever they do,
7 just have a seat after both attorneys have --- then she will
8 call another name

9 After we get twelve jurors, now many alternates do we
10 need? Do we need two?

11 MR LAWSON Two

12 THE COURT Two alternates I am going to tell you what
13 is going to happen

14 MR LAWSON Your Honor, I inquire strikes ten and five?

15 THE COURT Yes, sir

16 MR LAWSON Thank you

17 CLERK OF COURT 30, Eugene Cook What say The State?

18 MS PARR Beg The Court's indulgence for just a moment?

19 THE COURT All right

20 MS PARR Please excuse the juror from this trial only

21 CLERK OF COURT You are excused from this trial only

22 13, Kimberly Blum What say The State?

23 MS PARR Please present the juror

24 CLERK OF COURT What say the defendant?

25 MR LAWSON We will excuse Ms Blum from this trial,

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24

1 Your Honor

2 CLERK OF COURT You have been excused from this trial
3 only

4 84, Freda Lesane What say The State?

5 MS PARR Please present Ms Lesane

6 CLERK OF COURT What say defendant?

7 MR LAWSON Please present Ms Lesane

8 CLERK OF COURT Please have a seat 100, Pearla

9 Morris What say The State?

10 MS PARR Please present this juror

11 CLERK OF COURT What say the defendant?

12 MR LAWSON Please excuse Ms Morris from this trial

13 CLERK OF COURT You have been excused from this trial
14 only

15 151, Deloris Boston What say The State?

16 MS PARR Please present Ms Boston

17 CLERK OF COURT What say the defendant?

18 MR LAWSON Please excuse Ms Boston for the purposes
19 of this trial

20 CLERK OF COURT You have been excused from this trial
21 only

22 83, Kenneth Legnard What say The State?

23 MS PARR Please present Mr Legnard

24 CLERK OF COURT What say defendant?

25 MR LAWSON Please present Mr Legnard for the trial of

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25

1 this case Please excuse Mr LeGrand for purposes of this
2 trial

3 CLERK OF COURT 129, Earline Smith What says The
4 State?

5 MS PARR Please present Ms Smith

6 CLERK OF COURT What say defendant?

- 7 MR LAWSON Please present Ms Smith for the purpose of
8 this trial

9 CLERK OF COURT Please have a seat, Ms Smith

10 164, William Leemans What say The State?

11 MS PARR Please present Mr Leemans

12 CLERK OF COURT What say the defendant?

13 MR LAWSON Please present Mr Leemans for the purpose
14 of this trial

15 CLERK OF COURT 19, Vanessa Burgess What say The
16 State?

17 MS PARR Present Ms Burgess

18 CLERK OF COURT What say defendant?

19 MR LAWSON Please present Ms Burgess

20 CLERK OF COURT Please have a seat right over there

21 130, Jessica Smith What say The State?

22 MS PARR Please excuse Ms Smith from this trial only

23 CLERK OF COURT You are excused from this trial only

24 40, R C Eason What say The State?

25 MS PARR Beg, The Court's indulgence for a moment

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1 Please present Mr Eason

2 CLERK OF COURT What say the defendant?

3 MR LAWSON We will excuse Mr Eason for the purposes
4 of this trial

5 CLERK OF COURT You are excused from this trial only
6 155, Cheryl Doe What say The State?

7 MS PARR Please present Ms Doe

8 CLERK OF COURT What say defendant?

9 MR LAWSON Please present Ms Doe for the purposes of
10 this trial

11 CLERK OF COURT Please have a seat right over there
12 186, Kristi Owens What say The State?

13 MS PARR Please present Ms Owens

14 CLERK OF COURT What say defendant?

15 MR LAWSON Please excuse Ms Owens for the purposes of
16 this trial

17 CLERK OF COURT You have been excused from this trial
18 only

19 58, Jason Gregg What say The State?

20 MS PARR Please excuse Mr Gregg from this trial only

21 CLERK OF COURT You have been excused from this trial
22 only, sir You may be seated

23 18, Caroline Irvin What say The State?

24 MS PARR Please present Ms Irvin

25 CLERK OF COURT What say the defendant?

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1 **MR LAWSON** The last name is Irvin, correct? Thank
2 you Please present Ms Irvin for the purposes of this trial

3 **CLERK OF COURT** 22, Charles Byrd What say The State?

4 **MS PARR** Please present Mr Byrd

5 **CLERK OF COURT** What say the defendant?

6 **MR LAWSON** Please present Mr Byrd for the purpose of
7 this trial

8 **CLERK OF COURT** 4, Stephen Anderson What say The
9 State?

10 **MS PARR** Please present Mr Anderson

11 **CLERK OF COURT** What say the defendant?

12 **MR LAWSON** Please present Mr Anderson for the
13 purposes of this trial

14 **CLERK OF COURT** You may have a seat right over there
15 24, Mary Cannon What say The State?

16 **MS PARR** Please present the juror

17 **CLERK OF COURT** What say the defendant?

18 **MR LAWSON** Please present Ms Cannon for the purposes
19 of this trial

20 **CLERK OF COURT** You may be seated right over there
21 50, James Gibson What say The State?

22 **MS PARR** Please excuse Mr Gibson from this trial

23 **CLERK OF COURT** You are excused from this trial only
24 One-forty-one, Pamela Verela What say The State?

25 **MS PARR** Please present the juror

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1 **CLERK OF COURT** What say the defendant?

2 **MR LAWSON** Please excuse Ms Verela for the purpose of
3 this trial

4 **CLERK OF COURT** You are excused for this trial only
5 159, Charles Gather What say The State?

6 **MS PARR** Please present Mr Gather

7 **CLERK OF COURT** What say the defendant?

8 **MR LAWSON** Please swear Mr Gathers for the purpose of
9 this trial

10 **CLERK OF COURT** Please have a seat right over there
11 38, Jennifer Eaddy What say The State?

12 **MS PARR** Please present Ms Eaddy

13 **CLERK OF COURT** What say defendant?

14 **MR LAWSON** Please excuse Ms Eaddy for the purpose of
15 this trial

16 **CLERK OF COURT** You are excused from this trial only
17 125, Troy Severance What say The State?

18 **MS PARR** Please present Mr Severance

19 **MR LAWSON** Please swear Mr Severance for the purpose
20 of this trial

21 **CLERK OF COURT** Please have a seat right over there
22 61, Loretta Hannah What say The State?

23 **MS PARR** Please excuse Ms Hanna

24 **CLERK OF COURT** You are excused from this trial only

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1 42, Michelle Ford Does The State wish to challenge this
2 juror for cause?

3 **MS PARR** No, present the juror

4 **CLERK OF COURT** What say the defendant?

5 **MR LAWSON** The defense would ask that she be excused
6 for cause based on our conference at the bench

7 **THE COURT** Well, y'all step up

8 (Whereupon, a bench conference was held in the presence
9 of the jury but out of the hearing of the jury)

10 **CLERK OF COURT** 177, Linda Ann Singleton Does The
11 State wish to challenge the juror for cause?

12 **MS PARR** No, please present the juror

13 **CLERK OF COURT** What say the defendant?

14 **MR LAWSON** Please excuse Ms Singleton for the
15 purposes of this trial

16 **CLERK OF COURT** You have been excused for this trial
17 only

18 92, Derick McClam What says The State? Does The State
19 wish to challenge for cause?

20 **MS PARR** No, please present the juror

21 **CLERK OF COURT** What say the defendant?

22 **MR LAWSON** Please swear Mr McClam for the purposes of
23 this trial

24 **CLERK OF COURT** Please have a seat right over there

25 79, Michael Kennedy What say The State?

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1 MS PARR Please present Ms Kennedy

2 CLERK OF COURT What say defendant?

3 MR LAWSON Please excuse Ms Kennedy for the purposes
4 of this trial

5 CLERK OF COURT You have been excused for this trial
6 only

7 114, Renee Rhodes What say The State?

8 MS PARR Please present Ms Rhodes

9 CLERK OF COURT What say the defendant?

10 MR LAWSON Please excuse Ms Rhodes for the purposes
11 of this trial

12 CLERK OF COURT You have been excused for this trial
13 only

14 2, James Alston What say The State?

15 MS PARR Please present Mr Alston

16 CLERK OF COURT Does the defense wish to challenge the
17 juror for cause?

18 MR LAWSON No

19 CLERK OF COURT You may be seated

20 46, Jeremy Gamble What say The State?

21 MS PARR Beg The Court's indulgence, Your Honor

22 (PAUSE)

23 MS PARR Please excuse Mr Gamble from this trial
24 only

25 CLERK OF COURT You are excused from this trial only

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1 147, Priscilla Woods Does The State wish to challenge,
2 Ms Woods for cause?

3 **MS PARR** Please present the juror

4 **CLERK OF COURT** What say the defendant?

5 **MR LAWSON** Please excuse Ms Woods for the purpose of
6 this trial

7 **CLERK OF COURT** You are excused from the trial of this
8 case only

9 57, Patricia Green

10 **MS PARR** Your Honor, may we approach?

11 **THE COURT** All right

12 (Whereupon, a bench conference was held in the presence
13 of the jury but out of the hearing of the jury)

14 **CLERK OF COURT** What say the --- Does The State wish to
15 challenge this juror for cause?

16 **MS PARR** No

17 **MR LAWSON** What is the number again?

18 **CLERK OF COURT** 57, Patricia green

19 **MR LAWSON** Please excuse Ms Green for the purpose of
20 this trial

21 **CLERK OF COURT** You are excused from this trial

22 115, Rufus Richard Does The State wish to challenge
23 this juror for cause?

24 **MS PARR** What number was that again?

25 **CLERK OF COURT** 115

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1 (PAUSE)

2 MS PARR Your Honor, may we approach?

3 THE COURT You have a strike if that is what you are
4 talking about?

5 MR LAWSON Your Honor, she has already taken her
6 strikes

7 THE COURT She has one, and you have two

8 MR LAWSON She has already used it on this alternate

9 THE COURT Has she used it?

10 CLERK OF COURT No, sir

11 MS PARR May we approach?

12 (Whereupon, a bench conference was held in the presence
13 of the jury but out of the hearing of the jury)

14 THE COURT I need for you to come up for just a minute,
15 juror

16 CLERK OF COURT Mr Richard, could you come to the
17 front, please

18 (PAUSE)

19 THE COURT Do you have a criminal record? Do you have
20 a criminal record?

21 MR RICHARD No, sir

22 MS PARR Your Honor, would you ask him --- Did you
23 live in Newberry, at one time?

24 MR RICHARD No

25 MS PARR Did you ever live in Newberry, or ever live

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1 in Newberry?

2 MR RICHARD I have been in Newberry

3 MS PARR Have you ever been arrested in Newberry?

4 MR RICHARD Yes

5 MS PARR Indecent exposure?

6 MR RICHARD Yes

7 MS PARR He was convicted --- showing a conviction for
8 indecent exposure in 87 or 88

9 THE COURT But --- just go have a seat You are
10 finished for the week You should have told us during
11 qualifications

12 MR RICHARD This happened a long time ago

13 THE COURT Just go have a seat You don't have to
14 come back tomorrow or call in Okay He is excused by The
15 Court

16 CLERK OF COURT 157, George Eggleston Does The State
17 wish to challenge this juror for cause?

18 MS PARR No

19 CLERK OF COURT Does the defendant wish to challenge
20 this juror for cause?

21 MR LAWSON No, ma'am

22 THE COURT Okay Attorneys, do you need to take up
23 anything concerning the strikes before we call them up?

24 MS PARR The State wishes to challenge

25 THE COURT Will y'all, step up?

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1 (Whereupon, a bench conference was held in the presence
2 of the jury but out of the hearing of the jury)

3 THE COURT All right, call them

4 CLERK OF COURT As I call your name, if you will come
5 to the front of the courtroom

6 Freda Lesane, Earline Smith, William Leemans, Vanessa
7 Burgess, Cheryl Doe, Caroline Irvin, Charles Byrd, Stephen
8 Anderson, Mary Cannon, Charles Gathers, Troy Severance, Derick
9 McClam

10 THE COURT Y'all have to have a seat over there in the
11 jury box They didn't tell you that

12 CLERK OF COURT James Alston, George Eggleston

13 THE COURT Okay Jurors, y'all go back and elect a
14 foreperson It can be anybody except for the last two that
15 was called up If you don't know who that was tell them who
16 those two were

17 CLERK OF COURT Alston, and Eggleston

18 THE COURT Everybody else just step back It won't be
19 but a minute

20 (Whereupon, the jury exits the courtroom at 12 50 p m)

21 THE COURT Okay Jurors not involved, in the trial of
22 this case, the Solicitor calls the cases, and it is not an
23 easy job It is a lot easier in civil court, because here is
24 what happens You heard all these witnesses that we called
25 out Civil Court, if somebody is on vacation, you can take

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1 their deposition We can't take depositions We have got to
2 make sure that everybody is prepared to testify, it is all
3 live This case is not a drug case But for instance say it
4 was just a case involving simple possession of marijuana, they
5 have to get the arresting officer to testify, he took
6 marijuana from the person He transported it to SLED, and
7 that they transported it back If they are not all here that
8 day, you can't try it that day So, the Solicitor and the
9 defense counsel are making sure that all their witnesses are
10 in place That is why it took about fifteen minutes before
11 y'all got there

12 Now, this case is going to take a while as you heard
13 Judge Nettles is also here, he is doing some other things, but
14 he might have to try a case tomorrow We don't know yet So,
15 you have a number or not?

16 CLERK OF COURT Yes, sir

17 THE COURT You have a number When you were excused,
18 you were excused for this trial only Okay, that does not
19 mean you are through for the week Call in after 6 00 tonight
20 on that number It will either say come in tomorrow, or call
21 back tomorrow, or come in Wednesday Anyway there will be a
22 message on the machine but it will not be on the machine until
23 after 6 00

24 Now, you can hang around and watch the trial if you like,
25 but if you would like to be free, now is a good time to go

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1 (Whereupon, the jury panel was released at 12 53 p m)

2 THE COURT All right, Ms Parr, Mr Lawson, I've got
3 the jury back here, obviously whenever Do y'all have
4 anything that y'all have to take up outside of their presence?

5 MS PARR I just wont identify any evidence --

6 THE COURT Are there any confessions, any statements,
7 any Motions, or anything like that?

8 MS PARR No, sir

9 THE COURT No pretrial motions So, if the jury gets
10 back at what 2 30, we will be ready to roll, and go to what
11 5 30 today?

12 MS PARR Yes, sir

13 THE COURT If the jury is ready, bring them

14 (Whereupon, the jury enters the courtroom at 12 55 p m)

15 THE COURT Okay, jurors, we are going to break for
16 lunch Unfortunately I can't buy lunch for you today If you
17 are deliberating at lunch time, sometimes I can, but not now

18 As I mentioned, I don't really know anything about the
19 case I am going to go over it with the attorneys They are
20 going to agree on various evidences that may be introduced in
21 the trial, or not agree, and it is going to take a little bit
22 So, if y'all would come back at 2 30

23 Now, here is how it shakes down I just talked to the
24 attorneys just briefly The State, the prosecutor has to put
25 up their case, and they have two witnesses for today One is

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1 exceedingly long, they say, and the other is not that long
2 When we finish those two witnesses, we will be through for the
3 day, but don't hold it to them They are entitled to put
4 their whole case up, you understand that So, we think we
5 will be through by 5 30 We will be through by 6 00 in any
6 event We may be through earlier than that, because we only
7 have the two witnesses for today It is just, you know, we
8 don't want somebody sitting around all day if they are not
9 going to be called, that is the bottom line We won't finish
10 much earlier than 5 30, if we finish, chances are earlier We
11 won't run beyond 6 00 Between 5 00 and 6 00 we will probably
12 finish today, if y'all get back at 2 30

13 Now, don't talk about the case during this or any breaks
14 Because one, you don't know anything about the case

15 So, if y'all would come back at 2 30, we will be right
16 ready to start We will make opening statements I will tell
17 you what the case is about legally speaking, and then we will
18 take a break after that, and then we will start calling
19 witnesses

20 So, if y'all will just ease out right now

21 (Whereupon, the jury exits the courtroom for lunch at
22 12 58 p m)

23 **THE COURT** All right Ms Parr, do you have some
24 evidence that you want marked?

25 (Whereupon, The Court was in recess for lunch from 1 00

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1 p m until 2 36 p m)

2 THE COURT All right Are we ready to roll?

3 MS PARR Yes

4 THE COURT All right Let's bring them out

5 (Whereupon, the jury enters the courtroom at 2 37 p m)

6 THE COURT You are talking about three separate
7 instances that happened at the same time, I guess?

8 MS PARR Yes

9 THE COURT Okay So, it really doesn't tell you
10 anything

11 Okay The jury is present, let's swear them in

12 CLERK OF COURT All right If you will stand, and
13 raise your right hand to be sworn

14 WHEREUPON THE JURY IS SWORN AT 2 38 P M

15 THE COURT Okay Jurors, I know you weren't very late
16 coming back, but I gave you an hour and a half, and I know
17 that since you felt like you got semi-jerked around this
18 morning things weren't going to run timely, but things will
19 run timely We just have to move it along, or we will be here
20 Saturday, you know, that's just how it is Not that there is
21 anything wrong with that You probably have other things that
22 you would rather do

23 Now, I mentioned to you this document, it is an

24 Indictment It is not evidence It just contains

25 allegations It does allege the commission of two crimes It

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1 alleges the commission of three criminal sexual conduct in the
2 first degree crimes, but they all allege they happened at the
3 same time, same place, just three separate acts they are
4 talking about Reading the Indictment, they just do all this
5 generic language, and it is difficult to say

6 One count of kidnaping, three counts of criminal sexual
7 conduct in the first degree, are what the allegations are, and
8 that is all that they are

9 They do allege the commission of those four specific
10 crimes however, and they allege that Stacy Lee Evans committed
11 the crimes, and that the victim was Gloria Williamson That
12 it all occurred on February 23, 2008

13 Mr Evans is presumed innocent of these charges He
14 does not have to convince y'all that he did not commit any of
15 these crimes The State has to prove beyond a reasonable
16 doubt on each of the four counts of the Indictment The State
17 must convince each of you jurors that Mr Evans committed each
18 of the elements that constitutes the crime for which he is
19 charged beyond a reasonable doubt

20 Mr Foreperson, don't get your hopes up, the foreperson
21 doesn't get paid a penny more than anybody else, all right
22 Somebody however, once deliberations begin, has to preside
23 over deliberations Your vote doesn't count any more than
24 anybodies, but somebody kind of has to moderate, and take
25 control of deliberations

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1 Alternate jurors, this is not a case that we are going to
2 finish today, so you need to pay attention, if one of the
3 original jurors gets called away, and that happens all of the
4 time A kid gets sick at school, or a spouse backs into a
5 neighbors car, whatever There is a call and somebody has to
6 go, you would take their place In fact, you need to listen
7 to the entire case alternate, as the original jurors there
8 until the closing summations are made, I have instructed the
9 jury on the law, and I have asked the jury to go back and
10 start deliberating Only at that point would you be relieved,
11 so you need to pay attention until that point

12 Now, the Indictment, again, which is not evidence,
13 alleges that Mr Evans committed the crime of kidnaping
14 involving Gloria Williams

15 Kidnaping is detention of another person, unlawful
16 detention of another person At the end of the trial, I will
17 instruct you in a little more detail, but that is basically
18 all you need to know, is that kidnaping does not necessarily
19 mean throwing a bag over somebodys head, tying their hands
20 together, and running off It is just detaining a person It
21 can encompass all of that, but not necessarily

22 Now, the other three counts, all allege criminal sexual
23 conduct in the first degree Back in probably your memories,
24 we had statutes that involved rape, okay They changed it
25 from calling something rape, to criminal sexual conduct in

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1 various degrees You don't have to worry about the degrees at
2 this point, all that is charged is criminal sexual conduct in
3 the first degree In order to obtain a conviction for
4 criminal sexual conduct in the first degree, it is incumbent
5 upon The State to convince you jurors that a sexual battery
6 was performed by the defendant on the alleged victim

7 Sexual battery is sexual intercourse, anal intercourse,
8 oral intercourse, or any intrusion, however slight that is
9 unauthorized in the body, or sexual parts of another person
10 unless it is authorized for medical purposes

11 Now, jurors in order for a sexual conduct to amount to
12 criminal sexual conduct in the first degree, there has to be
13 circumstances of aggravation attached to it At the
14 conclusion of the trial, I will explain all of that to you
15 But, the bottom line, it has to be accompanied, and one count
16 alleges vaginal intercourse, and says that it was accomplished
17 while the defendant was in the process of either kidnaping the
18 individual, that is one of the things that was raised as to
19 the sexual battery type situation, the criminal sexual conduct
20 in the first degree That the victim was assaulted, and that
21 the defendant possessed a weapon at the time The weapon
22 alleged was a knife Those are circumstances of aggravation

23 The second count of the Indictment is that he forced her
24 to have oral sex while either committing kidnaping, or
25 assaulting her, or threatening her, while possessing a knife

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1 If any of those are proved beyond a reasonable doubt that
2 constitutes a circumstance of aggravation

3 And, the final count alleges that he again had vaginal
4 intercourse while either committing kidnaping, or assaulting
5 the victim, or threatening to kill her, while possessing a
6 knife

7 Now, you jurors are going to pass upon the believability
8 of all of the witnesses that testify You are going to weigh
9 the testimony given during the trial Various documents are
10 going to be introduced into evidence Once something is
11 introduced into evidence, you give it such weight as you feel
12 it is entitled to

13 In just a second, the attorneys are going to outline
14 their respective positions to you The State has a burden of
15 proof beyond a reasonable doubt remember, so they get to open
16 first They will say what they think the evidence --- what
17 evidence will be presented The opening statement, of course,
18 will not be evidence But, it will outline what you should
19 pay attention to, then the defense will state their position
20 Remember the defendant actually does not even have to make a
21 statement, because the defendant does not have to prove that
22 he is not guilty at all The State has the burden of proof
23 throughout If the defense makes an opening statement, pay
24 close attention to their opening statement After the opening
25 statements, then we will start calling witnesses Some

OPENING STATEMENTS BY MS PARR

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1 witnesses are short, some are long, but they all have to be
2 presented During the course of trial, I make some
3 evidentiary rulings I kind of doubt it There may be some
4 hearsay or stuff like that, but the attorneys have been
5 involved in the case for a while I don't think there are
6 going to be any surprises, you know It is not like it is on
7 tv A surprise witness comes walking in --- if you didn't
8 hear his name called out, they are not going to appear, all
9 right? So, that just doesn't happen in the real world So
10 there you go

11 All right Ms Parr, have at it

12 **MS PARR** May it, please The Court

13 **THE COURT** Sure

OPENING STATEMENTS BY MS PARR

14
15 **MS PARR** Mr Lawson Good afternoon, ladies and
16 gentlemen First of all, I need to ask you to do one thing,
17 as we start this trial First of all, I need for each of you
18 to lay aside any bias, prejudice, hint of rumor, or any
19 negativity you have heard about the Wooden Nickle, the Bar,
20 the Wooden Nickle I just need for you to put them right
21 here, and let it stay there throughout this trial All types
22 of people go to the Wooden Nickle, some in suits, some in
23 jeans, and some that have been in termed as the intellect as
24 you heard during the election Joe the Plumber They would go
25 to the Wooden Nickle for various reasons Some go to

OPENING STATEMENTS BY MS PARR

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1 socialize Some go to meet friends Some go to have a drink
2 Some go to do Karaoke

3 One patron, on one particular evening was Ms Gloria
4 Williamson She was one of those persons, who after working
5 went to the Wooden Nickle on February 22, a Friday evening
6 after 10 00 in the evening just to meet a friend, LeGrand
7 Poston Ms Williamson, as you will see, had no intention,
8 nor did she ever expect anything bad would ever happen to her
9 on that evening We believe the evidence will show that she
10 just went to socialize with her friend LeGrand Poston, who she
11 worked with But, what happened that evening, or early that
12 Saturday morning was an event that has changed her life And,
13 I submit to you will impact her life as long as she lives

14 Now, on that evening, as I said before, she went to the
15 Wooden Nickle after working all day Going to the grocery
16 store, buying groceries, as we all do on the weekends She
17 goes there, has a few drinks with a friend, LeGrand Then the
18 defendant approaches her We believe that the evidence will
19 show that while she and LeGrand were talking, the defendant
20 comes up to them and begins talking to Mr Poston, which that
21 does not seem out of the ordinary But, I submit to you that
22 what happened later was far out of the ordinary When Ms
23 Williamson went there that evening, she had no idea, not an
24 inkling that she would be kidnaped in her own car, taken, and
25 raped We believe that is what the evidence will show

OPENING STATEMENTS BY MS PARR

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1 Now, the place where it all started, it is really
2 inconsequential. It could have started --- she could have
3 been at the church around the corner. But, what is
4 consequential is the events that happened once she was forced
5 into her car. We believe the evidence will show that after
6 LeGrand left, she finished her beer and proceeded to leave as
7 well. And, when she got to her car, she turned around and the
8 defendant was behind her. We believe that the evidence will
9 show that he forced her into her car. He pushed her into her
10 car, pushing her over the console, which was very large. We
11 believe that the evidence will show that she was driving a
12 Tahoe that he took the keys, and that he drove. We believe
13 the evidence will show, that the early morning hours of
14 Saturday, January 23, between 2 00 a m in the morning and
15 4 00 a m, he took her to a field in Forrest Lakes Subdivision
16 on Stanley Drive. We believe the evidence will show that that
17 particular area does not have any houses along there. We
18 believe the evidence will show that at the far end is where
19 they were just starting to build a new subdivision. But, we
20 believe the evidence will show that in that field is where he
21 raped her. I know the law calls it criminal sexual conduct
22 now. But, we submit to you that what he did on that early
23 morning, amounted to rape. We believe the evidence will show
24 that Ms Williamson attempted to run away from him. And, when
25 she did, he ran behind her, grabbed her, and brought her

OPENING STATEMENTS BY MS PARR

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1 around to the driver's side, and raped her by having vaginal
2 intercourse, sexual intercourse with her from the rear, after
3 he made her take her pants down We believe the evidence will
4 show that that one time was not enough We believe the
5 evidence will show that he left, got back in the car, drove
6 around But, went back to the same area, and raped her two
7 more times We believe the evidence will show that he
8 threatened to kill her, and told her that he had a knife Not
9 only raped her, but threatened her family And that he
10 foreseeability made her perform oral sex on him We believe
11 the evidence will show that he hit her in the face, and
12 grabbed her head, hitting the steering wheel causing bruising
13 on her head, a cut on her head We also believe that the
14 evidence will show that that still wasn't enough, that he
15 forced her a third time to have sexual intercourse with him

16 Ladies and gentlemen, we believe the evidence will also
17 show that he knew what he was doing That he didn't intend to
18 get caught The evidence will also show that once he
19 finished, he drove to the Shell Station on Norwood, that is on
20 the corner of Norwood and Cashua, right down from Forrest Lake
21 Subdivision, parked the car there, said some things to her,
22 and jumped out, and ran across the street to those
23 condominiums where he was staying at the time We believe the
24 evidence that will be presented will show her vehicle parked
25 there during that time, as was recorded by the video from the

OPENING STATEMENTS BY MS PARR

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1 Shell Station

2 Now, not only will you hear testimony from Ms
3 Williamson, you will hear testimony from other persons who saw
4 her that night, and who saw her after this horrible incident
5 They will testify to her demeanor You will also hear
6 testimony from medical personnel who examined her You will
7 hear evidence from a DNA Analyst from SLED, as well as other
8 professionals from SLED, who had an opportunity to analyze
9 evidence taken in this matter

10 Now, you will see a number of photographs and things of
11 that nature, because this is a very very serious case It is
12 one that will affect Gloria Williamson for the rest of her
13 life

14 Now, we would ask that you listen to all of the evidence
15 that you hear Pay close attention to the evidence that is
16 presented, the physical evidence as well And once you have
17 had an opportunity to do that, we would ask that you find the
18 defendant Stacy Evans guilty, one of kidnaping Two criminal
19 sexual conduct in the first degree Three criminal sexual
20 conduct in the first degree And four, criminal sexual
21 conduct in the first degree, because that is what he did He
22 took her against her will and he raped her not once, not
23 twice, but three times

24 Thank you

25 OPENING STATEMENTS BY MR LAWSON

OPENING STATEMENTS BY MR LAWSON

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1 MR LAWSON May it, please The Court?

2 THE COURT Okay

3 MR LAWSON Mr Foreman, ladies and gentlemen of the
4 jury, one more time, I'm Jack Lawson I am with the Public
5 Defender's Office here It is my pleasure to appear before
6 you I know that you have a lot of things that you had rather
7 be doing But, there is nothing more important that you could
8 be doing as citizens of this country, and the all important
9 thing is, that we have people like you who are willing to give
10 up their time and effort, and come and sit on a jury, which
11 makes our system different from the rest of the world And,
12 it is you people that make it different, not me, the
13 prosecutor, or the judge It is, people of, Florence County,
14 who are willing to give their time, and come up here, and sit,
15 and act as final judges of the facts of any case, especially
16 one like Stacy is charged with, in this case

17 Now, you heard the judge tell you about --- a little bit
18 about the charges You heard the prosecutor, and now it is
19 me So, what I want you to bring into this courtroom, and not
20 lay aside I am not asking you to put anything aside You
21 bring everything into this courtroom that you had when you
22 went out into that hall, and that includes your good common
23 sense Don't, please don't put that up, that on the bar with
24 something about the Wooden Nickle I could care less Take
25 it with you, and take it with you every step of the way you

OPENING STATEMENTS BY MR LAWSON

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1 go, especially this week And, when you go into that jury
2 room, keep your good common sense There is nothing worse in
3 this world, with the one exception of murder, the taking of a
4 life, than rape

5 I am the father of three daughters, and there is nothing
6 worse But, on the other hand, as a man, there is nothing
7 worse than to be accused of rape when it is not so It is the
8 most horrific case to come in with the presumption of
9 innocence and leave the courtroom as a free man, because of
10 the allegations

11 Now, I will ask you --- I will ask you to do this, and
12 that is in the first instance, remember that in this
13 courtroom, and until you decide that the evidence in this case
14 proves Stacy Evans guilty beyond a reasonable doubt he is
15 presumed innocent The State, not me, not Stacy, has to prove
16 him guilty beyond every reasonable doubt And, I believe ---
17 you will hear some evidence You are going to hear some
18 horrible things, but you are going to hear some difficult
19 things too

20 Yes, the Wooden Nickle is a place where people go to
21 socialize, but it is a bar And, most people who go to
22 socialize there drink I've been there I went there for
23 evidence And, I drank, but be that as it may But things
24 happen in life I ask you during this trial to use your
25 common sense, and judge this evidence for what it is, and look

OPENING STATEMENTS BY MR LAWSON

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1 at it closely, and listen to all of it The medical evidence
2 That is important in this case, very important Listen to it
3 Listen to it Judge it Judge all of the evidence And,
4 judge it like the Judge will tell you, you should And that
5 is critically with your eye toward always, requiring The State
6 to prove evidence beyond a reasonable doubt, not just that
7 sounds pretty good, or that may be, or what if You must
8 judge it to, prove beyond a reasonable doubt, always
9 remembering Stacy is presumed innocent until and unless The
10 State proves I'm guilty beyond a reasonable doubt

11 Now, it is not time at this point to ask you to reach a
12 verdict I ask you only to judge the evidence from here until
13 I get up and talk again Remember to judge the evidence, and
14 judge it critically requiring The State to prove each and
15 every element of this offense, by the evidence, beyond a
16 reasonable doubt And, always presuming Stacy to be innocent
17 of these horrific charges

18 Thank you

19 **THE COURT** All right Proceed

20 **MS PARR** Your Honor, at this time we would like to
21 call Gloria Williamson to the stand

22 **THE COURT** Okay, Ms Williamson

23 **GLORIA E WILLIAMSON**

24 **BEING DULY SWORN TESTIFIES AS FOLLOWS**

25 **MS PARR** State your full name for the record?

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 MS WILLIAMSON Gloria E Williamson

2 DIRECT EXAMINATION BY MS PARR

3 Q Ms Williamson, where do you live?

4 A I live at Magnolia Court Apartments on Jeffries Lane

5 Q And how long have you lived there?

6 A Just a little over a year

7 Q And how old are you?

8 A I am fifty-four

9 Q And are you employed?

10 A I am

11 Q Where are you employed?

12 A Mount Hope Cemetery

13 Q Okay And that is here in Florence?

14 A Yes I have been there eleven years

15 Q What do you do for Mount Hope Cemetery?

16 A I am the office manager

17 Q Now, are you married?

18 A I am divorced

19 Q Okay And how long have you been divorced?

20 A My divorce was final this past June

21 Q And how long were you separated?

22 A A year

23 Q Do you have any children?

24 A I do

25 Q And what ages are those children?

1 A Twenty-seven and twenty-nine

2 Q Now let's go back to February 22, 2008 And, where were
3 you that particular day?

4 A I worked that day We get off early on Fridays, and on
5 the way home, LeGrand had asked for a ride, and I dropped
6 him off at the Wooden Nickel and went home

7 Q Now on Fridays, what time do you get off?

8 A We get off at three on Friday's

9 Q Now when you referred --- You said, LeGrand, who is
10 LeGrand?

11 A LeGrand Poston worked at Mount Hope, and was a friend of
12 mine

13 Q So when you left Mount Hope that particular day you said
14 you dropped LeGrand off?

15 A Yes

16 Q And then what did you do after you dropped him off?

17 A I went to the bank, ran some errands, it was the start of
18 the weekend, and there are errands to do, and later that
19 night I went grocery shopping

20 Q Do you remember where you went grocery shopping?

21 A To Bi-Lo on Pamlico Highway I got gas, and just odds
22 and ends

23 Q And then what did you do after got groceries?

24 A I went home, put the groceries up Ah, LeGrand called
25 and said, that he was down there and why didn't I just

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 come down there and have a drink and he'd take care of me
2 --- and not to say that anybody would bothered or --- he
3 would stay with me, cause I didn't go there I didn't
4 know anybody there And I just --- And my divorce was
5 not final, and I just wanted to go somewhere where nobody
6 knew me, and just sit down and relax, and be around
7 people, and just talk, just be with a friend that
8 understood what I was going through

9 Q So what time was it that LeGrand called you?

10 A Probably around --- it may have been as late as ten

11 Q Now where were you in relations --- Where was your
12 apartment in relations to the Wooden Nickel?

13 A It's two blocks away

14 Q Okay And so do you recall what time you got to the
15 Wooden Nickel?

16 A Well --- probably 10 30 or 11 00

17 Q And how did you get there?

18 A I drove my car

19 Q What type of vehicle were you driving?

20 A A 98 Chevrolet Tahoe

21 Q Okay And what color?

22 A Dark blue

23 Q Now, so you drove to the Wooden Nickel, is that correct?

24 A Uh'huh

25 Q Now, where did you Park?

1 A I parked on the side of the building

2 Q Okay And what street is that?

3 A I don't know

4 Q If you don't know that's fine

5 A Pineland and Greenland, but I don't know the one that
6 comes straight up that --

7 Q -- Okay

8 A Well, that's Jeffries Lane

9 Q Ms Williamson, I am going to ask you, to look at this
10 diagram, what has been marked as, State's Exhibit Number
11 2 for identification at this time Are you familiar with
12 --- Do you recognize this?

13 A Yes

14 Q Okay And you would talk nice and loud so the jury can
15 hear you

16 A Okay

17 Q Do you recognize this?

18 A I do recognize it, yes

19 Q Okay Would you please tell us what this is a diagram
20 of?

21 A That's South Irby Street and the Wooden Nickel, Jeffries
22 Lane comes up between the Wooden Nickel and Irby Street
23 Sporting Goods and it crosses Greenland, and it goes on
24 up from there My address is actually on Jeffries Lane

25 Q Okay If you would just come down for us, with the

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 Court's permission?

2 THE COURT Sure

3 Q Okay Stand right here facing The Court reporter Would
4 you mark where you parked when you came to the Wooden
5 Nickel?

6 A This is the front of it and --- (Marking on The State's
7 Exhibit Number 2)

8 Q And when you came to the Wooden Nickel which direction
9 did you come from?

10 A From my apartment like --

11 Q Okay So, you said, that you got to the Wooden Nickel,
12 which is right around the corner from your house frankly,
13 is that correct?

14 A Yes

15 Q Okay Now when you got to the Wooden Nickel tell us what
16 was going on there and what did you do?

17 A Well, I asked LeGrand to meet me So he, you know, met
18 me out --- He was standing there, waiting outside to walk
19 me in, and we just sat down at the bar and ordered a
20 beer

21 Q Okay Now how many times have you been to the Wooden
22 Nickel?

23 A Once

24 Q Okay Was this being once or once before?

25 A Once before

1 Q Okay So this was your second time there?

2 A Yes

3 Q Okay So after he met you at the door, is that correct,
4 on the outside?

5 A Uh-huh

6 Q Okay And you went in, where did you go?

7 A To the bar

8 Q Okay And where was LeGrand?

9 A With me, sitting beside me

10 Q And tell me what took place while y'all were sitting
11 there?

12 A For a good while we just talked, and joked around, and he
13 knew some of the people there, and he was --- he kept
14 calling Ms Gloria like he does at work, and I was
15 telling him not to do that, because it seemed funny

16 Q Were you his supervisor?

17 A Well, I am in charge when the general manager is gone

18 Q Okay

19 A So occasionally, yes

20 Q Okay

21 A We just talked about different things, and he knew I was
22 just going through a hard time And we were just sitting
23 on two bar stools beside each other

24 Q Okay Now at which end of the bar were y'all sitting?

25 A I was sitting at the very last bar stool by the front

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 door

2 Q Okay

3 A There were no stool on one side, and LeGrand was on the
4 other side

5 Q All right And how many people were at the bar at that
6 time? When you say at the bar, you are talking about the
7 bar literally?

8 A Uh-huh How many people?

9 Q Yes, was sitting?

10 A I don't even know how many it holds, but it wasn't quite
11 full, maybe six or seven more people, I'm guessing

12 Q Now how many people --- Do you know how many people where
13 in the entire bar, the building itself?

14 A Not many, fifteen at the time maybe

15 Q Okay So y'all are sitting at the bar, and y'all had a
16 drink About how many drinks did you have that night?

17 A I don't know I didn't count them I got there late, and
18 I drink rather slowly I mean I don't --- Probably over
19 the course of the whole time, I probably had about three

20 Q Three, okay Now while you were sitting there with
21 LeGrand, what, if anything, or anyone, come up and talk
22 with him?

23 A The Defendant came up, and he and LeGrand greeted each
24 other, shook hands Hey, Buddy, how y'all doing That
25 kind of thing

1 Q Did you know him?

2 A I'd never laid eyes on him He --- LeGrand introduced me
3 to him He introduced him as Stacey Evans, and the
4 Defendant said, they call my Psycho He never sat down
5 with us He stood between us, but right behind us, if you
6 can understand?

7 Q Know when did you first notice him?

8 A When he first walked up to LeGrand

9 Q Okay Did you see when he entered the Wooden Nickel?

10 A I didn't pay him any attention

11 Q Okay Now how long had you been there before the
12 Defendant came up?

13 A Probably, I'd say, maybe an hour

14 Q So you were there about an hour?

15 A Uh'huh

16 Q And how long did he stand up talking with you?

17 A Quite awhile I don't know exactly They were talking
18 about --

19 Q -- When you say they please tell us?

20 A LeGrand and the Defendant started talking about tattoos
21 They each have tattoos, and what different tattoos meant
22 And I don't --- I didn't retain any of that I don't
23 understand all the tattoo stuff I'm not into that, but
24 that was a big part of the conversation I just I don't
25 know, I just thought they were buddies

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 Q So they were primarily talking, is that correct?

2 A Uh-huh

3 Q Now how long did that last that conversation last?

4 A Fifteen or twenty minutes

5 Q Now, did you see anyone with the Defendant that evening?

6 A I didn't at first Like I said I hadn't notice him until
7 he came and talked to us But, during that time he was
8 talking with us, a woman got up from the table over to
9 the side, and she came up and said something to him
10 Music was playing, and I don't know what she said to him
11 I particularly noticed how rude he was to her I did not
12 understand what he said either, but he yelled at her like
13 she was a dog, and she turned around and went and sat
14 down at that table again, and he stayed up there with us
15 Q And did he pick up a conversation again after that, after
16 the lady left him?

17 A Oh, yeah, just still just like that didn't bother him or
18 ruffle him at all

19 Q And then what happened?

20 A A women came and picked up LeGrand, to give him a ride
21 home, and he asked me if I was going to be all right, and
22 I said yeah, I'm right behind I'll just have a couple
23 more sips of this I'm right behind you I'm okay And,
24 I mean within five minutes of him leaving I was walking
25 out the door

1 Q Okay Back during the time that you were there, did you
2 do anything other than y'all being at the bar, sitting at
3 the bar having a drink?

4 A Yes Once the Defendant and I, and I thought LeGrand
5 were going to shoot pool We did go back there and start
6 a game, and I realized LeGrand wasn't coming, so I just
7 put the Que stick down and went back up there with him,
8 because I didn't know this guy, and I just wanted to go
9 back to LeGrand, I felt better

10 Q Now I am going to show you some photographs Do you
11 recognize what has been marked as State's Exhibit 6-A?

12 A That is the front of the Wooden Nickel, yeah

13 Q And is that an accurate representation of --

14 A Uh'huh

15 Q What about what has been marked as State's Exhibit 6-B?

16 A That is what is across the street, Ray's Novel Shop or
17 music, or something like that

18 Q And State's Exhibit 6-C?

19 A That is the side of the Wooden Nickel where I parked

20 Q And State's Exhibit 6-D?

21 A That's from the rear looking toward the front, toward
22 Irby Street

23 MR LAWSON No objection

24 MS PARR Your Honor, at this time The State would move
25 to enter --

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 THE COURT All right, come right in, no objection
2 WHEREUPON, STATE'S EXHIBIT
3 NUMBER 6-A, 6-B, 6-C, 6-D WERE
4 MARKED AND ADMITTED INTO THE
5 RECORD

6 Q (By Ms Parr) I am going to also show you what has
7 been marked for identification as State's Exhibit 7-A?

8 A That's inside the bar It looks like a view from the
9 behind the bar That is the bar

10 Q Okay State's Exhibit 7-B, do you recognize it?

11 A Yes

12 Q Is this an accurate representation?

13 A Yes

14 Q State's Exhibit 7-C, do you recognize that?

15 A Yes

16 Q And what is that a picture of?

17 A I think beyond that wall are the pool tables

18 Q Okay Does this still --

19 A -- It's all in the Wooden Nickel, yes

20 Q Okay And State's Exhibit 7-D?

21 A That is inside the Wooden Nickel?

22 Q And 7-E?

23 A That as well

24 Q And 7-F?

25 A The Pool tables, in the Wooden Nickel

1 Q And 7-G?

2 A Pool tables

3 Q And 7-H?

4 A Pool tables

5 Q Is that inside the Wooden Nickel?

6 A Yes, it is

7 MS PARR Any objections, Mr Lawson?

8 MR LAWSON No, Your Honor

9 THE COURT Okay

10 WHEREUPON, STATE'S EXHIBIT

11 NUMBERS 7-A, 7-B, 7-C, 7-D,

12 7-E, 7-F, 7-G, AND 7-H, WAS

13 MARKED AND ADMITTED INTO THE

14 RECORD

15 Q (By Ms Parr) Ms Williamson, using the pictures that
16 have been entered into evidence --- That's State's
17 Exhibit Number 5, is that correct, is that the picture
18 you just identified?

19 A Yes

20 Q And where did LeGrand --

21 MR LAWSON You said 6-A?

22 Q 6-A And where did LeGrand meet you when you arrived?

23 A On this side

24 Q Okay And is that side showing on that diagram?

25 A No

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 Q And where is this in relations to the Wooden Nickel?

2 A Across the street Across Irby Street

3 Q Now what about State's Exhibit 6-C?

4 A That is the side I parked on

5 Q Okay And would you use your --- Use the laser pointer
6 and point out where you parked?

7 A Right about there

8 Q Now were there any other cars in that area when you came
9 up?

10 A Yeah Just a couple where about this way From here, I
11 would have just parked in whatever was the next space

12 Q Now, were there, cars parked in the front as well?

13 A I only came from the side I didn't notice the front
14 That is where I got out and walked around

15 Q Okay And from this side view here from the rear, is
16 this still the side you parked on?

17 A Yes, right along there

18 Q Now is this an accurate depiction of the bar?

19 A Yes

20 Q When you came in that door?

21 A Yes

22 Q Do you need to move around?

23 A No, I can see it It is the front door

24 Q All right And where were you seated when you came in?

25 A Right --- whichever is the closest seat to the window

1 Either --- well I guess it's coming in the door That
2 right there looks like --- There maybe one behind that
3 but whichever one was closest to the door

4 Q Now was there a seat, a bar stool right behind the door
5 to your recollection?

6 A Behind the door, not that I recall

7 Q Okay Now how many people were working, in terms of
8 bartending that evening?

9 A I think two, I'm not real sure

10 Q And where were you in relations to this picture?

11 A If that's the last chair, then that's where I was

12 Q Okay Now what is this a picture of, if you recall?

13 A I think that's --- that's a half wall --- I think the
14 pool tables are behind that

15 Q Okay Now does that wall --- Is it a solid wall, or
16 you can see through it?

17 A You can see through it It's like half up

18 Q Okay And what about this particular area, is that just
19 another view of it?

20 A Uh-huh

21 Q And what is this a picture of?

22 A It's somewhere over in the corner of the place, I guess,
23 I --- I don't --- I mean I can tell it's at the
24 Wooden Nickel but I'm not --

25 Q Now what about this photograph?

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 A That's the side where the pool tables are?

2 Q How many pool tables are there?

3 A Two

4 Q And were both pool tables occupied at the time when you
5 went back there?

6 A No

7 Q Okay Which pool table are you --

8 A The far one

9 Q Okay And who was back there with you, when you went back
10 there?

11 A The Defendant

12 Q Now how is it that y'all came to be playing pool?

13 A Just something to do --- I mean, I just --- I don't
14 quite --

15 Q Did he ask you to play, or how did that --- how did
16 that come about?

17 A Yeah Let's shoot some pool, and I said okay And like I
18 said, I thought he was a friend of LeGrand's We started
19 a game, and LeGrand didn't come so I --- like I said
20 before, I put my cue stick down, and went back to
21 LeGrand

22 Q Okay And where was LeGrand at that time?

23 A At the bar

24 Q Now, after you went back to the bar, how long did you
25 stay in there --- How long did you stay at the bar before

1 LeGrand left, and then you left?

2 A Not much longer after that, I don't know an exact time
3 I think when I left it was, and I'm guessing, I wasn't,
4 just watching the clock I'm thinking maybe I left
5 around 1 00 or 1 15

6 Q And so when you left, how many people where left at the
7 bar, do you recall?

8 A I really don't

9 Q Okay And so when you left you went out to your car, is
10 that correct?

11 A Yes I was sitting by the door, and just --- Yeah, just
12 walked around the corner straight to my car I didn't see
13 anybody I didn't speak to anybody I just went --- I
14 was just going home

15 Q And then what happened?

16 A I was getting in my car, and I was not, I didn't know
17 anybody was around I didn't see anybody going to the
18 car I got in the car and put my keys in, and all of a
19 sudden I was being shoved across the console, and it was
20 the Defendant And, he shoved me, and the console is
21 kind of big My feet got tangled up in a hump up in the
22 floor, kind of, and he was impatient saying get over, and
23 I was trying to He --- I --- I just, kind of, started
24 panicking and starting asking him what he was doing I
25 didn't know if he needed, or wanted a ride home, or what

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 he was trying to do I asked him, and he said I have to
2 do something for your Old-Man I want to do it And I -
3 -- and it's all just --- I was scared I was stunned I
4 didn't know he knew anything about my Old-Man I was
5 just in shocked

6 Q Okay When you said, he said, about your Old-Man, did he
7 know that you were separated?

8 A I think LeGrand had told him inside, when we were --

9 Q While y'all were at the bar?

10 A When we were talking, yeah

11 MR LAWSON Objection, Your Honor, that's speculation

12 THE COURT Yeah, all right,

13 MR LAWSON -- In the worse sense

14 THE COURT Yeah, it is Okay

15 Q While you were at the bar, did you mention or was it
16 mentioned that you were separated in the Defendant's
17 presence?

18 A Yes, it was

19 Q Okay And so when he said that to you that he was doing
20 for the Old-Man, where were you at the time? Were y'all
21 still at the Wooden Nickel?

22 A He was driving

23 Q Okay And where did he drive? Tell us what you recall?

24 A I ah --- He went up the side of the Wooden Nickel

25 Q When you say up the side, like --

1 A Not back out to Irby, but the back way

2 Q Okay By Jeffries Lane?

3 A Yes And out to Second Loop And I was just crying and
4 begging him to stop, and get out, and I promise I
5 wouldn't tell anybody that that even happened Just
6 please give me my car back and let me go home

7 Q Then what happened?

8 A He just kept saying he had something to do, and he kept
9 driving, and he told me to shut up He also mentioned
10 harming my family, and I needed to just shut up And I
11 am just begging him to stop and let me go

12 Q Now you mentioned that he had been with a female at the
13 Wooden Nickel Where was that person? Did you see her
14 when you left?

15 A No

16 Q I mean so you're driving, y'all went down Second Loop
17 Road, is that correct?

18 A (Affirmative response)

19 Q And then where did you go?

20 A He took --- He made lots of turns, and I remember
21 thinking --- I wasn't familiar with all the roads I
22 remember thinking that we must be somewhere near Ed
23 Young's house, but I was --- I was able to later show
24 Investigator Cane, how we got to the field, we ended up
25 in

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 Q And where was that field located?

2 A It was actually right off Cashua Drive, but I took her
3 the round about way, with all the turns and all I don't
4 know if that was to throw me or what, but we went in a
5 very round about way But that's how I showed her how we
6 got there

7 Q And was that on Stanley Drive?

8 A I think that's the name of it I don't recall the name
9 of the street

10 Q I am going to show you State's Exhibit 8-A, do you
11 recognize that?

12 A Yeah, I --- Yeah, that is where that road came out, and I
13 didn't know we were that close to Cashua, because we had
14 went the other way

15 Q Okay When you went the other way did you come in through
16 the subdivision where the houses where?

17 A (Affirmative response)

18 Q Now, did you come into the park closest to the lake side
19 or --

20 A The road just before it

21 Q So you are in the road right before the lake, which would
22 have been Forrest Lake Drive?

23 A There is one before that one

24 Q Okay Here's --

25 A Yes

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 Q And do you recognize State's Exhibit 8-B?

2 A Uh-huh

3 Q And, what is that a picture of?

4 A The field

5 Q 8-C?

6 A The same

7 Q And 8-D?

8 A That's the field looking back towards the road, just a
9 different angle

10 Q And State's 8-E?

11 A That's just another shot of the same thing, looking back
12 towards the road

13 Q And is that where he took you that evening?

14 A (Affirmative response)

15 MS PARR Any objection to the admission?

16 MR LAWSON Let me see them, please No objection,

17 Your Honor

18 THE COURT All right

19 WHEREUPON, STATE'S EXHIBIT

20 NUMBERS 8-A, 8-B, 8-C, 8-D,

21 AND 8-E, WAS MARKED AND ADMITTED

22 INTO THE RECORD

23 Q And which direction did you come in?

24 A (Indicating)

25 Q Which direction did y'all come in, as it relates to this

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 photograph here?

2 A From back behind --- that's Cashua so we came in way
3 around behind --- and the field is on the left I didn't
4 even realize I was that close to Cashua

5 Q Okay Now where is this?

6 A That's the field

7 Q And, what street would that be?

8 A I think that's Stanley

9 Q Now, is that part that was leading, coming from Forrest
10 Lake Drive?

11 A Yeah, we went all the round about ways to come up the
12 back way

13 Q Now how far was --- Do you know how far that field, that
14 point was to the end of Stanley Drive as it crosses
15 Cashua?

16 A A fourth, maybe a fourth of a mile, I don't --- I'm not
17 good at --- It was very close to Cashua

18 Q But you did approach it by way of Cashua, is that
19 correct?

20 A No, we did not

21 Q And would you describe the field that particular evening?
22 Is that a fair representation of the field that evening?

23 A Yeah That's where we pulled in

24 Q If you will use the laser pointer, and point where you
25 pulled in

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 A We pulled in this way, and then over to the side up in
2 there just a little

3 Q And which direction was the car headed?

4 A Towards the woods

5 Q -- Okay

6 A With the back towards the road

7 Q And how far would the car have been pulled in from the
8 road?

9 A Up, in distance, I don't know It was up around that
10 little grassy area there, and then over in here

11 Q Now describe the field on that particular evening? What
12 was the condition of the field?

13 A We had had lots of rain recently, it was not raining
14 then, but the field was very muddy

15 Q And was it still wet?

16 A Yes When we pulled up and stopped, I opened the door
17 and got out my side to try to run

18 Q Which direction did you run?

19 A I was trying to come back towards the road, and the field
20 was so boggy that I fell down and he caught up with me,
21 but it was that wet You couldn't run in it

22 Q Okay Now what did you have on? How were you dressed?

23 A I had on some black boots, some blue jeans, a white
24 sweater, and my jacket was in the car

25 Q And what kind of jacket did you have?

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 A A black leather jacket

2 Q Okay Did you have on, high heel boots, or how high were
3 you boots?

4 A They are about a two-inch heel, I mean, they're not real
5 high

6 Q So how far did you get to run before he caught you?

7 A Barely pass the back of the car

8 Q And what happened when he caught you?

9 A He slapped me He grabbed my wrists, and he said, I will
10 F-you-up, bitch And my bracelet dug into my arm He
11 led me around to the driver's side of the car, and made
12 me pull my jeans and panties down

13 Q What, if anything, did he say?

14 A He told me to bend over, and he started raping me And
15 he said, I'm not going to finish inside you, I am going
16 to finish in my hand, because I don't want any of my DNA
17 in you He said I --- He said what he did --- He --

18 Q Now you said that the Defendant threatened you What did
19 you say? What, if anything, did he tell you?

20 A He said, he had a knife I didn't see it, but he
21 threatened me with one, and said he had one And he
22 said, he would F-me-up, if I didn't do what he said

23 Q Now what was the Defendant wearing?

24 A Dark pants, and a long sleeve knit shirt, a light color

25 Q Was it like T-shirt material?

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 A Yeah Yeah Yeah, not real thin, but yeah, it was a
2 jersey type T-shirt knit

3 Q Now, did he take his clothes off?

4 A I don't know He was behind me He never --- I don't
5 recall that he took anything off, but I don't know how
6 far --- if he pulled his pants down, or just undid them
7 because he was behind me

8 Q And, where were you when he was doing this to you, in
9 relations to your car?

10 A I was in the driver's seat, and he made me bend over

11 Q And, how did you get into the driver's seat?

12 A That's when he had caught me in the field and pulled me
13 around them

14 Q And, how long did that particular incident last, if you
15 recall?

16 A Not very long

17 Q And when he finished, did he say anything? What did he
18 do?

19 A He just mentioned that there would be no DNA in me He
20 didn't want to go to prison, and he had to finish with
21 his hand

22 Q Did y'all leave at that point?

23 A He shoved me in again

24 Q And which side were you shoved in at this time?

25 A From the driver's side, and then we left And, I thought

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 it was over, and as we were going, I thought I was going
2 to die

3 **MR LAWSON** Your Honor, do we need to take a recess at
4 this time?

5 **MS WILLIAMSON** I'm sorry

6 **THE COURT** She's about to regroup We'll take one in
7 about five minutes

8 A I was just begging him, just to let me go, and I wouldn't
9 tell anybody

10 Q And did he penetrate your vagina?

11 A Yes

12 Q And to your knowledge, did he use a condom?

13 A I don't think so, but I couldn't see He was ---
14 Everything was behind me

15 Q Do you need a minute to regroup?

16 A No

17 Q So you said you thought it was over, and then what
18 happened?

19 A We rode up then to Cashua, and he asked me if I knew
20 where I was, and I said yeah, there is the cemetery right
21 there So he turned left, but he just went up a tiny
22 ways and turned around and came back the other way He
23 took some turns, and we stopped in a field again And
24 I'm not sure, but it looked like the same field to me
25 He could have just taken me in a different route, and

1 gone back to the same place He mentioned something that
2 made me think maybe he owned some of that land or
3 something I don't know, if these were his exact words,
4 but I got impression, or his family did, or something
5 Like I said, I thought it was all over, and he was
6 sitting in the driver's seat, and he undid his pants, and
7 he grabbed me by the back of my hair, to pressure my head
8 in his lap This bone right here right above my eyebrow
9 hit the steering wheel that is where the cut came from

10 Q Now are you still in the passenger side?

11 A Uh-huh

12 Q Okay So you were leaning over the console?

13 A Then he put my face down and told me what to do

14 Q And what were you told to do?

15 **MS PARR** Your Honor, may we have --

16 **THE COURT** All right, we gonna take a break Jurors,
17 don't talk about the case just ease out

18 (Whereupon, the jury exits the courtroom at 4 02 p m)

19 **MR LAWSON** May we step out too, Your Honor?

20 **THE COURT** In just one minute You can step down and
21 wander around, you just can't talk to your lawyer, okay Not
22 your lawyer, The State's lawyer

23 (Whereupon, a brief recess was taken from 4 02 p m until
24 4 18 p m)

25 **THE COURT** You ready?

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 MR LAWSON Yes, sir

2 THE COURT I don't believe we are going to be able to
3 finish but one-witness today

4 Well he's not going to take five minutes I'm telling
5 you that

6 MR LAWSON I wouldn't think so, Your Honor, no And
7 she's not even finished

8 THE COURT That's right You know, you just don't want
9 to wear your jury out on Monday I mean I am in no hurry, but
10 I told them 5 30 to 6 00 I am not going to back up on that
11 Bring them in Although we will finish this witness, it may
12 take that long with that

13 (Whereupon, the jury enters the courtroom at 4 18 p m)

14 THE COURT Okay, you may proceed

15 Q (By Ms Parr) Ms Williamson, I think you were telling
16 us that he was --- You were describing the sexual act,
17 that he had you commit?

18 A Yes

19 Q Can you go ahead and pick there?

20 A Well, he grabbed my hair, and pushed my head into his
21 lap

22 Q Now did he have his pants down?

23 A They were undone

24 Q When you say undone, what do you mean by undone?

25 A Unzipped, opened with everything exposed

1 Q Okay Did he have his penis out of his pants?

2 A Yes

3 Q And, then what did he do, or have you do?

4 A He told me to perform oral sex on him

5 Q Okay Was that the terminology he used?

6 A No

7 Q Do you recall the exact words that he used?

8 A Suck it

9 Q Okay And then what happened? Did you end up doing
10 that?

11 A He got --- He --- He --

12 Q Did he shove the penis in your mouth?

13 A Yes And he got frustrated with me, and pulled me out of
14 the side of the car, and made me bend over again

15 Q Okay Before you go there, did he ejaculate in your
16 mouth?

17 A So he made me bend over the seat again

18 Q Okay When did he make you bend over the seat?

19 A After the oral sex

20 Q Okay How did you get out of the car?

21 A He pulled me back across to the driver's side --- I think
22 it was the driver's side

23 Q Okay You're not quite sure which side?

24 A No, it was the same way I was bent over the front seat,
25 and he was behind me He was real alert One time I

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 grabbed for my cell phone, and he grabbed it, and said,
2 don't you call him, and threw it up on the dash

3 Q Okay Now, at what point --- At what point did that
4 occur?

5 A That was --- I think it was right before he put my head
6 down

7 Q Now, okay, so after the oral sex episode he got you out
8 of the car again?

9 A (Affirmative response)

10 Q Okay How did he have sex with you that particular time?

11 A The second time?

12 Q No, I mean the third time?

13 A Yeah, bent over the seat behind me, telling me once again
14 he didn't want to go to jail He wanted no DNA --- I
15 mean, just the same thing again I am going to finish in
16 my hand At one point he asked, what are you doing I
17 may not have some of this in exact order, but I threw up
18 on the side of the running board of the car I also
19 grabbed for his phone at one point, and he said you
20 aren't calling him, and grabbed the phone and threw it up
21 on the dash I don't know who him was suppose to be
22 Q Now the third time, did he penetrate your vagina?
23 A Yeah
24 Q But it was all --- Did he penetrate anything other than
25 your vagina?

1 A No

2 Q Do you know whether or not he used a condom that time?

3 A I don't know I don't think he did I don't think there
4 was like time enough to put one on I was all --

5 Q But you didn't see it?

6 A I saw almost nothing, because he was behind me He
7 undone my bra that last time, but he didn't take it off,
8 or have me take anything off I don't --- I don't know
9 why that was done, but

10 Q Did he do anything with any other parts of your body
11 other than --

12 A He put his hands up here once when he undid the bra, but
13 not further --- it was just --

14 Q Was it inside your clothes or on top of you?

15 A Inside

16 Q Now what happened when he finished, or what did he do
17 when he finished?

18 A He told me to get back in the car and --- I couldn't
19 imagine anybody doing the things he had done, and making
20 the threats he had made, and just letting me go I
21 didn't think I was going to die, I knew I was in my mind
22 at the time, but I was begging --- and he said, I don't
23 know what to do I was like please let me go Do you
24 really think I want anybody to know this happened? You
25 know, I would have promised anything just to get free

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 And it was like he couldn't decide what to do Then
2 finally he pulled up at the Shell Station near Forrest
3 Lake and Cashua, and a bit more conversation about
4 whether I would tell anybody And then he pulls off his
5 shirt, he wiped the steering wheel, the console and the
6 door, and he got out And, I jumped in the driver's
7 seat, and drove off, and I could tell he was just heading
8 straight across the street towards all the apartments and
9 condominiums, and I just went for home as quick as I
10 could

11 Q Now I am going to show you what has been marked as
12 State's Exhibit Number 3 Do you recognize this?

13 A Yes

14 Q And what is that a diagram of?

15 A This corner station where he got out of the car and left

16 Q I am going to put this right here, okay And would you
17 come and indicate with this marker where?

18 A Well, we came from this way, and drove up over here He
19 got out somewhere in here, and then I drove up and out

20 Q Okay Now --

21 A -- And he walked across the road

22 Q Okay Now was he walking or running, what manner --- How
23 did he get across the street?

24 A I didn't stick around to look very much I mean, I
25 pulled up away, and I glanced back, and it just seemed

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 that he was walking very fast

2 MS PARR Your Honor, State would like to introduce
3 this into evidence as State's Exhibit Number 3

4 THE COURT All right,

5 MR LAWSON It's not to scale No objection

6 THE COURT It is not to scale, but it comes in

7 WHEREUPON, STATE'S EXHIBIT

8 NUMBER 3 WAS MARKED AND

9 ADMITTED INTO THE RECORD

10 Q Can you identify State's Exhibit Number 10-A?

11 A Yes That is where he got out of the vehicle

12 Q And what is this photograph of?

13 A The Shell Station on the corner of Cashua and the road
14 that goes to the lake, I don't know the name of it

15 Q And State's Exhibit 10-B?

16 A I'm Sorry That is just the side where he turned up in
17 this driveway like I showed you

18 Q Okay But you do recognize it, is that correct?

19 A Yes

20 Q And State's Exhibit 10-C?

21 A The side of the service station

22 MS PARR Any objections to the introduction?

23 MR LAWSON No objection

24 THE COURT Comes in

25 WHEREUPON, STATE'S EXHIBIT

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 NUMBER 10-A, 10-B, AND 10-C, WAS
2 MARKED AND ADMITTED INTO THE
3 RECORD

4 Q All right, Ms Williamson, if you will show us where you
5 were, in relations to the this, as it relates to --

6 A Like where he got out of the car

7 Q Again, where were you parked? Where was the vehicle
8 parked?

9 A I think somewhere along here Over kind of to the side
10 of the parking lot

11 Q Okay And when he exited the car, or got out the car,
12 where did he go, which direction?

13 A He headed across the street

14 Q Okay And where did you go when you pulled out, which
15 direction?

16 A I went over to the other driveway and pulled off

17 Q Okay So you would have made a right?

18 A Yes, I did

19 Q And where is this in relations to the Shell Station?

20 A We had come up this road turned in here, and he would
21 have gotten out right behind where that truck is, and
22 then that is the driveway, I went out That is a side
23 view And this is just the side view of the station I'm
24 Sorry That's where I went out the driveway

25 Q Now, when you left the Shell Station where did you go?

1 A I went straight home, and got on my computer

2 Q Why did you get on your computer?

3 A I was trying to find --- look up his name, see what I
4 could find out A people search kind of thing

5 MR LAWSON Your Honor, may we approach

6 THE COURT You can do it

7 (Whereupon, a bench conference was held in the presence
8 of the jury but out of the hearing of the jury)

9 Q (By Ms Parr) Ms Williamson, okay, so after got on
10 your computer what else did you do? What time was this,
11 if you recall?

12 A I don't recall, three or four

13 Q Okay Did you call anybody right then?

14 A No, I waited

15 Q But why didn't you call --- Did you call law enforcement
16 then?

17 A No I was in shock I was not sure that I ever wanted
18 anybody to know this had happened It was a big struggle
19 for me, because of this This is just so embarrassing
20 And, I didn't want people to know I had been to the
21 Wooden Nickel I didn't --- I didn't want to embarrass
22 anybody I didn't want anybody to know I didn't want
23 people to look at me and I think about this I just had
24 to struggle with it in my mind, before I decided what to
25 do

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 Q What, if anything, did you eventually do?

2 A I waited until it was light

3 Q Excuse me?

4 A When it was daylight, I called LeGrand and told him what
5 happened, and told him how dirty I felt, and that I
6 wanted to take a bath And he said, that that was the
7 worst thing to do And his mother used to be a nurse,
8 and they were coming over And she could talk to me
9 better about all that than he could

10 Q So did they come over that morning?

11 A They did He and his mother and his step dad The men
12 stepped outside, while I talked with his Ms Agnes, his
13 mother, it was just easier to talk to a woman

14 Q And did you eventually call law enforcement that morning?

15 A Yeah They called someone they knew in law enforcement,
16 and he came, but when he found out a little bit more
17 about it, he said, it was --- I believe he said, it was
18 the Sheriff's Department's case, or it would be under
19 their --

20 Q -- Jurisdiction?

21 A Yeah All right, then Officer Grant Sumersett came He
22 asked all the --- I mean, he asked a lot of questions,
23 and told me that I needed to go to the hospital to have a
24 rape kit done And I felt extremely embarrassed in front
25 of him, you know, because I have known him since he was

1 about ten years old And I was afraid he would tell
2 somebody that I knew or something, and he assured me that
3 I needed to have that rape kit He looked at my car, and
4 he said, whenever I went to the hospital that they would
5 call --

6 **MR LAWSON** Your Honor, if we could stay away from the
7 hearsay

8 **THE COURT** Yeah, we'll slow it down No more hearsay

9 Q (By Ms Parr) Don't say what he said, okay

10 A Okay I'm sorry

11 Q Okay, now you mentioned about your car Tell us about
12 your car?

13 A It was wrapped up in mud It was muddy on the outside,
14 the inside My clothes were muddy up to my knees The
15 car was --- had a broken bracelet in the floor where it
16 had --- It was a sterling silver link bracelet that
17 broke when he --- during the struggle What else do you
18 want to know about the car?

19 Q Now, I am going to show you what has been marked as
20 State's Exhibit 14-A, do you recognize that?

21 A Uh'huh That's my bracelet

22 Q That's your bracelet And did you have this bracelet on
23 that night?

24 A I did

25 Q And what happened to this bracelet?

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 A During the struggle the link, one of the links broke, and
2 it was in the floor of the car

3 Q And did you give this to law enforcement, to Helen Cain?

4 A Yes, I did

5 MR LAWSON No objection

6 MS PARR Your Honor --

7 THE COURT Okay

8 WHEREUPON, STATE'S EXHIBIT

9 NUMBER 14-A WAS MARKED AND

10 ADMITTED INTO THE RECORD

11 Q Do you recognize State's Exhibit 11-A?

12 A That's my car A side view of my vehicle

13 MR LAWSON A number, please

14 MS PARR 11-B

15 A Yes, that's mine

16 Q Okay State's Exhibit 11-C?

17 A That is another side shot of my car

18 Q And State's Exhibit 11-D?

19 A That's like the running board on the side of the car

20 Q 11-E?

21 A That's also the front of the running board on the
22 passenger side of the vehicle

23 Q And 11-F?

24 A That is the front view with both front doors opened of my
25 car

1 Q Now after you got back, what if anything, did you do with
2 your car?

3 A After they were finished --- after --

4 Q -- After who had finished?

5 A Officer Sumersett had left, and everybody left, and I was
6 still toiling with whether to tell or not, I thought they
7 were through with my car, so I went and had it washed and
8 drove myself to the hospital

9 Q I am going to show you what has been marked as State's
10 Exhibit 12-A Do you recognize that?

11 A Uh-huh

12 Q What is that?

13 A That's the inside driver's side open door

14 Q And 12-B?

15 A That is the gas and brake pedal in the floor

16 Q 12-C?

17 A I'm so sorry I can't figure out which way this goes
18 That is the brake pedal right here, and that is the thing
19 to pull for the hood, the hood latch

20 Q And 12-F?

21 A That is something up under car, I believe

22 Q And 12-E?

23 A The brake and gas pedal

24 Q Now were these pictures taken before, or after you had
25 taken your car to be cleaned?

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 A After

2 MS PARR The State moves to enter --

3 MR LAWSON May I see these last ones?

4 THE COURT You can do it

5 MR LAWSON No objection, Your Honor

6 THE COURT Okay

7 WHEREUPON, STATE'S EXHIBIT

8 NUMBER 12-A, 12-B, 12-C, 12-E,

9 12-F, WAS MARKED AND ADMITTED

10 INTO THE RECORD

11 Q (By Ms Parr) Ms Williamson, do you recognize State's
12 Exhibit 11-A?

13 A That is the front of my car

14 Q And was it taken after or before you had it washed?

15 A After

16 Q And what is this a photograph of?

17 A The rear of the car The side The driver's side The
18 running board The passenger side Front of the running
19 board The driver side door open Same thing That is
20 the hood release on the passenger side That is the
21 inside of my car That must be something up under it

22 Q Okay Now all this mud was still on the car after you
23 --- Did they get all the mud off your car?

24 A No No, they didn't There was --

25 MR LAWSON Your Honor, I guess this one is, and pardon

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 the interruption, but I don't know what this number is Is
2 this 12-F or 11-F? She can't identify this photograph, and I
3 inadvertently admitted that I would move to exclude this
4 one, because she can't tell us what it is, and I can't
5 recognize --

6 **THE COURT** Well if she can't say what it is, we'll
7 knock it out If she can say what it is we'll leave it in

8 Q (By Ms Parr) Can you say what that is?

9 A No, I just couldn't --

10 **THE COURT** Okay

11 A It's something mechanical, and I don't know about --

12 Q Well is it a part of your car?

13 A I can't say for sure that it is I --

14 **THE COURT** All right, take that one out

15 **WHEREUPON, EXHIBIT NUMBER 12-F**

16 **WAS REMOVED FROM THE ADMITTED**

17 **STATE'S EXHIBITS**

18 **MS PARR** We'll take that one out

19 Q (By Ms Parr) Ms Williamson, I'm going to show you
20 13-A Do you recognize this?

21 A Yes, that's the shirt --- I'm not --- That is the shirt
22 that the Defendant was wearing I didn't know the exact
23 emblem on it, but that --- yeah, that's the shirt, the
24 kind of shirt he had on

25 **MR LAWSON** No objection

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 THE COURT All right

2 WHEREUPON, STATE'S EXHIBIT

3 NUMBER 13 WAS MARKED AND

4 ADMITTED INTO THE RECORD

5 Q (By Ms Parr) And do you recognize this?

6 A That is the same --- Yes, it is the shirt you just showed
7 me

8 Q Okay, whose shirt is that?

9 A The Defendants

10 Q Now, Ms Williamson, you said that after everybody left,
11 LeGrand and his parents left, you had your car cleaned,
12 and then what did you do?

13 A Drove straight to the hospital

14 Q Okay Which hospital did you go to?

15 A Carolinas

16 Q Okay Now do you recall what time you went to the
17 hospital?

18 A Maybe 5 00 or 6 00, I don't --

19 Q So you didn't go immediately, is that correct?

20 A No, I really don't remember all that day I sat and
21 cried, and tried to make up my mind whether to go or not

22 Q And was it 5 00 or 6 00 in the a m or in the afternoon?

23 A Afternoon

24 Q And do you did go to the hospital at that time?

25 A Yes, I did,

1 Q And then what did you do after going to the hospital?

2 A It took, it seemed like several hours to go do the
3 procedure that they go through when someone is raped

4 Q So they did an examination, is that correct?

5 A Yes

6 Q Now you indicated earlier, through your testimony, that
7 you had sustained an injury to your face?

8 A Uh-huh

9 Q I am going to show you what has been marked as State's
10 Exhibit 5-A?

11 A Yes

12 Q Tell us how you recognize it?

13 A Well that's me with a cut over my eye, and a scratch on
14 my eye lid

15 Q And State's Exhibit 5-B?

16 A That is where the bracelet dug into my wrist A picture
17 of my wrist

18 Q And who took these photographs?

19 A Officer Sumersett

20 Q And when where they taken?

21 A The very next morning from the exam

22 Q Okay So, it was the day after you were going to the
23 hospital?

24 A Yes My whole face was red that night during the
25 examination And then when I woke up the next morning

GLORIA E WILLIAMSON - DIRECT EXAMINATION BY MS PARR

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1 that was just swollen, and the cut was more evident, but
2 my whole face was red from crying when I was in the ER

3 **MS PARR** Your Honor, The State would move to enter 5-A
4 and 5-B into evidence

5 **MR LAWSON** Without objection

6 **THE COURT** Okay

7 **WHEREUPON, STATE'S EXHIBIT**

8 **NUMBER 5-A AND 5-B WERE MARKED**

9 **AND ADMITTED INTO THE RECORD**

10 Q (By Ms Parr) And State Exhibit 5-A?

11 A That is me with the cuts that just --

12 Q And how did you get those cuts?

13 A From either when he hit me, or when I tried to run I
14 know that the cut is where my --- this bone hit the
15 steering wheel when he pushed my head into his lap
16 That is my wrist where the bracelet dug in

17 Q And how did you get that injury?

18 A Struggling with him, grabbing my wrists with a bracelet
19 on it

20 **(PAUSE)**

21 Q Ms Williamson?

22 A Yes

23 Q Do you see the person in the courtroom who assaulted you
24 on February 23, 2008?

25 A I do

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON

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1 Q Okay And who is that person?

2 A Stacey Evans, sitting right there

3 Q And would you point him out

4 A (Witness points out Defendant)

5 Q Thank you Let the record reflect that she has
6 identified the Defendant, as the person who assaulted
7 her

8 THE COURT Okay

9 MS PARR Would you please answer any questions that
10 the Defense may have for you?

11 A Yes

12 THE COURT Ready

13 MR LAWSON Yes May it please The Court, should I jump
14 right in, or should we take a minute break or so?

15 THE COURT Well the problem is, a break is fifteen
16 minutes, you understand that so the best thing is jump right
17 in Anybody needs a break they can raise their hand

18 MR LAWSON May it, please The Court --

19 THE COURT Sure

20 CROSS EXAMINATION BY MR LAWSON

21 Q Ms Williamson, I am Jack Lawson I am representing
22 Stacey Evans in this case I am going to apologize to
23 you, because this is not going to be easy for me I know
24 that what you just went through, to say was not easy at
25 all, and that you had a tough time What I am going to

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON

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1 do is going to be even worse, so just bear with me, as
2 we try to get some semblance of reasonable order here

3 Now let's go back to the 23rd of February of this
4 year, correct?

5 A Correct

6 Q You are at work, Friday afternoon, no big deal, nothing
7 extraordinary happened, nothing out of the ordinary
8 You get off You give a friend a ride

9 A Correct

10 Q And he wants you to take him to the Wooden Nickel, not
11 home?

12 A Correct

13 Q Okay And you then go to your house, which is just a
14 couple of blocks away?

15 A Yes

16 Q And you then go and do some errands At that time were
17 you living alone?

18 A Yes

19 Q Okay So, you daughters were not with you, they were
20 grown?

21 A Yes, their own, their own

22 Q All right And, I understand that you testified on
23 direct that you were divorced in June of this year, is
24 that correct?

25 A Correct

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON

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1 Q So, at the time this happened in February you were
2 separated?

3 A Correct

4 Q And had been for about eight months, is that correct?

5 A Since the previous June

6 Q Now you had already had a situation where you had been
7 to Court over a separation agreement is that correct --
8 - an agreement where you distributed everything?

9 A We had been to Court we had not agreed

10 Q But you had been to Court and you had an agreement
11 presented to The Court, is that correct?

12 MS PARR Your Honor, we would object That is
13 irrelevant

14 THE COURT I don't know that it is irrelevant He's
15 had six months to develop his case Go ahead I don't know
16 if it is relevant Just go ahead

17 A I'm sorry Would you rephrase that? I'm not quite --

18 Q Did you not have an understanding and go to Court to
19 have that approved in November?

20 A We did go to Court, yes

21 Q But the Judge would not approve that, is that correct?

22 A Right

23 Q Because, he said your ex-husband, the Defendant, he
24 didn't think could comply with the terms, is that
25 correct?

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON

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1 A Correct

2 Q That was the reason But that Order didn't come out
3 until February, right, before the 23rd, is that correct?

4 A What Order?

5 Q The Order from The Court, from Family Court --- The
6 Judge's written Order

7 A I don't recall getting anything except that we didn't --

8 Q That you didn't have an agreement?

9 A Yeah

10 Q Okay But you knew that at this time?

11 A Yes

12 Q Okay Now --

13 A I knew that the day I left in November the day I left
14 the courthouse

15 Q The Court ruled that day The Court made that ruling
16 orally, right?

17 A That nothing was settled

18 Q Okay So you were still separated in February So your
19 friend after you run a few errands, he calls you and you
20 say it's about 10 00?

21 A Yeah

22 Q And so you leave home, and you go to the Wooden Nickel,
23 correct?

24 A Yes

25 Q You sit down at the bar, and you order a beer?

1 A Right

2 Q And over the period of the next couple of hours you
3 drink several beers, two or three, three, I think you
4 said?

5 A I believe I did

6 Q Now what about alcohol, liquor, did you have any liquor
7 drink?

8 A The Defendant graciously offered to order us a shot of
9 something, I'm not --- I don't do those I don't
10 remember what it was of, but it was something mixed, and
11 it was a shot, and it was for he, LeGrand and I

12 Q And you drank that as well?

13 A Yes

14 Q Now I believe you admitted that you and he walked to the
15 pool table together?

16 A Admitted, yes

17 Q You did I mean you stated that?

18 A Yes, I did

19 Q Okay And you testified to that You didn't say
20 anything about you'll dancing?

21 A No, I didn't

22 Q Did you forget that?

23 A No, sir, I did not forget it

24 Q You didn't dance?

25 A I did not dance

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON

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1 Q So if somebody saw you dancing with him, they were
2 mistaken?

3 A Yes, sir

4 Q It wasn't you, right?

5 A They were mistaken

6 Q Now what about contact, physical contact, between the
7 two of you at the Wooden Nickel, holding hands,
8 touching?

9 A No

10 Q -- arms around each other, kissing, anything?

11 A No

12 Q That was not done?

13 A No

14 Q And if anybody saw that?

15 A They're lying

16 Q They're lying Now, as I understand it LeGrand leaves
17 but you stay, correct?

18 A Yes

19 Q You walked LeGrand out?

20 A No, I did not

21 Q You did not So you just stayed inside?

22 A I was sitting at the end of the bar --

23 Q -- Right

24 A -- and he went out the door, and I said I am going to
25 finish this couple of sips, I'm right behind you, go

1 ahead

2 Q But you had dropped him off there?

3 A Uh-huh

4 Q He didn't have a car there did he?

5 A Huh-uh

6 Q Somebody picked him up?

7 A A lady friend of his, yes

8 Q Had she been there at the bar also?

9 A Not at the bar I had not --- I had not seen her until
10 then She came to pick him up

11 Q And you said what approximately, what time was it when
12 he left?

13 A I'm guessing oneish

14 Q Okay And so --

15 A -- And I did too, because I left like probably five
16 minutes maybe later than he

17 Q So, you didn't stay for any period of time?

18 A No, I did not

19 Q Did you say that the Defendant bought you something,
20 some kind of mixed drink, or some kind of shot?

21 A Yes

22 Q Was he standing up at the bar with you when he did that,
23 or was he away and sent it over?

24 A He bought LeGrand and I, and himself one, and he was
25 standing as I told them, behind us He did not sit down

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON 101

1 with us

2 Q Okay Now as you are leaving, you get all the way into
3 your car Is that your testimony?

4 A Yes

5 Q And he grabs the key, and pushes you over the dash ---
6 over the console, correct, the first time?

7 A The first time, what do you mean?

8 Q The first time you go across over into the passenger
9 side, being pushed over from one side of the car to the
10 other Because from your testimony you went from one
11 side of the car to the other a number of times And, I
12 just wanted to make sure we are on the first time This
13 is the first time you go from the driver's seat over
14 into the passenger seat, and you were pushed over not in
15 a friendly fashion, I assume?

16 A That is correct

17 Q And that's where the gear shift is, correct The gear
18 shift is there?

19 A It's up here

20 Q It's up here The console is there

21 A Uh'huh

22 Q There is a console --

23 A A compartment that opens and a big hump in the floor

24 Q Okay Now, when you saw Officer Sumersett, you had not
25 called law enforcement, is that correct?

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON

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- 1 A No The --- As I testified previously, LeGrand's
2 family called someone on the police force they knew, and
3 he determined it was a Sheriff's Department --
- 4 Q -- That was Allen Creel?
- 5 A I don't recall his name
- 6 Q From the City Police Department?
- 7 A He was from the City, and determined that the Sheriff's
8 Department needed to be called and that is --
- 9 Q -- And he made that call?
- 10 A As far as I know, yes, he turned it over to the
11 Sheriff's Department
- 12 Q All right And then Officer Sumersett came, and he
13 talked with you?
- 14 A Yes, he did
- 15 Q And I assume he took notes?
- 16 A Yes
- 17 Q He did not take any photographs that day did he?
- 18 A No
- 19 Q He didn't take any photographs? Your car was there when
20 he came was it not?
- 21 A Yes, it was
- 22 Q No photographs were taken of the car then?
- 23 A No
- 24 Q Did he look at the car?
- 25 A Yes

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON 103

1 Q Now do you recall talking to Officer Sumersett?

2 A Yes

3 Q Do you recall telling him that you looked over your
4 shoulder and the subject that she had spoke with in the
5 bar, who she thought was her friend's friend, was right
6 behind her, snatched her keys, opened the door, and
7 pushed her into the car? Do you remember telling him
8 that?

9 A No, I don't

10 Q Do you have any reason to believe Officer Sumersett
11 would misinterpret your words?

12 A No, sir I was very upset I was definitely pushed
13 into the car, and driven away by someone else and --

14 Q And the testimony that we've heard today has been
15 basically consistent with the statement you gave Officer
16 Helen Cain on February the 27th, is that correct? Have
17 you seen that statement?

18 A Yes, I have seen it

19 Q Have you read it in preparation for your testimony?

20 A No, sir

21 Q You didn't read it?

22 A I read it

23 Q Okay Did you go over it with Ms Parr?

24 A Yes

25 Q Okay Now in that statement, that is five days later,

1 four days later, correct?

2 A No The statement that I gave at Effingham, is that
3 what you are talking about?

4 Q On the 27th, February the 27th

5 A Yes, that's --

6 Q And the statement that you gave to Officer Sumersett --

7 A Was on the 23rd?

8 Q Was on the 23rd, the very next --- the very same
9 morning, right?

10 A Right

11 Q Now when --- What was it Were you in the car, where
12 you outside the car when you were first approached?

13 A I was getting in my car I don't know if I had already
14 sat down in the seat, or if I was in the process of
15 getting in the car I was startled, and I am sorry if I
16 don't remember my exact position I was leaving to go
17 home by myself two blocks away

18 Q Okay You did not leave with the Defendant? You didn't
19 leave the bar with him?

20 A No

21 Q Okay All right

22 A I mean, I left with him in the car

23 Q Did you walk out the door with him?

24 A No, I did not

25 Q Okay Now you then, if I understand it go up Jeffries

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON 105

1 Lane out to Second Loop, is that correct?

2 A Yes

3 Q All right And I'm confused, if, because, I mean, I
4 can get lost on the way to parts of Forrest Lake And I
5 have been living here for thirty-years But you were
6 able to find the exact field, and say that y'all went
7 all kind of back ways?

8 A Yes

9 Q Did you go all the way down Second Loop to Cashua, and
10 then out Cashua?

11 A I don't know after Second Loop

12 Q You don't know after Second Loop?

13 A I guess --- I know I ended up on that road to Forrest
14 Lake, so I guess we would have had to turn off Cashua
15 But there are lots of streets between Second Loop and
16 Cashua I don't know the full route I was begging --

17 Q If he went in ways to be deceptive to you how was it
18 that you found this place, and took Helen Cain straight
19 to it I mean, if I'm trying to be deceptive in
20 relations to get from here to some place off of Forrest
21 Lake, I can go where I can't even find it again

22 A I'm sorry

23 Q I just --- If it was intended to be a deception, then
24 how is it that you found it so easy?

25 A Just because he intended to deceive me, you can't fathom

1 that I could find my way?

2 Q Yes, I can fathom that I can understand that
3 completely, but you have testified that you were
4 basically in a state of shock

5 A I was

6 Q That you don't even remember going down Cashua and yet,
7 you remember all the deep details about the back roads
8 There was a left here, a right here, a left here, a
9 right here, and that is phenomenal And I want to
10 congratulate you on that It confuses me

11 Now, do you --- When you talked with Officer
12 Sumersett you didn't tell him anything about oral sex?

13 A Yes, I did

14 Q He didn't put it in his report

15 A I'm sorry he didn't

16 Q But you did tell him that?

17 A I did

18 Q What about the people at the hospital, did you tell them
19 about oral sex?

20 A Yes

21 Q But they didn't report it in the medical report?

22 A I can't help that

23 Q But all these people are missing what you are telling
24 them Is that it? Officer Sumersett didn't write it in
25 his report The hospital didn't write it in their

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON 107

1 report But you told them? That's it?

2 A Yes, I did

3 Q Okay I just want to clear it up Now, let me get ---
4 you had talked with the police They had come and talked
5 with you No pictures were taken of your vehicle The
6 vehicle was not processed by law enforcement at that
7 time Is that correct?

8 A Yes, sir, it is correct

9 Q The pictures were taken later of the automobile?

10 A Yes sir, they were

11 Q Pictures of your cut on your eye and the bruise on your
12 arm, were taken the next day, the 24th, not the 23rd?

13 A Early morning, yes

14 MR LAWSON Give me just a moment, Your Honor

15 THE COURT All right

16 (PAUSE)

17 Q (By Mr Lawson) You know, there were a few things
18 that concerned me now, and I just want to go over them,
19 real quickly with you

20 I know that during your testimony that you told us
21 that on a number of occasions you were forced roughly
22 from one side of the car to the other That you jumped
23 out the car, ran, you fell down He picked you up and
24 dragged you back to the car This was a muddy field,
25 correct? You were covered in mud from your knees down,

1 you said?

2 A Yes He didn't pick me up

3 Q He drug you?

4 A He grabbed me by my wrists and pulled me, but --

5 Q So you were drug along through the field?

6 A Yes

7 Q Okay Were you laying with your back to the ground, or
8 your front to the ground when you were being dragged?

9 Were you being dragged front ways this like, or back
10 ways like this?

11 A I was not drug in a laying down position I fell
12 forward --

13 Q -- Okay

14 A -- and tried to get up a again He grabbed my wrists
15 and walked me/drug me that way to the car not
16 horizontally

17 Q He didn't drag you across the ground, he walked you to
18 the car?

19 A Yes I mean, he had hold to me, pulling me along

20 Q Okay But, I mean I had the impression that you were
21 being drug across the ground, bump-bump-bump-bump-bump-
22 bump-bump-bump, and apparently that didn't happen?

23 A No, it didn't

24 Q Okay Now, you go to a field, and that's when you jump
25 and you run You then have --- He had sex with you, and

GLORIA E WILLIAMSON - CROSS EXAMINATION BY MR LAWSON 109

1 you get back in the car, right? How did you get in the
2 car, did you walk around the car, or did you crawl in
3 over the console?

4 A Over the console

5 Q Okay And then you leave and drive somewhere Do you
6 know any of the roads that you went on, when you left
7 there?

8 A Yes, sir As I testified before, we came out to Cashua,
9 he asked me if I knew where I was, I said, yes He
10 turned left, and went a little ways, and turned around
11 and went back the other way

12 Q Okay, on Cashua --

13 A -- I was hysterical I don't --- All I know is the
14 second field looked just like the first one I can't
15 say that it was the first one for sure, but it was right
16 in that area

17 Q Okay But, you drove out to Cashua, and rode on Cashua,
18 correct?

19 A Just a --- Yes, a short ways and he turned around

20 Q And went back to a field And in that field, he grabbed
21 you by the hair, and pulled you across, and that is when
22 you bumped your head on the steering wheel, right? You
23 were in the passenger side, correct?

24 A Yes He hit my head against the steering wheel as he
25 pushed my head

GLORIA E WILLIAMSON - REDIRECT EXAMINATION BY MS PARR 110

1 Q And it would be your left, your right eye?

2 A Sure it would This way, the steering wheel is here,
3 and it hit this right here

4 Q And is that your left eye, or your right eye?

5 A That's my left eye

6 MR LAWSON No further questions

7 THE COURT All right

8 REDIRECT EXAMINATION BY MS PARR

9 Q When Sumersett came to your house, did you tell him
10 about your --- your car that day, the first time?

11 A Yes, he looked in it

12 Q Okay But, he did not take any photographs?

13 A No, he did not

14 Q Okay Did you see a camera, did you see him with a
15 camera?

16 A I did not

17 Q And at what point did you first see --- Did your bruises
18 first come up after the incident When did you first
19 notice your bruises?

20 A When I woke up the next morning, the rest of my face had
21 calmed down, like I said my whole face was red And the
22 marks were more evident, and I called him and I said
23 this is something that we need to take a picture of or
24 something like that

25 Q And did he come?

GLORIA E WILLIAMSON - RECROSS EXAMINATION BY MR LAWSON 111

1 A Yes

2 Q Okay Mr Lawson asked you about being able to find
3 your way on Cashua and Forrest Lake Were there
4 landmarks that you recognized in that area?

5 A That made be able to go back to the field?

6 Q Yes

7 A Yes There were times when I was hysterical There
8 were times when I thought I needed to be watching

9 Q And what landmarks helped you got back to the area?

10 A I remembered that that street was near Forrest Lake
11 And it was just a couple of turns through there that
12 went the back way to that field where you could have
13 just gone down Cashua

14 Q You mentioned a cemetery?

15 A Uh'huh Florence Memorial Gardens is the cemetery right
16 on Cashua along there

17 MR LAWSON I don't remember her testifying about
18 that, Your Honor She worked at one

19 Q Go on, please

20 A You just asked me if I knew where I was and I said yeah,
21 the cemetery is right there, and this is Cashua

22 MS PARR Nothing further, Your Honor

23 MR LAWSON May it please The Court, one question

24 RECROSS EXAMINATION BY MR LAWSON

25 Q Officer Sumersett, did he have a camera when he came on

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1 the 24th?

2 A Sir?

3 Q Did Officer Sumersett have a camera on the 24th? He
4 must have

5 A Yes

6 Q He did, didn't he?

7 A Yes

8 MR LAWSON Okay Thank you

9 THE COURT You can step down

10 MS WILLIAMSON Thank you

11 THE COURT I don't know who you have, I told the jury
12 around 5 30 they'd be home

13 MS PARR And, Your Honor, we advised that witness
14 that we would not get him today

15 THE COURT Okay I thought cross exam would take a
16 little longer, when I told you we were cutting it off

17 Jurors, we are going to break for the day Now y'all
18 understand these are serious charges, so you don't need to be
19 talking to anybody while you are on this jury You are going
20 to have to decide whether The State meets its burden of proof
21 beyond a reasonable doubt based on what transpires in this
22 courtroom Don't be looking up criminal sexual conduct on
23 the internet, you know Don't Google anybody, including the
24 lawyers here I mean after the trial you can Google the
25 Judge if you want to, but while the trial is going on, you

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1 have to decide the case here, and please if you, in your
2 heart of hearts have to, stop by the Wooden Nickel, wherever
3 that is, don't ask anybody if they knew anything or heard
4 anything about this case, okay? So, we'll crank it up in
5 the morning at 9 15, 9 15 we'll start

6 The rest of the witness wouldn't be as lengthy It will
7 move right along But need y'all here to get them all here,
8 to get them all in, because we got a good many So have a
9 good night 9 15, right

10 (Whereupon, the jury exits the courtroom at 5 45 p m)

11 MR LAWSON May it please The Court, could I ask one
12 thing, Judge?

13 THE COURT You can

14 MR LAWSON My client is being held in Maximum
15 Security at the Florence Detention Center, on the basis of an
16 alleged suicide threat I think he said, I might as well go
17 ahead and kill myself at one point when he saw some of the
18 evidence

19 But, he can't shave and we'd like get him --- He'd like
20 to shave for the trial, Judge, if the Sheriff's office could
21 be directed to work out some way to let him shave

22 DEPUTY I talked to the Captain down there about
23 thirty minutes ago, and she said she would make that happen
24 tonight

25 MR LAWSON Good enough

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1 **THE COURT** Have to shave now, they can't pull the
2 hairs out one at the time

3 **DEPUTY** She said she would make that happen tonight,
4 that they would get him shaved

5 **THE COURT** Y'all might wonder why I ask them about
6 Google, but we've declared a couple of mistrials in Columbia,
7 because the jurors have looked up the person, and said he's
8 got a criminal record, no wonder he's charge with burglary
9 the second, be the third time But you have to mention it,
10 because then that puts the idea on their head but Lord knows
11 if you don't --

12 **MR LAWSON** I understand, Judge, and I appreciate it
13 I think you need to

14 **THE COURT** All right, now, we need everybody here at
15 9 15

16 **MR LAWSON** We'll be here, Judge

17 (Whereupon, The Court concludes its business for the day
18 at 5 46 p m)

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1 (Whereupon, The Court begins its business for the day at
2 9 39 a m on Tuesday, December 9, 2009)

3 -- DAY TWO OF TRIAL --

4 THE COURT Is everybody ready?

5 (Whereupon, the jury enters the courtroom at 9 39 a m)

6 THE COURT All right, Mr Lawson, are you ready?

7 MR LAWSON Defense is ready, Your Honor

8 THE COURT State's ready?

9 MS PARR State's ready

10 THE COURT All right, jurors, I don't know who was
11 late, but here's the thing We are twenty-five minutes late
12 We got lots of witnesses We'll be here to Saturday Now,
13 one time is okay, but I am putting everybody on notice I
14 won't do anything while the trial is going on, but if anybody
15 is late again, you are going to have to serve one day in jail
16 for every ten-minutes, you'll late I don't care I know
17 you don't get paid but ten dollars a day, that's to bad I'm
18 driving sixty miles, I'm here at a quarter til nine, and I
19 got all kind of stuff to do, not that everybody doesn't have
20 problems If you have a problem you call the Clerk's Office
21 and say I've got a problem Kids get sick, whatever We've
22 got two alternates I don't want to put anybody in jail, but
23 you can guarantee it A promise made, is a debt unpaid
24 Anybody is late, and it's not nice in jail
25 All right, let's go

ROBIN H GIBSON - VOIR DIRE EXAMINATION BY MS PARR

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1 MS PARR Your Honor, at this time, The State calls
2 Robin Gibson to the stand

3 THE COURT All right

4 CLERK OF COURT If you will come to the witness stand
5 Stop right hear Place your left hand on the Bible, raise
6 your right hand

7 ROBIN HOPE GIBSON,

8 BEING DULY SWORN TESTIFIES AS FOLLOWS

9 CLERK OF COURT Please be seated State your full
10 name for the record

11 MS GIBSON My full name is Robin Hope Gibson

12 DIRECT EXAMINATION BY MS PARR

13 Q Ms Gibson where are you employed?

14 A I am currently employed at the Counseling Center of
15 Florence

16 Q Okay And what do you do for the Counseling Center of
17 Florence?

18 A I provide individual and family counseling to men,
19 women, and adolescents

20 Q Okay Now would you please tell us, what is your
21 educational background and training?

22 A I have a Bachelor of Art's Degree in Physiology with a
23 minor in Psychology, from Coker College I also have a
24 Master's Degree in Counseling from Webster University
25 I am a Certified Addiction's Counselor in The State of

ROBIN H GIBSON - VOIR DIRE EXAMINATION BY MS PARR

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1 South Carolina A license professional counselor in The
2 State of South Carolina, and also --- it's a mouthful
3 A License Professional Counselor/Supervisor Candidate,
4 which allows me to supervise individuals who are trying
5 to become, a licensed supervisors

6 Q Now, going back to your Certification as an Addition
7 Counselor, would you please tell us, what you had to do,
8 to obtain that certification?

9 A Okay To obtain that certification, I had to pass a
10 written and oral examination I also had to have a
11 hundred and fifty hours of supervision on client cases
12 in no less than two years

13 Q Okay And what about to become a License Professional
14 Counselor?

15 A To become a LBC, I also had to pass the National
16 Counselor Examination, and receive another one hundred
17 and fifty hours of supervision on client cases, and that
18 was in no less than three years

19 Q Okay And do you have to obtain continual legal
20 education to keep up your certification?

21 A I do For my CAC I have to have --

22 Q I'm sorry, would you please tell us what CAC in regards
23 to which one

24 A Addiction Certification, I have to have sixty hours of
25 continuing education every two years, and for the

1 License Professional Counselor have to have forty hours
2 of continuing education every two years

3 Q What specific services do you provide at the Counseling
4 Center of Florence?

5 A I provide an array of services They include but are
6 not limited to, working with individuals who have
7 anxiety and mood disorders I work with individual with
8 behavior problems I also work with individuals who
9 have suffered from different types of abuse and trauma

10 Q Okay And what are some of those different abuse and
11 trauma?

12 A Mental abuse, physical abuse, sexual abuse

13 Q What other training have you had in trauma for sexual
14 assault victims?

15 A I served an internship at the Pee Dee Coalition against
16 Domestic and Sexual Assault I had continuing education
17 training in interpersonal violence and also in treating
18 sexual abuse

19 Q Now, have you specifically done any training, or had any
20 teaching experience?

21 A I have I was an Adjunct Professor at Coker College for
22 a semester I lead a couple of trainings in ethics and
23 also in crisis intervention with substance abusers

24 Q Are you a member of any professional organizations?

25 A I am certified by SCAADAC which is the South Carolina

ROBIN H GIBSON - VOIR DIRE EXAMINATION BY MS PARR

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1 Association of Alcohol and Other Drug Abuse Counselors

2 Q And who did you receive the licensing through for your
3 professional counseling?

4 A That is actually through the Licensing Board for
5 Examiners of Professional Counselors

6 Q Okay Now would you please tell us the amount of
7 experience counseling the victims of sexual assault that
8 you have had?

9 A I would say over the years that I have been counseling,
10 approximately, maybe, eighty to one hundred of my claims
11 have experienced some sort of sexual assault

12 Q And what --- how many --- What is the number of years
13 you have been in practice?

14 A Nine years, eight months

15 Q And over that time you have seen at least?

16 A I would estimate about eight hundred clients

17 Q Okay And of that number how many of them were
18 counseled for sexual assault?

19 A I would say, eighty to a hundred

20 Q Now, have you testified in Court previously?

21 A I have not

22 Q But you have had training in counseling victims of
23 sexual assault?

24 A I have

25 MS PARR Your Honor, at this time The State would

1 move to offer Ms Gibson as an expert in treating adult
2 sexual abuse counseling and treatment for the purpose of
3 adult sexual assault

4 MR LAWSON Counseling

5 MS PARR And treatment

6 MR LAWSON Whatever treatment may result from
7 counseling But I think the primary focus here is
8 counseling, am I correct?

9 MS GIBSON I am a License Professional Counselor

10 MR LAWSON Counselor In that respect, there is no
11 objection She has never been qualified as an expert in The
12 State of South Carolina?

13 THE COURT No She's got the background, jurors, I
14 don't vouch for her I've never seen her before Here's
15 what happened She just demonstrated through education,
16 training, or a combination of those factors, she's got more
17 knowledge in a particular field that you or I have, and that
18 is what she does, all right

19 Once she is qualified as an expert she is entitled to
20 give opinions within her field of expertise You are not
21 bound to accept them, but before you can accept any opinions
22 that she gives, if she gives any, she has to give them to a
23 reasonable degree of certainty You know if she says, I
24 think, or could be, or perhaps, that is not within her
25 counseling field to a reasonable degree of certainty, All

ROBIN H GIBSON - DIRECT EXAMINATION BY MS PARR

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1 right

2 Q And in your counseling you have provided treatment to
3 victims of sexual abuse?

4 A I have

5 MS PARR Your Honor, I am not sure I understood --

6 MR LAWSON Your Honor, as I understand it, she is a
7 counselor

8 THE COURT She is a counselor She can testify to
9 what counseling --

10 MR LAWSON -- And the treatment relates too
11 counseling

12 THE COURT Right

13 MR LAWSON Am I correct in that? I mean, y'all --

14 THE COURT That's all that she has been offered for

15 MR LAWSON You don't prescribe medication --

16 MS GIBSON That is correct

17 MR LAWSON Okay

18 MS GIBSON That is correct

19 DIRECT EXAMINATION BY MS PARR

20 Q Did you have an occasion in your practice to see Ms
21 Gloria Williamson?

22 A I did

23 Q And when was the first time you saw Ms Williamson?

24 A March 7, 2008

25 Q And how did you come in contact with Ms Williamson?

1 A She was referred to our office by the Sheriff's
2 Department

3 Q And for what purposes have you treated her?

4 A She presented for services for an alleged rape, and I
5 treated her for symptoms related to trauma that included
6 anxiety, you know, coping skills

7 Q Now, before we go there, what were or are Ms
8 Williamson's treatment goals, or what were her goals?

9 A Her goals were to work to reduce feelings of shame, and
10 guilt, and unworthiness, to reduce anxiety, to increase
11 coping skills, and also to be able to identify the
12 things that she does have some control over

13 Q Now, when she presented to your office on March 7th,
14 what were her symptoms at that time?

15 A At her first appointment she was visibly shaking,
16 crying, very anxious, nervous Distraught would be a
17 good word to describe her She was talking about what
18 happened, and how she did not understand that

19 Q Okay And how long did you treat Ms Williamson?

20 A Her last session with me, I believe, was July 31, 2008

21 Q Now, how did she progress?

22 A She progressed somewhat in treatment as far as by the
23 end of treatment she was reporting feeling somewhat
24 stronger She was able to sleep a little bit better,
25 starting to engage in activities again However, she

ROBIN H GIBSON - DIRECT EXAMINATION BY MS PARR

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1 still reported feelings of intense fear and anxiety

2 Q Were there specific times that you noticed that it was
3 more prevalent than others?

4 A There were a couple of times where maybe there was a
5 hearing coming up, maybe a bond hearing I believe She
6 would have a great deal of anxiety during those times,
7 due to fear that the individual that raped her would get
8 out of jail

9 Q Now why would these symptoms of trauma follow sexual
10 abuse or sexual assault?

11 A Trauma symptoms follow because there is an intense fear
12 and sense of helplessness when someone's life is
13 threatened or they receive physical injury

14 Q Now what in general are recognized symptoms of trauma
15 following an act of sexual abuse or sexual assault?

16 A Some of the symptoms would be replaying the event in
17 your head over and over Recurrent nightmares, hyper-
18 vigilant, always keeping guard Never being at ease
19 Difficulty sleeping Difficulty concentrating Having
20 some physiological affects related to if there was an
21 external cue that reminded them of the event that
22 occurred

23 Q And what symptoms did you observe in Ms Williamson?

24 A Ms Williamson, she reported difficulty sleeping, a lot
25 of anxiety She reported never really feeling at ease,

1 always feeling on guard She began to have some anxiety
2 when she would see things, even violence on television
3 There were several incidences when she would see
4 something on TV it would cause anxiety for her At one
5 point, she changed vehicles with her daughter, so that
6 she would not have to drive that vehicle, that she
7 alleges that she was raped in

8 Q What type of --- Well, let me ask this How does
9 counseling help to address these symptoms?

10 A Counseling, essentially offers a safe place for someone
11 to come in and talk about the events that happen, a
12 place for them to feel supported Counseling can help
13 individuals learn new ways to reduce anxiety, to cope
14 better, and also to help them with some of the negative
15 beliefs that they may have about themselves

16 Q And what were some of the negative beliefs that Ms
17 Williamson had?

18 A With a lot of sexual assault victims believing that it
19 was their fault that there was something that they could
20 have done differently, you know, those sorts of things
21 That there is something wrong with her that somebody
22 would do something like that to her, like she was being
23 punished for something

24 Q Now how did she progress in the treatment?

25 A As I stated earlier she progressed some, but however at

ROBIN H GIBSON - CROSS EXAMINATION BY MR LAWSON

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1 the end of the treatment she was still having a great
2 deal of anxiety and fear

3 Q Now in your expert opinion, are Ms Williamson's
4 symptoms consistent with a history of being sexual
5 assaulted?

6 A Her symptoms are consistent with the history of someone
7 who had been sexually assaulted

8 MS PARR May I have The Court's indulgence?

9 THE COURT All right

10 (PAUSE)

11 Q Ms Gibson, it is common for victims not too immediately
12 call law enforcement in your experience?

13 A Yes, ma'am

14 Q And why is that?

15 A Feelings of shame and guilt There is a lot of stigma
16 around someone who has, you know, negative thoughts
17 about people who have been sexually assaulted People
18 feeling like it is their fault that they don't have a
19 right to call

20 MS PARR Would you please answer any questions
21 Defense may have for you

22 MR LAWSON May it, please The Court

23 THE COURT Sure

24 CROSS EXAMINATION BY MR LAWSON

25 Q Ms Gibson, at this time you were contacted, and the way

1 this was arranged was through the Sheriff's Department?

2 A That is correct

3 Q And you were paid by a fund for victims, is that
4 correct?

5 A That is correct

6 Q So the purpose of your counseling then, and your pay,
7 was from a victim's perspective?

8 A Correct

9 Q Okay And, so in your counseling you were focusing on
10 one aspect, is that correct?

11 A I was focusing on her symptoms that she presented

12 Q And did you at any point go into other problems that may
13 have been involved in her life at that time?

14 A She identified some other problems in her life at that
15 time

16 Q Did you counsel her on those issues as well?

17 A I counseled her as far as coping skills that she could
18 use with either, yes

19 Q And were the same coping skills that you advised her to
20 use in relation to coping with the trauma in relation to
21 sexual abuse?

22 A Some of them were, yes

23 Q Okay And how many occasions did you talk about the
24 other problems that may have occurred in her life?

25 A I don't know an exact number

ROBIN H GIBSON - CROSS EXAMINATION BY MR LAWSON

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1 Q How many times did you see her?

2 A I would have to look at her chart to see the exact
3 number of times I've seen her I'm thinking, twenty

4 Q Twenty

5 A Approximately

6 Q How many of those --

7 A I'm sorry

8 Q How many occasions did you deal with other issues?

9 A I am not 100% sure

10 Q An estimate One, two, more than five, less than five?

11 A I would say more than five

12 Q Less than ten?

13 A Maybe ten

14 Q So half of the time you were dealing with other issues?

15 A Along with

16 Q Along with?

17 A Uh-huh

18 Q Did she report to you that she had suffered from anxiety
19 before this event?

20 A Yes, she did

21 Q How do you determine when the anxiety previously
22 suffered ceased to exist?

23 A What Ms Williamson reported to me was that she
24 experienced anxiety before and it increased after the
25 alleged incident occurred

1 Q Was she treated for anxiety before the event?

2 A By a counselor?

3 Q By a counselor, or by medication?

4 A When Ms Williamson reported to me that she was on a
5 prescription medication for anxiety

6 Q And that would be before this occurrence, correct?

7 A Correct

8 Q So she was already on medication for anxiety?

9 A Correct

10 Q But to your knowledge she had never seen a counselor
11 before?

12 A Correct

13 Q Did you ask her about that?

14 A Initially, yes Initially she reported that she had not
15 had previous counseling before

16 Q Did you talk any about the previous anxiety?

17 A We did

18 Q What was the cause of that?

19 A The previous anxiety was related to a divorce, a
20 separation

21 Q And a husband who was verbally abusive, and physically
22 aggressive?

23 A Per her report, yes

24 Q And did you in your counseling refer her to a medical
25 doctor also to be prescribed medication?

ROBIN H GIBSON - CROSS EXAMINATION BY MR LAWSON

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1 A I did not She continued to see her medical doctor that
2 she was seeing

3 Q To your knowledge was her medication continued during
4 the process of your evaluation?

5 A It was continued

6 Q Was it continued? Was it changed?

7 A It was changed

8 Q And altered

9 A It was

10 Q But the last day you saw her she was still on
11 medication?

12 A She was

13 Q And had been the first day you saw her?

14 A That is correct

15 Q Now, I too am called a counselor, and we all have
16 clients that come and talk to us Your opinion is based
17 on what you are told, correct?

18 A Correct

19 Q As my opinion to my clients is based on what I am told
20 Do you find from time to time that your clients are less
21 than truthful with you?

22 A I do find that sometimes

23 Q Do you think every once in a while, one slips through,
24 that maybe less than truthful and you don't catch it?

25 A I'm human

1 Q We all are

2 A Right

3 Q And the specific nature of this referral was for a
4 sexual abuse victim?

5 A That is correct

6 Q And it is not hard to find out the symptoms of sexual
7 abuse, is it? I mean, you can go to any psychology book
8 would have them?

9 A Correct

10 Q Or the internet?

11 A Correct

12 Q So, if I report to you with some feelings of deep
13 animosity, or anxiety, it would be up to you to figure
14 out if I'm telling you the truth?

15 A I would have to go on what you are reporting to me

16 Q What I am reporting And you are not there to call me
17 anything but for someone, who is seeking help from you,
18 are you?

19 A Correct

20 MR LAWSON Thank you

21 REDIRECT EXAMINATION BY MS PARR

22 Q Ms Gibson, just a few questions

23 A Sure

24 Q Is it common to see clients with other problems even
25 though they present for thing but other problems ---

ROBIN H GIBSON - REDIRECT EXAMINATION BY MS PARR

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1 They relate other problems to you?

2 A Absolutely

3 Q Okay And how common is that?

4 A I would say at least 50% of my patients have more than
5 one presenting problem

6 Q Now, you said you had been doing this almost ten years,
7 is that correct?

8 A Correct

9 MR LAWSON Your Honor, I think this was all covered
10 on direct

11 THE COURT She is going to ask two more questions

12 MS PARR I am going to ask two more questions

13 Q Now, Mr Lawson asked you whether or not some people
14 could have slipped through, who actually were not
15 experiencing what they said?

16 A He did

17 Q But now in your ten years of experience, have you been
18 able to identify when persons have not been truthful
19 with you?

20 A You know, I would not --- I would not pretend to say
21 that that was a 100%, however, I have a long history of
22 working with alcohol and drug addicts, who unfortunately
23 are not always honest So, I, you know, I have good
24 pretty good judgement, but I would not say that 100% I
25 would be able to catch everybody who was not being

1 honest with me

2 Q Okay Now in this particular case, have you detected
3 anything that would lead you to believe that Ms
4 Williamson had not been honest with you?

5 A I have not

6 Q And you saw her for in excess of three months?

7 A That is correct

8 Q Okay

9 MS PARR Nothing further, Your Honor

10 THE COURT All right, you can step down

11 MR LAWSON Well, Your Honor, if I could --

12 THE COURT All right

13 MR LAWSON I don't have --- you can step down

14 MS PARR Your Honor, we would ask that she have
15 permission to leave

16 MR LAWSON No objection

17 THE COURT We can't go can we All right, you are
18 free to go

19 MS PARR Your Honor, at this time we would call
20 LeGrand Poston to the stand

21 THE COURT All right, LeGrand Poston, come around

22 CLERK OF COURT Mr Poston, go to the witness stand
23 Stop right hear Place your left hand on the Bible, raise
24 your right hand

25 LEGRAND POSTON

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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1 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

2 CLERK OF COURT Please be seated and state your full
3 name for the record

4 MR POSTON LeGrand L Poston

5 DIRECT EXAMINATION BY MS PARR

6 Q Mr Poston, where do you live?

7 A ADDRESS

8 Q And is that in Florence?

9 A Yes, ma'am

10 Q And how long have you lived there?

11 A About five years

12 Q And are you employed?

13 A Not right now

14 Q Okay But do you do some work on the side?

15 A Yes, ma'am

16 Q And what kind of work do you do?

17 A HVAC

18 Q And tell us what that is?

19 A Heating and air

20 Q Okay And who do you do that with?

21 A Tommy Penny

22 Q Now where were you employed prior to this job?

23 A Mount Hope Cemetery

24 Q And how long were you employed for Mount Hope Cemetery?

25 A About three years

- 1 Q Now do you know Gloria Williamson
- 2 A Yes, ma'am
- 3 Q And how do you know Gloria Williamson?
- 4 A From working at Mount Hope Cemetery
- 5 Q And what did you do for Mount Hope?
- 6 A A ran a backhoe
- 7 Q Now did you have an occasion to see Ms Williamson on
- 8 February 22, 2008?
- 9 A Yes, ma'am
- 10 Q And where did you first see her that day?
- 11 A Work
- 12 Q And was that a Friday?
- 13 A Yes, ma'am
- 14 Q And what time did you get --- Did you go to work that
- 15 day?
- 16 A Went in around 7 00
- 17 Q And what time did you get off?
- 18 A About 3 30
- 19 Q And when you got off that day tell us what happened?
- 20 A Well when I got off that day, I caught a ride up here to
- 21 pay some child support actually And I went and I got
- 22 dropped off at a bar, and I offered her, if she would
- 23 like to, you know, to come have a drink with me or
- 24 whatever
- 25 Q Now, who took you --- brought you to pay child support?

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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- 1 A Ms Gloria
- 2 Q Okay And did you come to this building?
- 3 A Yes, ma'am
- 4 Q All right, and after you left this building where did
- 5 you go?
- 6 A To the Wooden Nickel
- 7 Q All right And that's here in Florence, is that
- 8 correct?
- 9 A Yes, ma'am
- 10 Q And you said that she dropped you off there?
- 11 A Yes, ma'am
- 12 Q After she dropped you off, did you have an occasion to
- 13 call her later that evening?
- 14 A Yes, ma'am
- 15 Q Okay And do you remember what time you called her?
- 16 A Not exact
- 17 Q But it was much later?
- 18 A Yes, ma'am
- 19 Q And when you called her, what was the purpose of calling
- 20 her?
- 21 A I was inviting her to come out and have a drink
- 22 Q And did she come out?
- 23 A Yes, ma'am
- 24 Q Did you see the Defendant that evening?
- 25 A Yes, ma'am

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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1 Q Okay And where did you see the Defendant?

2 A At the Wooden Nickel

3 Q And do you recall when you first saw him there that
4 night?

5 A Not exact I seen him later on that evening, you know,
6 later on that night or whatever

7 Q Okay Now did you know the Defendant, or had you seen
8 him before?

9 A I didn't know him, I had seen him like a week prior

10 Q Okay And where did you see him prior?

11 A The Wooden Nickel

12 Q Now when you called Ms Gloria to come to the Wooden
13 Nickel, did you meet her outside?

14 A No ma'am, she came in on her own

15 Q But you waited for her, is that correct?

16 A Yes, ma'am

17 Q And then where did y'all go once she got there?

18 A Right there at the bar, or as soon as you walk in

19 Q Okay I am going to show you this diagram Mr Poston,
20 do you recognize this?

21 A Yes, ma'am

22 Q And, what is that a picture of? It is State's Exhibit
23 Number 1

24 A It's inside the Wooden Nickel

25 Q And, is it a fairly accurate photograph, or diagram of

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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1 the Wooden Nickel realizing it's not the scale?

2 A Yes, ma'am

3 **MS PARR** Your Honor, The State would move to enter
4 State's Exhibit Number 1 into evidence

5 **MR LAWSON** No objection

6 **THE COURT** All right

7 **WHEREUPON, STATE'S EXHIBIT**

8 **NUMBER 1 WAS MARKED AND**

9 **ADMITTED INTO THE RECORD**

10 Q (By Ms Parr) Mr Poston, if you would come down and
11 indicate where --- And if you would talk nice and loud
12 so The Court reporter can hear you

13 All right, would you tell us where you were seated
14 and where Ms Williamson was?

15 A I seated right here and she was seated right here beside
16 me

17 Q And if you would you can mark it

18 A (Indicating)

19 Q And, you can have a seat And, so you said, you all
20 were seated there Now, is that considered the bar
21 area?

22 A Yes, ma'am

23 Q Okay And please tell us what happened at the bar area
24 while you and Ms Gloria were seated there?

25 A Well, we were just talking and, you know, having a few

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1 drinks, and this guy, Stacey came up and was talking to
2 us a little bit and, you know, just casually talking
3 And was talking about, you know, that day, whatever, a
4 work day and it just kept on, just different things

5 Q Now, that evening did you tell or introduce or tell Ms
6 Williamson the Defendant's name?

7 A No, ma'am

8 Q Okay Well how did you find out the Defendant's name

9 A He presented his name He come up and started talking
10 over --- actually it was about he seen more of my
11 tattoos and said, you know, he had one and whatever and
12 just kind of started talking like that You know, where
13 did you get yours from stuff like that I told him my
14 nickname was L G but my real name was LeGrand He told
15 me his name

16 Q And what did he tell you his name was?

17 A Stacey Evans They said he goes by the name of Psycho,
18 his nickname

19 Q Now you said you had been drinking for quite a while?

20 A Yes, ma'am

21 Q Okay What about Ms Williamson?

22 A Not much

23 Q Okay And when he came in, where was he when you all
24 were at the bar?

25 A Whenever I was at the --- where I was seated right

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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1 here they came in and they went --- they went around
2 to the far end of the bar

3 Q Okay And can you point with the laser pointer, if you
4 will, just turned that on

5 A They were seated right there

6 Q Now you say they, who was with him?

7 A A believe it was his friend, Mona

8 Q Okay Now did you know Mona?

9 A Yes, ma'am

10 Q And how is it that you knew Mona?

11 A I met her about a year ago back at the V F W

12 Q Okay So they came in together Do you know what time
13 they came in?

14 A It was probably around --- I want to say 10 30, 10 45

15 Q Okay So you think they came in after Ms Williamson,
16 or before to your knowledge?

17 A After

18 Q So they were down there Now at what point did the
19 Defendant come down to where you were?

20 A It was probably an hour or two maybe after they arrived
21 that he came over to where we were seated

22 Q Okay And where was he when you all were seated there -
23 -- when he came down to you, where did he go?

24 A He was standing right there behind them two chairs

25 Q Okay So he stood behind you and Ms Gloria?

1 A Uh-huh

2 Q All right And what was he doing behind you?

3 A Just conversating

4 Q All right And how was he acting at that time?

5 A Just like anybody would act, you know, just talking and
6 just carrying on a conversation

7 Q Now at one point did you ask him to leave?

8 A Well I ask him --- He was kind of wanting to touch on
9 her and stuff and I said, you know, I would appreciate
10 it if you wouldn't do that, because she's my boss lady
11 and whatever, and you know, how about just keep your
12 hands off of her

13 Q Okay And what did he say when you said that?

14 A He respected the wishes

15 Q All right And what was Ms Gloria doing?

16 A Just trying not to acknowledge him

17 Q Now when you all were having conversations, who was
18 primarily having the conversation?

19 A He was, Stacey

20 Q Okay

21 A Me and him both was just talking

22 Q Okay

23 A But it wasn't about nothing really

24 Q Okay So he was talking --- So the two of you were
25 talking, was Ms Williamson really joining in the

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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1 conversation?

2 A No, ma'am

3 Q If you can recall, how long did this go on?

4 A Probably fifteen, twenty minutes

5 Q Okay And then after --- At what point did the
6 Defendant leave from behind you all?

7 A It was just a few minutes later Another friend of mine
8 came up, and he and me had --- was talking and stuff,
9 and Stacey left, went back to his area where he was
10 sitting originally

11 Q Now, do you recall, seeing a knife that evening?

12 A Yes, ma'am He presented one He showed me I had
13 mine He had one Just, I guess a guy thing, you know,
14 show me his knife

15 Q How was it that the knife came up?

16 A I don't exactly remember exactly how it came up I
17 really don't remember how Like I said I was drinking,
18 I don't remember every little detail

19 Q Okay But, he showed you a knife?

20 A Uh-huh

21 Q And what did he say about his knife?

22 A You know, that he keeps a knife in case something was to
23 go down in the club or whatever, you know, for
24 protection

25 Q Now, at any point that evening did you or Ms Gloria, go

1 and shoot pool?

2 A No, ma'am Me and --

3 Q Yes Did the two of you play pool together?

4 A Seems like we may have, earlier

5 Q Okay Do you recall Ms Gloria going to the pool area?

6 A Yes, ma'am

7 Q Okay And was the Defendant at that time?

8 A In the pool area

9 Q Okay Did she stay back there long?

10 A Don't seem like she did

11 Q Did the Ms Gloria ever dance with the Defendant?

12 A I don't recall

13 Q Okay But you didn't see her dancing with him?

14 A No, ma'am

15 Q Now what time did you leave that evening?

16 A I want to say I left probably around a little bit after
17 midnight, maybe quarter to one or something

18 Q Okay All right And when you left, where was Ms
19 Williamson?

20 A At the bar

21 Q Okay And, so that is where you were too?

22 A Yes, ma'am I told her that I was leaving, and asked
23 her, if she was okay, cause I needed to go on home and
24 that is where I left her at

25 Q Okay Now when you --- How did you get home?

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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1 A A friend of mine name Joy -- Joy Matthews, she carried
2 me home

3 Q Okay And she carried you home?

4 A Yes, ma'am

5 Q And you left Ms Williamson sitting at the bar?

6 A Yes, ma'am

7 Q And did she indicate to you how long she was going to be
8 at the bar?

9 A She said she was leaving right behind me She was going
10 to finish I think her last drink, and head on home
11 herself

12 Q Okay Now what condition was Ms Williamson?

13 A Good I mean, she might have been slightly buzzed, but
14 not really I mean, she was focused pretty good

15 Q Okay But she was not drunk?

16 A No, ma'am

17 Q And so, when you left her sitting there, she told you
18 she was going to leave shortly?

19 A Yes, ma'am

20 Q All right When was the next time you heard from her?

21 A Probably around 8 00 the next morning, she called me and
22 told me that she had been raped, and was real upset and
23 crying and everything I asked her if she would like to
24 speak with mother, you know, I figured she would want to
25 talk to a female since she is an ex-nurse, you know or

1 whatever, a retired nurse And so we went over to her
2 house, and talked with her and everything

3 Q Now when you got to her house, would you please describe
4 her demeanor, what condition was she in when you got to
5 her house?

6 A She was all shaken up, real scared, crying Just really
7 shaking and she couldn't, you know, she was just falling
8 to pieces

9 Q Okay And what did you do when you saw how she was?

10 A Well I tried to talk to her, you know, and tell her, you
11 know, it wasn't her fault, and try to comfort her or
12 whatever, but she was just really really bent out of
13 shape My mother took her in the back room and they
14 talked a good while Me and my father --- I walked
15 outside to look at the vehicle, and that is where I
16 stayed at most of the time while my mother and her were
17 talking

18 Q Okay Would you describe her appearance?

19 A You could tell she hadn't been to sleep Her face was
20 really really red Like I said, she was shaken Her
21 makeup ran off, you know, runny, just I mean she was
22 just a nervous wreck

23 Q Now, you said that you went outside where her car was?

24 A Yes, ma'am

25 Q And would you please describe her car when you saw it?

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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- 1 A It had a lot of mud on the inside of it, on the
2 passenger's seat, and on the running boards, you know,
3 where the door slams, was like a lot of mud in that
4 area Just real dirty
- 5 Q Okay What about the exterior of the car?
- 6 A Muddy as well
- 7 Q All right Now, was that the condition her car was in
8 when she dropped you off the day before?
- 9 A No, ma'am
- 10 Q Now, did you see what Ms Williamson had on?
- 11 A Yes, ma'am
- 12 Q And would you please describe that?
- 13 A I want to say she had on a pair of blue jeans, a white
14 shirt, and I believe she had on a leather coat
- 15 Q That was the night before at the Wooden Nickel?
- 16 A Yes, ma'am
- 17 Q Okay Now, when you saw her that next morning, how was
18 she dressed?
- 19 A She had on the blue jeans and the shirt that she had on
20 the night before
- 21 Q Okay And what condition were those cloths in?
- 22 A Messy
- 23 Q When you say messy?
- 24 A Dirty, muddy
- 25 Q Now did you look inside of her car?

1 A Yes, ma'am

2 Q What, if anything, did you see inside the car?

3 A I just seen a lot of stuff misplaced, and like I said, a
4 lot of mud on the floor boards and stuff

5 Q Okay Did Ms Gloria, have on any jewelry?

6 A Yes, ma'am She had on a bracelet that night, I
7 believe, and some --- a couple of rings, I want to
8 say, but I'm not sure about the rings, but I think she
9 had on a bracelet

10 Q Okay Now did you see that bracelet that next day?

11 A I don't recall, but I think my mother seen it I'm not
12 sure

13 Q Okay Did you see the bracelet in the car? Do you
14 recall, seeing a bracelet in the car?

15 MR LAWSON Objection, Your Honor, that's leading

16 THE COURT All right

17 MR LAWSON He just said he didn't see it

18 THE COURT Well she can ask twice He says no, go
19 ahead

20 Q Now, after you saw her car, what did you do --- what was
21 the condition she was in?

22 A When I seen her car, I walked back up there where they
23 were at, and just tried to comfort her or whatever, you
24 know, I didn't really do a whole lot

25 Q Okay Now was law enforcement called?

LEGRAND L POSTON - DIRECT EXAMINATION BY MS PARR

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1 A Yes, ma'am Well actually a city cop came up there
2 first

3 Q And who was that?

4 A Keith Creel

5 Q Okay

6 A Officer Creel And then --

7 Q And how was it that Officer Creel arrived?

8 A Because my father that's his cousin and he called,
9 because it right there in the city But come to find
10 out it was a Sheriff's office had to come out There
11 was nothing he could do at the time So, then Officer
12 Sumersett came out and asked her questions and stuff

13 Q Now where were you --- so your Cousin Crell, couldn't
14 do anything is that correct?

15 A Right

16 Q All right And long after did Sumersett come out?

17 A Just shortly after

18 Q And where were you when this was taking place, when
19 Sumersett came?

20 A I was outside in the parking lot standing behind the
21 vehicle, Ms Gloria's vehicle Then he looked ---
22 Sumersett, you know, looked inside of it, then he went
23 up stairs and talk to her as well

24 Q Okay Now were you with him when he was interviewing
25 Ms Gloria?

LEGRAND L POSTON - CROSS EXAMINATION BY MR LAWSON

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1 A Yes, ma'am

2 Q Do you recall, who called Sumersett? If you don't know
3 that's fine

4 A I want to say Keith called, Officer Crell That's what
5 I want to say now, I am not positive on that

6 MS PARR Now would you please, answer any questions
7 Defense may have for you?

8 MR POSTON Yes, ma'am

9 MR LAWSON May it, please The Court

10 THE COURT Okay

11 CROSS EXAMINATION BY MR LAWSON

12 Q Mr Poston, you were interviewed by Officer Cain around
13 February 29, about six or seven days after this
14 happened, is that correct?

15 A Yes, sir

16 Q You gave a full statement at that time, is that correct?

17 A Yes, sir

18 Q And the statement that you gave then, was that the best
19 as you recall it at the time, was it not?

20 A Yes, sir

21 Q And you told the truth then?

22 A Yes, sir

23 Q And have you seen that statement, and read over that
24 statement?

25 A A couple of times

LEGRAND L POSTON - CROSS EXAMINATION BY MR LAWSON

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1 Q A couple of times Did you read over in preparation of
2 this testimony?

3 A Yes, sir

4 Q And did you go over that with Ms Parr?

5 A Did I read --- Did I read what I --

6 Q -- Yeah, did she ask you about your statement?

7 A Yes, sir

8 Q And did you go over it with Ms Cain as well?

9 A Uh'huh Yes, sir

10 Q Okay Let me ask you now, you got a ride to the Wooden
11 Nickel with Ms Williamson, is that correct?

12 A Yes, sir

13 Q And that was like at 3 30?

14 A Yes, sir

15 Q What time did you get off that day, that's a Friday,
16 right?

17 A Yes, sir

18 Q February 22?

19 A Uh-huh

20 Q What time did you get off?

21 A I got off around 3 30 I got to the Wooden Nickel a
22 little around a quarter till, maybe cause I had to come
23 up here and pay some child support

24 Q Okay Now you didn't say anything about coming up here
25 and paying child support when you talked with Ms Cain

1 did you?

2 A I don't recall

3 Q Okay Now you went straight to the Wooden Nickel just
4 as soon as you paid the child support?

5 A Yes, sir

6 Q And you sat down and started drinking?

7 A Yes, sir

8 Q Were you --- You were in no particular rush to drink
9 or in no particular slowness to drink I mean, you
10 weren't just sipping, or chugging them down You weren't
11 rushing, just taking your time, having a drink?

12 A Right

13 Q What were you drinking?

14 A I was drinking Bud Light and Tequila

15 Q Bud Light and Tequila?

16 A Uh-huh

17 Q And you started that around quarter till four?

18 A Yes, sir

19 Q And then in your statement, you indicate that around
20 4 00 or 5 00, Ms Williamson came and had a drink with
21 you?

22 A Yes, sir

23 Q Okay So she did that?

24 A Yes, sir

25 Q And where did she come to, the Wooden Nickel?

LEGRAND L POSTON - CROSS EXAMINATION BY MR LAWSON

151

- 1 A Yes, sir
- 2 Q And she came in for how long?
- 3 A A few minutes, maybe thirty --- thirty to an hour,
- 4 maybe
- 5 Q And what did y'all do at that time?
- 6 A We just had a drink, and was talking about the job, and
- 7 stuff
- 8 Q What kind of drink did she have?
- 9 A She had a Michelob, I believe, a Michelob Light
- 10 Q Did she also have a Tequila?
- 11 A No, sir
- 12 Q Okay And so then she left?
- 13 A Yes, sir
- 14 Q And then how long did she come back?
- 15 A Probably around eight or nine
- 16 Q Okay And then she was there the rest of the night?
- 17 A Until I told her I had to leave, and was she going to be
- 18 okay, and she said she was shortly --- leaving shortly
- 19 behind me
- 20 Q All right But the truth of the matter is this You
- 21 know when you left, correct?
- 22 A Yes, sir
- 23 Q You don't know one thing about when she left?
- 24 A That's right
- 25 Q Because you were already gone?

1 A That is exactly right

2 Q So she could have been there an hour after you left

3 She could have been there five minutes after you left

4 She could have been there one minute after you left

5 But you don't know?

6 A Right

7 Q So you can't say?

8 A Exactly

9 Q Now, in your statement, I thought that you told Ms

10 Cain, that at the time you got ready to go is when she

11 was in the back playing pool with Mr Evans?

12 A Right

13 Q That is correct, isn't it?

14 A No, when I left, she was at the bar right here

15 Q She's at the bar Okay

16 A I stuck my head in and told her I was leaving, and that
17 was where she was

18 Q All right Now didn't you go out, come back in, and
19 then go out again?

20 A Yes, sir

21 Q And the first time you went out --

22 A -- My ride was gone

23 Q And she was back here playing pool?

24 A When I stuck my head back in the door, she was right
25 there at the door, at the bar

LEGRAND L POSTON - CROSS EXAMINATION BY MR LAWSON

153

1 Q Okay Now, I am going to ask you --- All right, the
2 bottom of page seven, right there, Ms Cain says okay
3 You read that just to yourself Yeah, right down there
4 The top of page eight Just read it to yourself See
5 if that refreshes your recollection

6 (PAUSE)

7 A Yes, sir

8 Q Okay Now what happened as you were getting ready to
9 leave?

10 A So, when I was getting ready to leave, I walked back
11 there and told her, was she all right, that I was going
12 to leave with Joy So when I came back, Joy had left, I
13 believe she went to carry somebody else home, so when I
14 stuck back in the door, that is when she was at the bar
15 But, when I originally went to leave, I walked back
16 there to the pool room

17 Q And she was playing pool?

18 A Yes, sir

19 Q With?

20 A Mr Evans

21 Q With Mr Evans This is after y'all had been at the
22 bar, and he was putting his hands on her, and you ask
23 him to stop, correct?

24 A Yes, sir

25 Q So, after that occurrence, when he was touching her, and

1 you told him to stop, she then went back to the pool
2 area and played pool with him, is that correct?

3 A I believe so, yes, sir

4 Q Now, the next morning it's 8 00 approximately, do you
5 remember exactly?

6 A Not exact

7 Q Okay I'll tell you what Do you remember how long you
8 were there before the city police officer called the
9 Sheriff's Department?

10 A Probably there twenty, twenty-five minutes

11 Q You were there twenty or twenty-five minutes before you
12 called --

13 A Before they were called

14 Q Now how long --- let's go back I may have gotten ahead
15 of myself How long were you there before somebody
16 called, I think it's Allen Keith Creel, your cousin?

17 A Yes, sir

18 Q How long were y'all there before Officer Creel was
19 called from the city police department?

20 A About five minutes

21 Q About five?

22 A About five or ten minutes

23 Q Okay So how long did it take him to get there?

24 A He came right away He lives right around the corner
25 from her, actually

LEGRAND L POSTON - CROSS EXAMINATION BY MR LAWSON

155

1 Q Okay

2 A Probably about two or three minutes

3 Q All right So we're talking about less than ten minutes
4 after you got there, Office Creel is already there?

5 A Yes, sir

6 Q How long after Officer Creel got there, did he call the
7 Sheriff's Department?

8 A Right away

9 Q Okay So we were talking about what, earlier than 8 30?

10 A Probably a little after 8 30

11 Q 9 00?

12 A Quarter til nine

13 Q All right And do you know that Officer Creel actually
14 --- Did he call 911?

15 A I don't know

16 Q What if I told you the 911 call came in at 13 28 that is
17 1 28, right?

18 A I don't know

19 Q After Officer Creel called the Sheriff's Department how
20 long was it before Officer Sumersett got there?

21 A Seems like he came right on out

22 Q Okay So that would have been 9 30 and Officer
23 Sumersett is there already?

24 A Seems like

25 Q While Officer Summereset is there, when he's talking

LEGRAND L POSTON - CROSS EXAMINATION BY MR LAWSON

156

1 with Mr Williamson, did she still have the same clothes
2 on?

3 A Yes, sir

4 Q She had on the same clothes from the night before, is
5 that correct?

6 A As far as I know, yes, sir

7 Q And when you got there she was dressed?

8 A Yes, sir

9 Q Did you notice any tears on any of her clothes?

10 A Just muddy

11 Q Just muddy

12 A And I think the shirt might have been stretched or
13 something

14 Q Do you know where Stacey Evans was when you left?

15 A I want to say he was in the pool area

16 Q But do you know?

17 A I'm pretty sure he was in the pool area

18 Q Pretty sure?

19 A Yes, sir

20 Q Are you absolutely certain that you got there at 9 00 in
21 the morning --- before 9 00 in the morning, and not
22 more like 12 00 or 1 00 in the afternoon?

23 A I want to say it was in the morning

24 Q 11 30, quarter til twelve?

25 A I don't --

AGNES POSTON CREEL - DIRECT EXAMINATION BY MS PARR

157

1 Q -- Do you know?

2 A I don't exactly remember the time I got there I want
3 to say it was in the morning hours Could have been

4 Q Could have been But you don't remember that Were you
5 still a little buzzy from the night before?

6 A That's possible

7 Q You were at the bar from what, quarter til four, 4 00
8 til what, 1 00?

9 A Yes, sir

10 Q How many tequilas did you have?

11 A A few

12 Q Okay

13 A Quite a few

14 MR LAWSON I don't have anything further, Your Honor

15 MS PARR Nothing further for this witness, Your
16 Honor

17 THE COURT You can step down

18 MS PARR Your Honor, at this time we would call Agnes
19 Creel to the stand

20 THE COURT All right

21 AGNES CREEL,

22 BEING DULY SWORN TESTIFIES AS FOLLOWS

23 CLERK OF COURT Please be seated and state your full
24 name for the record

25 MS CREEL Agnes Poston Creel

AGNES POSTON CREEL - DIRECT EXAMINATION BY MS PARR

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DIRECT EXAMINATION BY MS PARR

1 Q Ms Creel, where do you live?

2 A ADDRESS

3 Q Okay And how old are you?

4 A 62

5 Q Are you employed?

6 A No, ma'am, I am disabled

7 Q And what did you do --- What was your employment when
8 you were working?

9 A Nurse

10 Q And how long were you a nurse?

11 A Fifteen-years

12 Q Are you married?

13 A Yes, ma'am

14 Q And who are you married to?

15 A Thomas Creel

16 Q Now do you know Gloria Williamson?

17 A Yes, ma'am

18 Q Okay And, how do you know Gloria Williamson?

19 A Through my son

20 Q Do you recall, becoming involved in this incident, in
21 this matter?

22 A Yes, ma'am

23 Q Okay When were you made aware of this incident?

24 A I think it was about 9 30 that Saturday morning

AGNES POSTON CREEL - DIRECT EXAMINATION BY MS PARR

159

1 Q Okay Would that have been like February 23?

2 A Yes

3 Q And how were you made aware of it?

4 A My son called me and told me Ms Gloria had been raped

5 MR LAWSON Objection, Your Honor I mean he's a
6 witness, he's already testified

7 MS PARR But he call her --

8 THE COURT That's okay, go ahead

9 A Yes

10 Q Okay And as a result of that, what did you do?

11 A He told me that Ms Gloria wanted to talk to me so I
12 called her to ask her, and she said yes, are you coming
13 And I told her as soon as I got a bath, and me and my
14 husband would drive me over there

15 Q And do you recall about what time that was you went to
16 her house?

17 A It was about 11 30 or 12 00

18 Q So it was closer to midday?

19 A Uh-huh

20 Q All right And when you got --- Who went with you to her
21 house?

22 A My husband and my son

23 Q Okay And your son being?

24 A LeGrand Poston

25 Q Okay Tell us what happened when you got to the house?

AGNES POSTON CREEL - DIRECT EXAMINATION BY MS PARR

160

1 A Well I went in there to talk to her, to tell her, you
2 know, go to the hospital to get that rape kit

3 Q Okay Now, before you did that, when you got to the
4 house, who --- Did somebody ring the doorbell, or what
5 was that process?

6 A Yeah, we did We run the doorbell, and it took her a
7 few minutes to get there because she had this prop up
8 against it

9 Q What kind of prop?

10 A Like a stick for security up under the doorknob

11 Q Okay And did you see that stick?

12 A Yes, ma'am

13 Q And what kind of condition was she in when she opened
14 the door?

15 A She was crying, and shaking, and nervous, and she
16 couldn't hardly talk to me

17 Q And so what did you do?

18 A I just asked her to talk to me, and tell me what went
19 on And I told her that she needed to go and report it,
20 so he couldn't do that to nobody else

21 Q And did you tell her about going to the hospital

22 A Yes, ma'am

23 Q Now, did you go with her to the hospital?

24 A No, ma'am She said she would be okay that I had did
25 enough

AGNES POSTON CREEL - DIRECT EXAMINATION BY MS PARR

161

1 Q Okay Now you said that she was crying Would you
2 please tell us specifically what else she was doing, if
3 anything?

4 A She was wringing her hands, you know, and just trying to
5 talk, but she couldn't hardly talk, it was just coming
6 out in bits and pieces, because she was crying so bad

7 Q Now did you observe the clothing she had on?

8 A Yes, ma'am

9 Q Okay Would you please describe that to us?

10 A She had a white blouse and blue jeans, and some boots,
11 and they was muddy

12 Q All right And at any point did you observe any part of
13 her body?

14 A Yes On one side of her face was real red And she had
15 pulled up her pant leg and showed me her legs, and she
16 had a couple of bruises on them

17 Q Now did you see any jewelry she had?

18 A When I went out to the car, to look at the car her
19 bracelet was broken in the car

20 MR LAWSON Objection, Your Honor, I think that would
21 be speculation that it was her bracelet, unless she knows

22 THE COURT She can say what she observed It looked
23 like it was broken, she can say that Go ahead

24 Q (By Ms Parr) Did you see any jewelry?

25 A Yes

AGNES POSTON CREEL - DIRECT EXAMINATION BY MS PARR

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- 1 Q And where did you see that jewelry?
- 2 A In her car
- 3 Q Okay And what was the condition of the jewelry?
- 4 A It was broken
- 5 Q Did you know whose jewelry that was?
- 6 A Yes, ma'am
- 7 Q And how did you know it?
- 8 A Well she had told me about it
- 9 Q And I am going to show you what has been entered into
- 10 evidence as State's Exhibit Number 14 Do you recognize
- 11 this?
- 12 A Yes, ma'am
- 13 Q And what is this?
- 14 A That is the bracelet
- 15 Q And whose bracelet is this?
- 16 A Ms Gloria Williamson
- 17 Q Okay Now is this the bracelet you saw in her car that
- 18 day?
- 19 A Yes, ma'am, it looks just like it
- 20 Q Now how long did you stay at the house with her?
- 21 A A couple of hours
- 22 Q Now I know that you indicated that you told her that she
- 23 needed to report it, is that correct?
- 24 A Yes, ma'am
- 25 Q All right Now, was law enforcement called?

AGNES POSTON CREEL - DIRECT EXAMINATION BY MS PARR

163

1 A Yes, ma'am

2 Q And who called law enforcement?

3 A I think my husband did

4 Q Okay And who did he call?

5 A His cousin, Keith Creel

6 Q All right And did Officer Creel respond?

7 A Yes, ma'am

8 Q Okay And what happened when he responded?

9 A He came and talk to Ms Gloria too, and then he couldn't
10 do anything I think it was out of this district, so he
11 called Grant Sumersett, I believe it was

12 Q Okay And were you there when Officer Sumersett
13 arrived?

14 A Yes, ma'am

15 Q Okay Now, what was Ms Gloria's condition during this
16 whole time?

17 A She kept on crying about it during the whole time

18 Q Now, you said you stayed with her about a couple of
19 hours Were you still with her after Officer Sumersett
20 left?

21 A After he left?

22 Q Yes Did you leave before Officer Sumersett, or did you
23 leave after?

24 A I'm trying to think I think I left first

25 MS PARR Thank you, Ms Creel Would you please

AGNES POSTON CREEL - CROSS EXAMINATION BY MR LAWSON

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1 answer any questions Mr Lawson may have for you

2 CROSS EXAMINATION BY MR LAWSON

3 Q Just a few So we are talking about --- You heard your
4 son testify You were in the courtroom Is that
5 correct? So, it wasn't 8 00 or 9 00 in the morning, was
6 it, it was much later on up in the day, probably closer
7 to 12 00 that day

8 A It was about 9 30 when I got the phone call, I think

9 Q Okay But it was up, 11 30, 12 00 by the time you got
10 there?

11 A Correct

12 Q By the time the Sheriff's Department was called, it was
13 like 1 28 or something like that, would be about right
14 Is that correct?

15 A I think so

16 Q I mean, if you got there around 11 30, 12 30, 1 30, you
17 were there two hours Is that about right? Okay Now,
18 so within the same day, as I understand it, this was
19 February 23, correct?

20 A Correct

21 Q Law enforcement was contacted?

22 A Correct

23 Q Ms Williamson, talked with law enforcement She talked
24 with both Officer Creel from the City Police Department
25 and Officer Sumersett from the Sheriff's Department?

AGNES POSTON CREEL - CROSS EXAMINATION BY MR LAWSON

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1 A Correct

2 Q And as far as you know, intended to have a rape kit
3 done, is that correct?

4 A I reckon she went to the hospital for that I don't
5 know

6 Q Okay But you had mentioned it, is that correct?

7 A Right

8 Q Okay And as far as you know she was going to do that

9 A Yes

10 Q At the time that you arrived, which would have been as
11 you say 11 00, she still had on the same clothes?

12 A Yes

13 Q Or presumably She had on blue jeans that had mud on
14 them, and a shirt Was there mud on the shirt?

15 A I didn't see any mud on the shirt

16 Q The bruises on the legs, she said she pulled up her
17 britches and showed you Where were the bruises on ---
18 Were they up here or down on her shin?

19 A Down there

20 Q Down here on the shin She didn't show you --

21 A I didn't see that far up, no

22 MR LAWSON Okay That's all Thank you, Your Honor

23 MS PARR Nothing further from this witness, Your
24 Honor

25 THE COURT You can step down

AGNES POSTON CREEL - CROSS EXAMINATION BY MR LAWSON

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1 **MS PARR** Your Honor, at this time The State would
2 call Dena Seidler

3 **THE COURT** All right

4 **MS PARR** Your Honor, they are bringing her up from
5 downstairs

6 **THE COURT** Okay

7 **MR LAWSON** Can we take a brief break? Your Honor,
8 can I approach for one second?

9 **THE COURT** You can do it We can just take a break
10 They are bringing a witness, you know, it just take twelve
11 and a half minutes

12 (Whereupon, the jury exits the courtroom at 10 53 a m)

13 (Whereupon, a bench conference was held)

14 (Whereupon, the jury enters the courtroom at 11 06 a m)

15 **MS PARR** Your Honor, at this time The State would
16 call Dena Seidler

17 **THE COURT** All right

18 **CLERK OF COURT** If you will, ma'am, go to the witness
19 stand

20 **DENA SEIGLER,**

21 **BEING DULY SWORN TESTIFIES AS FOLLOWS**

22 **CLERK OF COURT** Please be seated State your full name
23 of the record

24 **MS SEIDLER** Dena Doyle Seigler

25 **DIRECT EXAMINATION BY MS PARR**

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

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1 Q Ms Seidler, where do live?

2 A In Florence

3 Q And how long have you been in Florence?

4 A All my life

5 Q And how old are you?

6 A Forty-two

7 Q And are you employed?

8 A Not at this time

9 Q Okay Why are you not employed at this time?

10 A I just haven't found anything else to do right now

11 Q Okay Now where were you last employed?

12 A At the Wooden Nickel

13 Q And when was that employment?

14 A Probably from July up until September of this year

15 Q Okay And so how long did you work for the Wooden
16 Nickel?

17 A Probably about a year

18 Q And what did you do for the Wooden Nickel?

19 A I was the bartender

20 Q Now I think you are having some medical problems now, is
21 that correct?

22 A Yes, ma'am

23 Q Okay What is the nature of those?

24 A I have two herniated discs, and degenerative joint disc
25 disease in my back

1 Q Okay Now, you said that you worked as a bartender
2 there?

3 A Yes, ma'am

4 Q Okay And now what other kinds of employment have you
5 had?

6 A I've worked in the medical office for five years before
7 I started bartending

8 Q Okay Now on February 22, 2008, where were you working?

9 A At the Wooden Nickel

10 Q Now, I believe that was a Friday, is that correct?

11 A Yes, ma'am

12 Q And what time did you go to work that day?

13 A I went in at 7 00

14 Q 7 00 a m or 7 00 p m ?

15 A P M , afternoon

16 Q Okay And what time did you get off?

17 A Between two and three, probably

18 Q Now, on that particular day, when you went to work,
19 would you please tell us about how many people were
20 there?

21 A There were probably, maybe fifteen, twenty

22 Q Okay

23 A What I call a bar full, but that's just at the bar

24 Q And on that particular day --- First of all, do you know
25 LeGrand Poston?

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

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- 1 A Yes, ma'am
- 2 Q Okay And did you see him there that day?
- 3 A Yes, I did
- 4 Q Okay And where was he?
- 5 A He was sitting at the bar
- 6 Q And did you see anyone else there with him?
- 7 A Yes, ma'am His boss-lady, I think is who she is
- 8 Q Okay And you said his boss lady --
- 9 A That's how I was introduced to her, yes, ma'am
- 10 Q Okay And do you know her name?
- 11 A No, ma'am
- 12 Q And do you see her in the courtroom today?
- 13 A Yes, ma'am
- 14 Q Where is she?
- 15 A She's right there in the middle
- 16 Q Okay Ms Williamson?
- 17 A Yes, ma'am
- 18 Q So, you saw Kim at the bar with Ms Williamson?
- 19 A Yes, ma'am
- 20 Q Did you see Ms Williamson when she came in?
- 21 A Yes, I did
- 22 Q Okay Do you recall what time that was?
- 23 A No, I'm not real sure about that It was before I
- 24 actually went to work, so it was right around 7 00
- 25 probably

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

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1 Q Okay But did you see her later in that evening?

2 A Oh, yes, ma'am

3 Q Okay And where was she and LeGrand at the Wooden
4 Nickel?

5 A At first they were on this end of the bar

6 Q Okay I am going to show you a diagram that may help
7 Now I know, Ms Seigler, you said you were having some
8 medical problems, can you --- Is it okay for you to walk
9 down?

10 A Uh-huh They were right here

11 Q And I am going to let you use this pointer

12 A Right here

13 Q That's when you first saw them?

14 A Uh-huh

15 Q Okay And then where did you see them later?

16 A Then later they were right here

17 Q This is the last two --

18 A -- Uh-huh --

19 Q -- seats?

20 A Uh-huh

21 Q All right And had you seen Ms Williamson before?

22 A Never

23 Q And, so you said, who introduced you to her?

24 A LeGrand

25 Q And when they were seated there, how long were they

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

171

1 there, to your knowledge?

2 A At that end of the bar?

3 Q Yes, at the end

4 A It's hard to say

5 Q There were other stuff going on?

6 A When I started working so, I, you know, didn't really

7 --- They were there for a while though, I mean --

8 Q Now you were serving them alcohol or drinks, is that

9 correct?

10 A Yes, ma'am

11 Q Do you recall how much you served Ms Williamson?

12 A All she drank was beer, and it was probably just, a few

13 beers She had no hard alcohol No liquor drinks

14 Q Okay So you served her a couple of beers?

15 A Beers, was all that I served her, yes, ma'am

16 Q Okay And what about LeGrand?

17 A They were drinking tequila

18 Q Okay And now did you see the Defendant that night?

19 A Yes, I did

20 Q Okay Where did you see the Defendant?

21 A He came in later with his girlfriend, and they were at

22 the same end of the bar that I just showed you where

23 LeGrand and Ms Williamson, were at

24 Q Okay And when he came in, you said that it was he and

25 his girlfriend, is that correct?

1 A Right

2 Q And do you know the girlfriend's name?

3 A Mona

4 Q Okay And how long were they down at the end where
5 LeGrand and Ms Williamson were?

6 A Just long enough to get their drinks and then they
7 walked off

8 Q Okay So, they just ordered drinks and walked off?

9 A Yes, ma'am

10 Q Okay And do you know where they went in the bar?

11 A I don't

12 Q Okay Now, did you see the Defendant later on at the
13 bar?

14 A Yes, ma'am

15 Q And, please tell us about that

16 A Ms Williamson was at the end of the bar where I just
17 showed you, and he came over and was speaking with her
18 I could not hear what the conversation was about, but
19 they were talking, and then LeGrand came over And from
20 what I could --- I could tell that he didn't want them
21 two talking, but I didn't actually hear what was said

22 Q Okay

23 A But, I could tell that there was a little tension there

24 Q Okay Now, was the Defendant standing?

25 A Yes, ma'am

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

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- 1 Q Okay
- 2 A And, she was seated
- 3 Q Okay And did LeGrand sit right beside her?
- 4 A Yes, ma'am
- 5 Q Okay And, so you said that he had been talking to her?
- 6 A Yes, ma'am The three of them were talking
- 7 Q The three of them were talking?
- 8 A Yes, ma'am
- 9 Q And do you know how long that lasted?
- 10 A Maybe about thirty minutes or so They did a couple of
- 11 shots, him and LeGrand Like I said she did not have
- 12 any alcohol She was drinking beer
- 13 Q Okay All right And, do you know what the
- 14 conversation --- Did you hear the conversation between
- 15 them?
- 16 A No, ma'am I didn't hear any of the conversation
- 17 Q And at any point did you see Ms Williamson get up?
- 18 A They walked back to the pool room
- 19 Q Okay Now, where is the pool room And, you can just
- 20 point it out with the laser pointer
- 21 A Back here There are two back there
- 22 Q Okay
- 23 A And this is the doorway where you go in right there
- 24 Q Okay
- 25 A From the bar

1 Q Okay Now, is there an opening there? Is it a full
2 wall or what is it?

3 A No ma'am, it's about a half a wall and then it's got,
4 you know, there is two opening spaces there

5 Q Okay So you can see?

6 A Yeah, you could see probably about from here up from the
7 bar

8 Q Okay And so who went back to the pool area?

9 A Ms Williamson and the Defendant

10 Q Okay And do you know how long they were back there?

11 A I really didn't pay attention

12 Q Now, did you see LeGrand go back there at any point?

13 A I don't really remember if he did or not I know he was
14 still in there

15 Q Okay And then at what point did you see Ms Williamson
16 again at the bar, or did you?

17 A When she was leaving

18 Q Okay

19 A She walked out the door, then LeGrand walked out, and
20 then the Defendant right behind them

21 Q Okay Now, before we get there, when she finished at
22 the pool table, did they come back to the bar area to
23 your recollection?

24 A No, ma'am Not that I remember, now they may have I
25 was very busy The next time I remember seeing her, she

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

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1 was walking out the door, out the front door

2 Q Okay All right To your knowledge, did LeGrand leave
3 before her?

4 A I think he left after her

5 Q Okay, but you're not sure

6 A I'm not positive about that, no, ma'am I could be
7 wrong about that

8 Q Okay Now, who did she leave with to your knowledge?

9 A She was by herself She walked out by herself

10 Q Okay And then who walked out?

11 A I'm thinking LeGrand, and then Mr Evans walked out
12 after --- I mean, it was like two second, he was right
13 behind her

14 Q Okay When you say being the Defendant, right behind
15 her?

16 A Right, yes, ma'am

17 Q Now, did you have any conversation with the Defendant
18 that night?

19 A None other than, he had told me how nice I was, the
20 weekend I --- They had come in the weekend before, and
21 that they had enjoyed it, and I was very nice to them,
22 and that is why they decided to come back And that is
23 all that I spoke to him about

24 Q Okay Do you know how much he had to drink?

25 A I couldn't give you an accurate amount, no, ma'am

1 Q But how did he appear to you?

2 A Okay

3 Q Did you see him touching Ms Williamson that evening?

4 A No, ma'am I did not

5 Q Okay Did his leave his girlfriend Mona, and come back
6 at the bar, at any time?

7 A He came back --- Well, when he was up there before she
8 was not with him I did not see them together again,
9 other than when they first came in together

10 Q Okay And so --- And the Defendant was up at the bar
11 where LeGrand and Ms Williamson were?

12 A Right Yes, ma'am

13 Q Okay And how did that appear to you?

14 A I felt like, kind of, that maybe she didn't want him
15 there, but she didn't really know, you know, how to
16 approach him, or say anything I could tell there was a
17 little tension there

18 Q When you say, they, who were you referring to?

19 A Ms Williamson I could tell that she probably, you
20 know, really didn't want to talk with him, but she had
21 never been in there before, and just, I guess, didn't
22 know what, you know, what to say

23 Q Okay So, that led you to the impression that she
24 didn't want, really want to --

25 A -- Right Yes, ma'am,

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

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1 Q -- Want to talk to him

2 A Because, I was trying to watch, you know, that nothing
3 was going to happen, right in there

4 Q Okay

5 A As best as I could, you know

6 Q Okay And what gave you that impression?

7 A I could just --- I could just tell I mean from
8 working, you know, in there like that, you kind of know
9 when somebody wants to talk to somebody, or somebody
10 doesn't want to talk to somebody

11 Q Okay

12 A I just had a feeling

13 Q That she did not want to talk to him?

14 A Right

15 Q Okay Did you ever see Mona come up to him while he was
16 standing up there?

17 A No, ma'am

18 Q Do you recall how many drinks you served the Defendant?

19 A I don't remember exactly, no

20 Q Now, how close was the Defendant when Ms Williamson
21 left out to leave?

22 A How close?

23 Q How close was he to her when she left?

24 A He was probably only like three steps behind her She
25 went out the door and boom, boom, he was out the door

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

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1 Q Okay

2 A I mean it was that quick

3 Q Okay Now, do you have any way of knowing whether, Ms
4 Williamson knew he was behind her?

5 A From what I could tell, I wouldn't have thought she would
6 have, no, ma'am I mean, it was not like they had left
7 together She was just, you know, she was leaving and
8 then LeGrand walked out, and then he was right behind
9 them

10 Q Now at any point did you see Ms Williamson dance?

11 A No, I did not

12 Q Okay And so you didn't see her dancing with the
13 Defendant?

14 A No, ma'am

15 MS PARR Ms Seigler, please answer any questions the
16 Defense may have for you

17 Q (By Ms Parr) One more, please Ms Seigler, I am
18 going to show what has been entered into evidence as
19 State's Exhibit Number 7-A Do you recognize that?

20 A Yes, ma'am That is our bar

21 Q And where was Ms Williamson and LeGrand been seated?

22 A At the end, right there where the popcorn machine is,
23 right there where the door is open There is the two-
24 chairs right there is where they were at

25 Q Okay And, where did the Defendant come and stand?

DENA DOYLE SEIGLER - DIRECT EXAMINATION BY MS PARR

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1 A He was like right behind the two chairs where they were
2 seated there She was right there, and LeGrand was
3 right there, and Mr Evans was like right there behind,
4 you know, in between the two of them

5 Q And I am going to show you State's Exhibit 7-D Do you
6 recognize --

7 A -- Okay That is the front of the bar, yeah

8 Q And where would you have been?

9 A Right behind the bar in the middle I am, you know,
10 back and forth the whole --- back here From this end
11 to that end That is the other end right there

12 Q Okay And that is the L-shaped end?

13 A Yes, ma'am

14 Q And State's Exhibit 7-C, do you recognize that?

15 A Yes, ma'am Now back here, back there that is where the
16 pool room is That is the Kareoke right there

17 Q And 7-D?

18 A That's the same other than there is the --- This is
19 entrance walking into the pool room right there

20 Q And 7-E?

21 A Okay, that is the table right there That's the women's
22 bathroom right there This right up here, would have
23 been where the L-shaped was at You come out right into
24 there

25 Q Now what is that?

1 A That's their bowling machine

2 Q Okay Did you see anyone seated at that table there
3 that you recall?

4 A Not that I recall I know that Mona and Joy were
5 bowling at the bowling machine, but I never saw them
6 sitting at the table

7 Q And State's Exhibit 7-F?

8 A Okay, that is in the pool area in the pool room That's
9 all that in there is our pool room

10 Q And 7-G?

11 A That is also the pool room

12 Q Those are the two tables?

13 A Two tables, yes, ma'am

14 Q And 7-H?

15 A That is the pool room

16 Q Now did you --- After Ms Williamson --- And you saw the
17 Defendant go out right after her, did you make a comment
18 thinking something was going to happen?

19 A Yes, ma'am I did I told the owner's girlfriend that I
20 thought, you know, somebody might want to check outside,
21 because I didn't know maybe if they might have gotten
22 into a confrontation outside, because I had made it
23 clear to LeGrand that I didn't want any problems inside
24 the bar So when they all went out there, I thought
25 maybe that, you know, maybe something was going to

DENA DOYLE SEIGLER - CROSS EXAMINATION BY MR LAWSON

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1 happen out in the parking lot

2 Q But, now this was in --- You said that Ms Williamson
3 went out and the Defendant went out right after her?

4 A Right, yes, ma'am

5 **MS PARR** All right Nothing, further Please answer
6 any questions the Defendant may have

7 CROSS EXAMINATION BY MR LAWSON

8 Q And then LeGrand Poston, correct?

9 A Pardon me?

10 Q And then LeGrand Poston?

11 A Ms Williamson, LeGrand and then Mr --- the Defendant

12 Q Okay All three at the same time?

13 A Well one went out --- They didn't go out together One
14 went out, and a couple of seconds later one when out

15 Q All right Who went out first?

16 A Ms Williamson

17 Q Who sent out second?

18 A LeGrand

19 Q Third?

20 A And then Mr Evans

21 Q So, LeGrand was between Ms Williamson and Mr Evans
22 when they left?

23 A Well she was already completely out, and then he went
24 out, and then the Defendant Yes, sir

25 Q All right Was there, in your opinion, had been ---

1 could there have been any way for the Defendant to get
2 to Ms Williamson without going by LeGrand Poston?

3 A Well, I don't know about outside, because like I said
4 they --- the three of them went out separately

5 Q Okay

6 A I mean he couldn't have gotten to her unless he ran slap
7 over him to get to her, no, but they went out
8 separately

9 Q Okay Now, do you recognize this diagram?

10 A Yes, sir

11 Q State's Exhibit Number 2 It is a diagram of the
12 outside setting?

13 A Yes, sir

14 Q All right If this is the Wooden Nickel where
15 approximately was the door to the Wooden Nickel?

16 A Right in the front here

17 Q Okay

18 A It would be like right there, right in the middle

19 Q Okay Right in the middle --

20 A -- Yes, sir --

21 Q -- would go to get around to this parking lot, you have
22 to go out and around almost half again as far if you
23 were park half way up here It's almost the same
24 distance

25 A Well, if she was on the side, no, because there is a

DENA DOYLE SEIGLER - CROSS EXAMINATION BY MR LAWSON

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1 little ramp here and you just --- I mean it's like right
2 there It's not actually turning around the building

3 Q Okay But you have to go --- You go out the door to go
4 cross the front of the building --

5 A -- Just a little ramp And there is the side parking
6 lot, yes, sir

7 Q Side parking lot

8 A Yes, sir

9 Q Now, on Friday nights y'all had Karaoke at the bar?

10 A Yes, sir

11 Q It is extremely loud?

12 A Oh, yes

13 Q Extremely loud And the inside, which is set up like
14 the diagram you saw before, the general diagram The
15 tables don't always stay set up that way do they?

16 A Oh, no, they could be anywhere

17 Q They could be moved around?

18 A Yes

19 Q And usually on Karaoke night they are actually moved
20 around so people can dance?

21 A Yes, sir

22 Q And people do dance?

23 A Yes, sir

24 Q You didn't see any particular people dance on this night
25 that you recall?

1 A No, we don't really --- don't have a lot of dancing,
2 but, you know sometimes, but it's not really a lot

3 Q Now State's Exhibit 6-A Can you identify --

4 A That is the front of the bar

5 Q That is the front of the bar?

6 A Yes, sir

7 Q That is exactly how it was at that time isn't it?

8 A Yes, sir

9 Q And the parking lot on the side is off to the --

10 A -- You come right off here, and then it's right here on
11 the side of the building

12 Q So, I mean there is a number of feet --- about the width
13 of the building

14 MS PARR Your Honor, we would ask the Defense Counsel
15 to refer to which picture

16 MR LAWSON I did 6-A

17 MS PARR Okay

18 Q So It's about as wide as the front on the side --- is
19 that what you --

20 A Yes, sir

21 Q Okay And that's 6-A And Dena, I know you were
22 working pretty much every night?

23 A Yes, sir

24 Q As much as you could Were you the only bartender, or
25 would somebody else help you from time to time?

DENA DOYLE SEIGLER - CROSS EXAMINATION BY MR LAWSON

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1 A Well we had one, that come from --- We opened at 12 00
2 on Friday, from 12 00 to 7 00, but other than that I was
3 --- because we opened at 4 00, I was the only one that
4 worked

5 Q Okay

6 A Friday was the only time we had another bartender, and
7 on Saturday night

8 Q And on this particular night, and on most nights is the
9 --- James Langton?

10 A Yes, he is the owner

11 Q And is he normally there?

12 A Yes, sir

13 Q And does he help with the things as well?

14 A No, sir, he does the Karaoke He's never behind the
15 bar

16 Q That's on Friday's?

17 A Well he doesn't work any time

18 Q He cooked a hamburger one day

19 A Well, he does that, but as far out there, serving drinks
20 or, you know, assisting with us or anything, no, he
21 doesn't do any of that

22 Q Okay And when people are sitting up at the bar where
23 you are, to see over into the rest of the bar is not an
24 easy thing to do is it?

25 A Yeah, you couldn't see everything because it's such a

1 small place in there

2 Q Okay And now on direct, they ask you if you thought
3 something was about to happened Did you think there
4 was something about to happen?

5 A I thought that LeGrand was getting a little, you know,
6 agitated, maybe for the Defendant speaking with her,
7 because you could tell that she was a little uptight,
8 and I think he was more or less trying to protect her,
9 is the way I, you know, I seen it

10 Q All right Do you recall talking to Helen Cain sometime
11 right after this incident happened?

12 A Yes, sir

13 Q Do you recall, giving a statement?

14 A Yes, sir

15 Q Have you reviewed that statement?

16 A I hadn't until, maybe a couple of weeks ago

17 Q Okay And, you've looked at it in the last couple of
18 weeks?

19 A Well when they gave it to me I read over it, yes, sir

20 Q And, did that refresh your recollection of what
21 happened?

22 A Some, yes

23 Q So, if I recall in the statement you had indicated that
24 LeGrand had gone outside at some point, and that Ms
25 Williamson and Mr Evans, were back at the pool area?

DENA DOYLE SEIGLER - CROSS EXAMINATION BY MR LAWSON

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1 A Right

2 Q And that LeGrand came back in and asked where she was?

3 A Right

4 Q Then he goes to the back?

5 A To the back

6 Q That's when you said --

7 A -- That's when I was thinking something was probably,
8 you know, getting, you know, happened and I didn't want
9 it to happen I mean, as far as a fight is what I was
10 thinking

11 Q And what did you see when LeGrand went to the back,
12 because you were watching at that time?

13 A Well like I said, I couldn't see anything but from here
14 up I just saw them talking There was no --- any
15 aggressiveness or anything, I was just concerned, and
16 was watching to make sure that didn't happen

17 Q Okay And then what was the next thing you observed?

18 A Them leaving

19 Q All three of them?

20 A Right

21 Q And so it's your recollection that LeGrand and Ms
22 Williamson --- Ms Williamson actually left before
23 LeGrand left as far as getting out of the door?

24 A Out the door, yes, sir, and then LeGrand and then --

25 Q When you are tending bar --- I mean, I want tell

1 anybody Do you drink while you're tending bar?

2 A Usually not, we're not allowed to, no

3 Q Okay On this particular night do you recall?

4 A No

5 Q You have Coke while everybody else is --

6 A -- Or if you've got time to stop and drink anything I
7 mean I was very busy but no, we're not allowed to drink
8 while we're working

9 Q Okay Alcohol?

10 A Right Yes, sir

11 Q What time do you recall, if you recall, Ms Williamson
12 getting there?

13 A It was just before I went on to work, so probably
14 between 6 30 and 7 00, because she was only there just a
15 minute and I had to go right to work

16 Q And, then what time was it that they left?

17 A I don't remember exactly

18 Q Okay What time y'all close on Friday's?

19 A We normally close at two, sometime we may go over til
20 three

21 Q I think I've heard that you would stay open as long
22 as there were people there on occasion So it could
23 extend --

24 A Usually we don't go past 3 00 He's going to close
25 whether there are people in there or not, usually after

DENA DOYLE SEIGLER - REDIRECT EXAMINATION BY MS PARR

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1 three

2 Q Okay

3 A Because you can't serve alcohol, hard liquor after 2 00
4 so then that kind of --- people leave

5 Q Well it's time to quite at 2 00

6 A Exactly

7 Q Thank you, ma'am

8 REDIRECT EXAMINATION BY MS PARR

9 Q One question Ms Seigler, you said you remember seeing
10 her right before you went on before 7 00?

11 A Yes, ma'am

12 Q Do you know whether she left and came back or what?

13 A I don't really remember

14 Q Okay So, you don't know whether she had been there
15 continuously from 7 00, til she left that evening?

16 A Right I don't know that for sure No, ma'am

17 Q Okay So you didn't see her that whole time?

18 A No, ma'am

19 Q Okay So it is possible that she --

20 MR LAWSON Objection Speculation

21 THE COURT That's right That's a jury argument,
22 later point

23 MS PARR Okay Thank you

24 MR LAWSON No objection, Your Honor

25 THE COURT You can step down

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

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1 **MR LAWSON** I assume she was going to ask for her to
2 be released so I don't have any objection

3 **MS PARR** May she be released, Your Honor?

4 **THE COURT** Okay

5 **MS PARR** Your Honor, at this time The State calls
6 Mona LaBranche

7 **MONA LABRANCHE**

8 **BEING DULY SWORN TESTIFIES AS FOLLOWS**

9 **CLERK OF COURT** Please be seated State your full name
10 for the record

11 **MS LEBRANCHE** Mona LeBranche

12 **DIRECT EXAMINATION BY MS PARR**

13 Q Ms LeBranche, where do you live?

14 A 1439 Goff Terrace Boulevard

15 Q And how long have you lived there?

16 A About three years

17 Q And, where are you originally from?

18 A Boston

19 Q And how is it that you ended up in Florence?

20 A I came here for dental originally and then ended up
21 liking it here, so I moved here

22 Q Are you employed?

23 A No, I'm not

24 Q Okay And when were you last employed?

25 A About a week ago

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

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1 Q Okay And where were you employed?

2 A Bi-Lo's

3 Q Now, at one point were you employed at Hancock's Fabric?

4 A Yes, I was

5 Q Okay And what did you do for Hancock's Fabric?

6 A I was a sewing instructor

7 Q Now do you know the Defendant, Stacey Evans?

8 A Yes, I do

9 Q And how is it that you know him?

10 A We met at the Shell Gas Station, that is up the street
11 from me

12 Q And would that be the Shell Station that is on Cashua?

13 A Yes, in front of Forrest Lake

14 Q Okay And I going to show you what has been admitted
15 into evidence as State's Exhibit Number 10-A, do you
16 recognize that?

17 A Yes

18 Q And what is that a photograph of?

19 A That is the Shell Gas Station right up the street from
20 my house, my condo

21 Q Okay And, what about State's Exhibit 10-C, do you
22 recognize that?

23 A The Shell Gas Station, that is the side of it

24 Q Okay And 10-B?

25 A I really --- The front of it

1 Q Okay If you're not sure you --

2 A -- I'm not sure

3 Q Okay All right, so you recognize that?

4 A Yeah That is the Shell Gas Station where I live, I
5 live across the street

6 Q Okay There is a laser pointer Will you point to
7 where you would live, where you live there?

8 A Where do I live?

9 Q Yes, in relation

10 A Okay, I live like, down the street, over here across the
11 street, down the street

12 Q Okay

13 A On Gold Terrace

14 Q All right I am going to show you what has been marked
15 as State's Exhibit 15 Do you recognize that?

16 A Yeah 1439 that is where I live

17 Q What about 15-B, do you recognize that?

18 A Yeah, that's on the side of my condo, on the street

19 Q 15-C?

20 A That is in the front

21 Q And 15-D?

22 A That's in the back

23 MS PARR Now The State would move to enter Exhibit
24 E15-B, 15-C and 15-E into evidence

25 MR LAWSON No Objection

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

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1 THE COURT All right

2 WHEREUPON, STATE'S EXHIBIT

3 NUMBERS 15-B, 15-C AND 15-E WAS

4 MADE PART OF THE RECORD

5 Q And where is your condo in relations to the Shell
6 Station you say?

7 A Like down the street from there, across the street down
8 the street a little bit

9 Q Okay

10 A Down Gold Terrace

11 Q And now, have you lived in that condo all three years?

12 A Yes, I have

13 Q Now, how long have you known the Defendant --- or when
14 did you meet the Defendant?

15 A I knew him for about four months

16 Q Okay When did you meet him?

17 A About thirteen months ago

18 Q Okay And do you remember what month that was?

19 A I believe it was --- I think it was September, I'm not
20 sure

21 Q Of what year?

22 A Of last year

23 Q Of 2007? Was it 2007?

24 A Yes

25 Q Okay And where did you meet the Defendant?

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

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- 1 A I met him at the Shell Gas Station
- 2 Q Okay
- 3 A At the telephones
- 4 Q All right And did y'all just start talking or what
- 5 happened there?
- 6 A Well, I was just talking to a friend on the phone, and
- 7 he was on the phone trying to get a taxi or something to
- 8 that fact, and we just started talking That was about
- 9 it, cause I was having problems on the phone
- 10 Q All right How many times did you see the Defendant
- 11 after that?
- 12 A For a couple of days after that
- 13 Q And where did you see him?
- 14 A He told me he was staying at the Red Roof Inn, so I went
- 15 there with him
- 16 Q Pardon me?
- 17 A I went to the Red Roof Inn with him
- 18 Q Okay And, how long after you met him did you go to the
- 19 Red Roof Inn with him?
- 20 A A couple of hours after I met him
- 21 Q Okay So, you went right after you met him?
- 22 A Yeah
- 23 Q Okay Now, at some point did he move in with you?
- 24 A Yes, he did
- 25 Q Okay And, do you recall when he moved in with you?

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

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1 A Shortly after I met him

2 Q Okay And how did that come about?

3 A Well, he had no place to stay He was paying at the Red
4 Roof Inn, and I could-of used the money, so I told him
5 that he could come live with me, because I had a spare
6 bedroom

7 Q Okay And so it started out as a financial --

8 A Yeah

9 Q Okay Then after that did you become romantically
10 involved with him?

11 A Yeah

12 Q Now in February of 2008 --- February 22nd to be exact,
13 did you have an occasion to go to the Wooden Nickel?

14 A Yes, that was on a Friday night

15 Q All right And, what time did you go to the Wooden
16 Nickel that night?

17 A About 9 00

18 Q Okay

19 A We took a taxi

20 Q Okay When you say we, who went?

21 A Mr Evans and I

22 Q Okay Had you been there before?

23 A Yes

24 Q When was the last time you had been there?

25 A The week before

1 Q Okay And who had gone with you at that time? Did you
2 go alone?

3 A Stacey did

4 Q Okay And, so, when you got there tell us what
5 happened, or where did you go when you got there?

6 A Well, when we got there Stacey and I were playing pool,
7 and then he was playing with someone else, and I went to
8 go sit by the bowling game and that's when he came to
9 sit with me for a very short time And then he went to
10 go talk with LeGrand and Gloria, is that her name, with
11 LeGrand and Gloria At the time, I didn't know her

12 Q Okay Did you know whether he knew them at that time?

13 A He said, he had told me that he knew LeGrand

14 Q Okay So, he went up to the bar, is that correct?

15 A Yeah

16 Q Where they were seated?

17 A Yeah

18 Q Now how long was he up there?

19 A For a couple of hours

20 Q Okay And what were you doing at that time?

21 A I was sitting alone waiting, singing Karaoke and waiting
22 for him

23 Q Okay So then what did you do after a while?

24 A After a while I got up and started playing the bowling
25 game

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

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1 Q Now at any point did you go up to him? Did you go up to
2 the bar?

3 A Yes, I did

4 Q Okay

5 A I went to Stacey Evans, and I went to him and told
6 please come sit with me, come sit down with me, and he
7 just kind-of shoved me away saying, you know, go back
8 and I'll be there in a minute, something to that effect

9 Q Okay And, how was his tone with you?

10 A Not yelling or anything, just straight forward

11 Q Okay And did you go back to where you came from?

12 A Yeah, I went back to the table, that I was sitting at by
13 myself

14 Q Okay Now did he ever come back over there?

15 A No

16 Q Okay And so what did you do as a result?

17 A As a result I ended up getting a ride by Ms Joy and she
18 was playing a game with me too, so I offered her ten
19 dollars to give me ride home, and she said sure She
20 was supposed to be giving LeGrand a ride home, but
21 instead she gave me a ride home I had just met her
22 that night also

23 Q Okay

24 A So she gave me a ride home

25 Q So she took you home instead of LeGrand?

- 1 A Uh-huh
- 2 Q All right Now was Stacey drinking at the bar?
- 3 A Yes
- 4 Q And do you know what he was --
- 5 A He was standing
- 6 Q Pardon me?
- 7 A He wasn't sitting at the bar he was standing
- 8 Q Okay And where was he standing?
- 9 A He was standing in between Gloria and LeGrand
- 10 Q Do you recall what time you left?
- 11 A It was about 1 30 when I got home so probably about
- 12 quarter past one It takes about fifteen minutes
- 13 Q Okay And do you know how much the Defendant had to
- 14 drink?
- 15 A I don't know Every time I looked up though, he had a
- 16 full glass He kept drinking I know that He was
- 17 drinking quite a bit, from what I could see
- 18 Q All right And, so you left and went home Did the
- 19 Defendant go with you when you left?
- 20 A No
- 21 Q When was the next time you saw the Defendant?
- 22 A The next morning
- 23 Q Okay Do you recall what time that was?
- 24 A I didn't --- I believe it was about 8 30, 9 00 in the
- 25 morning I woke up

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

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1 Q Now did the Defendant have a key to your condo?

2 A No, he didn't I left a key out

3 Q Okay Where did you leave your key?

4 A I left the key under a little --- a little mat that I
5 have in front of my door, and I left so it was on to top
6 of the door step ledge so he could figure out that there
7 something underneath there

8 Q Do you know what time he came in that night?

9 A No, I don't

10 Q So, when you saw him that morning, you said about 8 30
11 or 9 00?

12 A Yeah

13 Q And where was he?

14 A He was on the couch, fully dressed

15 Q Okay And did you think anything of it?

16 A I just --- I was kind of in shock, to see him sitting
17 there, sitting up straight, you know, looking so pale I
18 just didn't know --- I didn't know what to think really
19 I was just surprised

20 Q All right And, so seeing him, like that, what did you
21 do?

22 A I asked him what was wrong

23 Q Okay Did he tell you anything?

24 A I asked him what time he had gotten in, he said, he had
25 gotten in at 4 00 in the morning

- 1 Q And did you --- did he change clothes?
- 2 A At one point he did, but I don't remember when
- 3 Q Okay Now, did he stay around the house the rest of
- 4 that day, I guess that's a Saturday?
- 5 A No No, he left for a short time
- 6 Q Okay
- 7 A For about an hour, hour and a half
- 8 Q And do you know where he went when he left?
- 9 A No, I don't He told me he had to go out to think out
- 10 some things
- 11 Q And when came back, what was his demeanor at that time?
- 12 A He had told me what happened
- 13 Q Okay Now, you said --- Did you observe his clothing?
- 14 A Not really
- 15 Q How was he acting when he came back?
- 16 A Real suspicious-like He kept looking at the door I
- 17 have a French door with blinds going up, vertical blinds
- 18 in front and he kept looking out and looking out ---
- 19 Just was acting really weird
- 20 Q Okay And what did you do as a result of that?
- 21 A I kept asking him what was wrong, you know, why does he
- 22 keep looking out the door, and he told me what had
- 23 happened
- 24 Q Did law enforcement come to your house?
- 25 A Yes, about five days after It was a Wednesday

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

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1 Q Okay And what happened when law enforcement came?

2 A They kept knocking on the door about ten times and then
3 wouldn't --- The Defendant wouldn't let me answer the
4 door, because I kept telling him to open the door, open
5 the door, and he wouldn't let me open the door So,
6 finally I open the door and it was --- it was the police
7 force

8 Q Okay Now you said, that he wouldn't let you open the
9 door How did he stop you from opening the door?

10 A He was standing in front of it, looking out the key hole
11 --- the peep hole

12 Q All right So, he wouldn't let you open the door
13 What, if anything, did he have in his hand?

14 A He had like --- it was a multi tools type of thing It
15 has like a little Jack knife, it has a little screw
16 driver, phillips driver, a little pair of scissors, it
17 has a little bit of everything in it and he had this in
18 his hands, and I couldn't figure out why

19 Q Pardon me?

20 A I couldn't figure out why he had this in his hands

21 Q Did he have this in his hands when the police were
22 knocking at the door?

23 A Yes

24 Q Now at any point did the Defendant try to leave?

25 A He wanted to cut my screen to my screened in pouch, and

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

202

1 wanted to jump, and I wouldn't allow him to I told
2 him, no

3 Q You wouldn't allow him to?

4 A Cut out my screen

5 Q Okay What floor do you live on?

6 A Second floor

7 Q Okay Now, was this when law enforcement was at the
8 door when he wanted to cut the screen and jump?

9 A Yes

10 Q And, so he didn't jump, I am assuming?

11 A No, he didn't even go close to that French door

12 Q All right And so you opened the door and law
13 enforcement came in, is that correct?

14 A Yes

15 Q And now, when they came in, did you see Investigator
16 Helen Cain?

17 A Yes, I did

18 Q And did you give them permission to search your
19 apartment, your condo?

20 A Yes, I did

21 Q Okay And what, if anything, did you give Ms Cain?

22 A I believe I gave her some clothes, a shirt, and a pair
23 of pants, and I believe some undergarments

24 Q Okay

25 A They hadn't been laundered yet

MONA LEBRANCHE - DIRECT EXAMINATION BY MS PARR

203

1 Q Okay And who did those items belong to?

2 A The Defendant, Stacey Evans

3 Q Okay I am going to show you what has been marked as
4 State's Exhibit Number 23 for identification Do you
5 recognize this?

6 A Yes

7 Q And would you talk nice and loud What is this?

8 A That is Stacey Evan's shirt

9 Q Okay

10 A The one that he wore without the hole though There was
11 no holes, or cuts, or anything

12 Q And was this the shirt he was wearing on that Friday
13 evening when you --

14 A -- Yes --

15 Q -- when y'all went out?

16 A Yes

17 MS PARR Your Honor, The State would move to enter
18 this as State's Exhibit Number 23 into evidence

19 MR LAWSON No objection

20 THE COURT Okay

21 WHEREUPON, STATE'S EXHIBIT

22 NUMBER 23 WAS MARKED AND MADE

23 A PART OF THE RECORD

24 Q And you said you gave Ms Cain that item, is that
25 correct, along with some other clothes?

1 A Yes Yes

2 Q Now, do you know what kind of shoes the Defendant had on
3 the day of this incident?

4 A They were like short boots They weren't really work
5 boots They were like hiking boots

6 Q And did you see those boots on that Saturday morning or
7 that Saturday?

8 A Yes

9 Q Okay And what condition were those boots in?

10 A They were muddy

11 Q All right And what did the Defendant do with those
12 boots?

13 A He just wore them He didn't treat them any different

14 Q Okay But they were muddy when you saw them?

15 A Yes

16 Q Were they muddy on Friday evening when y'all went to --

17 A -- No

18 Q Now had you laundered any of the clothing?

19 A No

20 Q And where were those cloths --- Where did you keep
21 your --- Where did he keep his dirty clothes?

22 A Pretty much all over the house is where I picked up
23 I'd pick them up and put some of them in the spare
24 bedroom, some to do laundry but they hadn't been
25 laundered yet

MONA LEBRANCHE - CROSS EXAMINATION BY MR LAWSON

205

1 MS PARR Okay Ms LaBranche, please answer any
2 questions Mr Lawson may have for you

3 MR LAWSON Bear with me one moment, Your Honor

4 THE COURT Okay

5 MR LAWSON May it, please The Court

6 THE COURT Okay

7 MR LAWSON Please mark it for identification, that's
8 Exhibit 1 for Identification

9 THE COURT All right

10 WHEREUPON, DEFENSE EXHIBIT
11 NUMBER 1 WAS MARKED FOR
12 IDENTIFICATION AND MADE A
13 PART OF THE RECORD

14 CROSS EXAMINATION BY MR LAWSON

15 Q Now, Ms LaBranche --

16 A LaBranche

17 Q LaBranche, excuse me Do you recognize these jeans?

18 A Yeah

19 Q Without the holes?

20 A Uh-huh

21 Q Well what are these?

22 A Those are the Defendant's jeans

23 Q These are the ones you gave to Helen Cain?

24 A Yes

25 Q And did you notice them to be muddy?

1 A No

2 Q Okay Now the boots, as I understand it, the first time
3 you saw Stacey on the morning --- the Saturday you got
4 up about 8 00, 9 00 --- 8 30, 9 00?

5 A 8 30, 9 00, 9 30, right around there

6 Q Okay And he was on the couch?

7 A Right

8 Q And he left for a while?

9 A He left in the afternoon

10 Q Okay

11 A Early afternoon

12 Q All right The mud on the boots, did you notice that
13 before he left, or after he came back?

14 A Before he left

15 Q And the shirt --- You already identified the shirt, is
16 that correct?

17 A Yes

18 Q Okay Do you know whether or not on that Saturday when
19 Stacey left, did he go to work at the Honda Shop?

20 A No, he didn't go to work that day

21 Q Okay Do you know that for a fact?

22 A I'm not positive, but I'm pretty sure he didn't go to
23 work

24 Q Okay Did he normally work on Saturday?

25 A Yes

BRENT DAVID TOWNSEND - DIRECT EXAMINATION BY MS PARR 207

1 Q From what time?

2 A I believe it was nine to one

3 MR LAWSON Okay I don't have anything further for
4 this witness

5 MS PARR Nothing further for this witness And, Your
6 Honor, we would ask that she be allowed to be released

7 THE COURT All right, you're free to go

8 MS PARR Your Honor, at this time we would call Brent
9 Townsend to the stand

10 THE COURT All right

11 BRENT TOWNSEND,

12 BEING DULY SWORN TESTIFIES AS FOLLOWS

13 CLERK OF COURT Please be seated State your full
14 name for the record

15 MR TOWNSEND Brent David Townsend

16 DIRECT EXAMINATION BY MS PARR

17 Q Mr Townsend, are you the owner of the Shell Station?

18 A Yes, ma'am

19 Q And how long have you owned the Shell Station?

20 A Since 2000

21 Q And where is the Shell Station located?

22 A 3154 South Cashua, on the corner of Cashua and Norwood
23 Drive

24 Q Okay And do you recognize State's Exhibit 10-A, B and
25 C?

1 A Yes, ma'am That's my store

2 Q Now, is your store outfitted with a camera system, a
3 surveillance system?

4 A Yes, ma'am I believe there is, approximately eight
5 cameras

6 Q Okay And would you please tell us --- Can you tell us,
7 where those cameras are located?

8 A The majority of them are inside the store There are
9 one --- There are two on the outside One would be on
10 the side of the store

11 Q Okay Now, this is a laser pointer up there If you
12 can --

13 A One would be right there

14 Q Okay

15 A There is no more on the outside except for underneath
16 the front door, if you had a picture of the front of
17 the station

18 Q Okay And where would the front door be in relations to
19 those pictures?

20 A It would be back over here

21 Q Okay And you said there is a camera there?

22 A There is a camera there, and there is also a camera
23 inside the store that points out toward the front doors

24 Q Okay Now, did you have an occasion to become involved
25 in this matter at the request of Helen Cain?

BRENT DAVID TOWNSEND - DIRECT EXAMINATION BY MS PARR 209

1 A Yes, ma'am, I did

2 Q And do you recall when that was?

3 A I'm not exactly sure I believe it was roughly around
4 February 28th or 29th, or somewhere in the area,
5 generally

6 Q Okay

7 A It was the middle of week early one morning around
8 11 00

9 Q Okay Now tell us about your camera system?

10 A We have a --- I don't know a whole lot about them It
11 records for up to thirty days, and then it stores it in
12 my computer, which case --- if we ever need to go back
13 and look at it, we can go back and pull up frame by
14 frame, and download it onto a disc, a compact disc

15 Q Okay Now were you contacted by Ms Cain in regards to
16 some camera footage?

17 A Yes, ma'am

18 Q Okay And what did you do as to the request of that
19 contact?

20 A Well, I was told that there was an incident that might
21 have possibly happened on our property, and I was given
22 the time spot to go back on our camera system and look
23 for anything So I went back to see if anything showed
24 up, or anybody on our property, because we do close at
25 midnight on Friday and Saturday nights And we had

1 actually had another incident also that night, it has
2 nothing to do with this case at all, but I had already
3 looked at the camera system, but had not looked during
4 this particular time I forget the hours that I was
5 asked to go back and look But anyway I went back and
6 looked at it, and sure enough I did see some activity on
7 our property I had told Ms Cain that I would check
8 She gave me a time window to look between I forgot
9 exactly what it is It has been a while back now But,
10 I was told I would have to go back and look, because of
11 the fact I am not sure if I had changed the time on our
12 camera system, because it could be an hour off because
13 of the time change earlier in the year

14 Q But had that time been off?

15 A I don't remember if it was exactly right, or if it was
16 an hour off It was --

17 Q -- But did you, in fact, locate something on your
18 system?

19 A Yes, ma'am

20 Q Now as a result of finding something, did you -- do you
21 recognize, what has been marked as State's Exhibit 17
22 for identification?

23 A Yes, ma'am That is the disc that was recorded from our
24 store

25 Q Okay And do you recognize this?

BRENT DAVID TOWNSEND - DIRECT EXAMINATION BY MS PARR 211

1 A Yeah That wasn't mine, but that is what I told Ms
2 Cain

3 Q And, so, is this the disc that you had made?

4 A That is the disc that actually I did not have the
5 capability to record the disc, so I had Bo Turner from
6 B & R Business Solutions record the disc for me

7 Q Okay And once the disc was recorded did you view it?

8 A I went back and I found the footage on there, and then I
9 found whatever time it exactly was, which I don't
10 remember But I found that on the video, and, kind of,
11 paused it right there, and then I called Mr Turner in,
12 to record it, for us

13 Q Okay And, he recorded it, while you were there?

14 A Yes, ma'am And, somewhere in between there I called
15 Ms Cain back, and I told her I did have something on
16 video, and that she would be interested in looking at
17 it, I believe

18 Q Okay

19 MS PARR Your Honor, The State would move to
20 introduce, into evidence State's Exhibit Number 16

21 MR LAWSON No objection

22 THE COURT All right

23 WHEREUPON, STATE'S

24 EXHIBIT NUMBER 17 WAS

25 MARKED AND MADE PART

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OF THE RECORD

MS PARR Your Honor, State would ask permission to publish it the jury?

THE COURT You can do it

(Whereupon, the DVD was published to the jury)

Q (By Ms Parr) And when you viewed the video what did you see?

A Well, I actually --- I thought there was another camera angle too that should have been on that disc

Q Involved in this incident?

A What I viewed when I was at my store, before it was recorded, they gave me a time period to look between, and I forget exactly the time it was, be like 13 50 or 2 50, I can't remember, because the time was off, I think it could have been off on the computer, but I'm not sure I'm not really sure But under the time they told me to look for I found a --- seem to be a full size SUV, pulling into the parking lot at that particular time Now, on the other camera angle which y'all did not unfortunately see, there it appeared that a dark colored SUV pulled up, parked on the side of our store, and it appeared that a man got out of the car, and then went across the street Now that was not on that video --- that should be on the other video that I think she is going to play, I believe That was the other part of

BRENT DAVID TOWNSEND - DIRECT EXAMINATION BY MS PARR 213

1 that footage That particular angle right there was on
2 the Norwood side, which is the side that connects
3 Alligator Road to Cashua

4 Q And so there was another side to the camera?

5 A I can't really tell from here Can I come around and
6 look? On the other video when she showed when they
7 actually pulled in, this would be an angle looking out
8 that way, I don't understand why it's not clearer than
9 that but the driveway would be right back here

10 Q Will you use the laser pointer?

11 A The driveway would be right back here, so the video you
12 saw earlier, the truck would be coming down the road
13 this way, and pulled in right about here somewhere in
14 this area

15 Q And, what is --

16 A That is the video, but that's not exactly --- When I
17 viewed it back in February or March When I viewed it I
18 could see that vehicle from that angle clearer on my
19 screen than what y'all are seeing but --

20 Q And would you describe that vehicle?

21 MR LAWSON Objection, Your Honor The jury can the
22 judge

23 THE COURT Yeah, they see whatever they see If there
24 was another video that's not here, he can't say what it
25 looked like I mean I haven't seen it, for all I know it's

BRENT DAVID TOWNSEND - CROSS EXAMINATION BY MR LAWSON 214

1 just a picture of Townsend out there raising the price of
2 gas

3 **MR TOWNSEND** That was at 6 00 in the morning

4 Q And you did provide the video --- this video to law
5 enforcement, is that correct?

6 A Yes, ma'am After Mr Turner came in and recorded it for
7 us, I believe I called the next day

8 **MS PARR** Okay Please answer any questions Mr Lawson
9 may have for you

10 **MR LAWSON** Leave that on Turn that thing back on to
11 that video to the car pulling up

12 **CROSS EXAMINATION BY MR LAWSON**

13 Q On the time that is on this is an accurate time as it
14 relates to minutes and seconds?

15 A Yes, sir

16 Q The hour may be one-hour off?

17 A The hour could have been one hour off, I'm not 100% sure
18 about that, but it's no more than fifty-nine or sixty
19 minutes off

20 Q All right Would it be backwards or forwards at this
21 point and time? Would it be actually --

22 A That would be --- The time that is up there which I
23 think says like 3 52 or 51 or something --

24 Q -- 3 51 29

25 A It would either be 3 50 or it would be 2 50

BRENT DAVID TOWNSEND - CROSS EXAMINATION BY MR LAWSON 215

1 Q 2 50, okay

2 A I'm pretty sure that that's accurate, but like I said, I
3 could be wrong

4 Q The seconds on it are accurate as it relates to running
5 footage, is that correct?

6 A Yes, sir On that video it might skip three or four
7 seconds at a time only because it's only recording
8 movement from what I understand, so --

9 Q All right So, but --- come forward, til the car pulls
10 --- The car is pulling in at 52 18, correct --- fifty-
11 two minutes and eighteen seconds, either 3 00 or 2 00 in
12 the morning?

13 A As far as I know, yes, sir

14 Q One forward, that one frame and then --- We're going
15 seconds now right?

16 A Uh-huh

17 Q Keep going Keep going, til it pulls off Stop
18 3 56 24 would be the --- 56 24 --- The original time to
19 that time, would be the time it was stopped at that
20 point?

21 A Yes, sir

22 Q That is a lapse time?

23 A Yes, sir

24 Q Okay And you didn't have anything to do with this
25 case You didn't see anybody, witness anything, or do

1 anything, talk to anybody or anything else?

2 A The only thing I know is what I --- well, I --

3 Q Of course, now February now is --

4 A Well that's not completely true Actually I have heard
5 because I do know --- I don't know him personally, but I
6 know the Defendant, Mr Evans I've seen him in our
7 store numerous times, and I do know --- I didn't catch
8 her name, Mona, I think I know her, and I do know she
9 comes and told our employees about what had happened or
10 whatever, what she talked about up here Outside of
11 that, I know nothing else

12 Q Okay Other than what you've heard?

13 A Right

14 Q You weren't a witness to anything?

15 A No, sir, I wasn't there or anything like that, no

16 Q You weren't going to say that the judge was right ---
17 Y'all were raising gas prices right regular as I recall?

18 A It was already raised pretty high, sir

19 MR LAWSON No further, questions

20 MS PARR Nothing further for this witness

21 THE COURT You can step down

22 MS PARR We would ask permission for him to be
23 excused

24 THE COURT You need to step up We may be able to
25 take another one, but I don't know We don't want to push

BRENT DAVID TOWNSEND - CROSS EXAMINATION BY MR LAWSON 217

1 the jury too much

2 THE COURT Okay, jurors, we are going to break for
3 lunch Don't talk about it and, of course, eat anywhere you
4 want, but I wouldn't go running out to the Wooden Nickel

5 Y'all, be back in an hour and fifteen minutes If you
6 can't make it back, you need to be calling in because it's
7 not nice in jail

8 (Whereupon, the jury exits the courtroom for lunch at
9 12 30 p m)

10 THE COURT We are at ease

11 (Whereupon, The Court was in recess from 12 30 p m
12 until 1 48 p m)

13 THE COURT All right, Ms Parr, what do you have?
14 What is going on?

15 MS PARR Your Honor, The State is ready to plow-on

16 THE COURT I know How many witnesses?

17 MS PARR How many witnesses today?

18 THE COURT Yeah

19 MS PARR At least four, and possibly four or six

20 THE COURT All right Well who are you planning on
21 doing tomorrow?

22 MS PARR I am planning to call the Officer that is in
23 the chain, and my SLED

24 THE COURT All right Bring them in

25 (Whereupon, the jury enters the courtroom at 1 49 p m)

NANCY C BUXTON, R N - DIRECT EXAMINATION BY MS PARR 218

1 THE COURT Okay, you may proceed

2 MS PARR Your Honor, at this time we would call Nancy
3 Buxton to the stand

4 THE COURT All right

5 CLERK OF COURT Please go to the witness stand

6 NANCY C BUXTON, R N

7 BEING DULY SWORN TESTIFIES AS FOLLOWS

8 CLERK OF COURT Please be seated and state your full
9 name for the record

10 MS BUXTON Nancy Caison Buxton

11 DIRECT EXAMINATION BY MS PARR

12 Q Ms Buxton, where are you employed?

13 A Carolinas Hospital System in Florence, South Carolina

14 Q And what do you do for Carolinas Hospital System?

15 A I am a registered nurse

16 Q And how long have you been with Carolinas Hospital
17 System?

18 A Since 1990

19 Q And tell us a little bit about your educational
20 background --- Or tell us about your educational
21 background

22 A In the late 80's I was going to school at Florence
23 Darlington Tech for a surgical tech position I
24 graduated from that and I worked for an ear nose and
25 throat surgeon in Florence, and then I went to Carolinas

NANCY C BUXTON, R N - DIRECT EXAMINATION BY MS PARR 219

1 Hospital Women's Center on Pamlico Highway in 1990, and
2 I was a surgical tech at that time While I was in
3 nursing school, I also worked night at Carolinas and
4 went to nursing school during the day I graduated in
5 1994 from the AND Program for Registered Nurse at
6 Florence Darlington Tech , and I have been employed with
7 Carolinas since then

8 Q And which department do you work in at Carolinas
9 Hospital?

10 A At the present I work in the Emergency Room I have
11 been down there approximately five years

12 Q And what do you do in the nursing --- in the Emergency
13 Room?

14 A In the Emergency Room, the registered nurses take care
15 of the patients that are present and are their care
16 givers while they are in the Emergency Room

17 Q Okay Now are you a member of --- do you have any
18 special certifications?

19 A I am certified in advanced cardiac life support, which
20 is a program that is required to work in the Emergency
21 Room for the nurses to be able to be the care giver of a
22 patient that is having cardiac problems, and they need
23 to know what they need to do to intervene to help them
24 at that time I am also certified in pediatric advanced
25 life support, which would be children that are having

NANCY C BUXTON, R N - DIRECT EXAMINATION BY MS PARR 220

1 life-sustaining problems going on and basic life
2 support I am a member of the Emergency Nurses
3 Association, and I was previously a member of the Trauma
4 Nurse Critical Association

5 Q Now were you working on February 23, 2008?

6 A I was

7 Q In what capacity were you working that day?

8 A I was in the triage, and that is the area in the
9 hospital the patients that come into Carolinas if they
10 come in POV which means their on vehicle, public owned
11 vehicle, that the present to registration, and the
12 register gets their name and they call the triage nurse
13 on the radio or the triage nurse is already present
14 there, and lets them know that they have a patient that
15 is checking in I was working in that facility on that
16 date

17 Q On that particular day, did you have an occasion to see
18 a Ms Gloria Williamson?

19 A I did

20 Q Okay And would you please tell us what time she came
21 in?

22 A Our triage says, Ms Williamson at 17 26, which would be
23 5 26 p m

24 Q Okay And what did you do when you triaged her?

25 A Whenever we triage a patient, we bring them into our

NANCY C BUXTON, R N - DIRECT EXAMINATION BY MS PARR 221

1 little area, and we ask them what is the reason that
2 they're coming to the Emergency Room We do a brief
3 assessment on them We get their blood pressure, the
4 heart rate, the temperature, and their breathing and
5 oxygen content in their body We do all this and we
6 record it for the physician, so he will be able to see
7 what is going on with the patient when he sees them

8 Q And so after you triage her, what did you do with her?

9 A Okay I ask Ms Williamson what brought her to the E R
10 and she told me that she had vaginal pain and
11 irritation I also document on my nurse's notes what
12 the patient's complaint is, in their words, and her
13 words was I was raped around two to four a m this
14 morning Don't know the person At a neighborhood bar
15 walking to my car, and someone forced me into my car,
16 and went to some field, and raped me twice He
17 threatened me and my family if I reported it He got
18 out of my car and I drove home

19 Q All right And from that what did you do?

20 A I continued to ask her medical history, if she was
21 allergic to any medicines If she was on any medicines
22 at the present She told me she was allergic to
23 Codeine, and she did not tell me any medication that she
24 had at the present that she taking She also told me
25 she had a history of depression, and no other history of

NANCY C BUXTON, R N - DIRECT EXAMINATION BY MS PARR 222

1 medical conditions

2 Q Do you know at that time whether or not she had
3 showered?

4 A She had told me that she did not shower last night,
5 which would have been between two and four a m when the
6 incident that she was telling me had occurred, and the
7 police were notified I documented all that on my
8 nurse's notes

9 Q Okay And what did you do after you completed the
10 triage information?

11 A After the triage nurse assessed the patient, it is their
12 responsibility to, determine what category that the
13 patient would be And what that means is, where they
14 needed to be placed in the E R and the urgency that is
15 needed for the patient to be seen If there is not a
16 bed available where the patient needs to go precisely
17 is, what we do is we have a second area that is a triage
18 area that has a glass window in it that we can put the
19 patient over there and observe them while they are
20 waiting instead of putting them back into the waiting
21 room, because if we classify them as a two, which I
22 classified her, that would mean that she is a high risk
23 situation, and she appeared anxious and fidgety whenever
24 she was telling me her complaint, and I did not feel
25 like, for her safety, that I could put her out in the

NANCY C BUXTON, R N - DIRECT EXAMINATION BY MS PARR 223

1 waiting room to wait to be seen for a bed

2 Q What was her heart rate like?

3 A Her heart rate was a little high It was 104, a normal
4 heart rate, in a patient is 60 to 100 Greater than 100
5 you would consider that to be abnormal

6 Q All right And what was her demeanor?

7 A Her demeanor was she was withdrawn, and she appeared
8 sadden and anxious

9 Q And so you said you classified her at a two, is that
10 correct?

11 A That is correct

12 Q And where was she placed?

13 A She was placed in the second triage room so I could
14 continuously observe her, because there was not a GYN
15 available room to put her in at that time There was
16 patients in those rooms We have three of them in the
17 E R and I did not feel like, for her safety and because
18 of her anxiety, that I could place her back out into the
19 waiting room So what I did is, I informed my charge
20 nurse that I had a patient that I needed to place in a
21 GYN and to be examined by a doctor, but I did not have
22 one available and for her safety, I needed to keep her
23 where I could keep my eyes on her and be in direct
24 contact with her

25 MS PARR Thank you, Ms Buxton Please answer any

PEGGY TOMLINSON, R N - VOIR DIRE EXAMINATION BY MS PARR 224

1 questions Mr Lawson may have for you

2 MR LAWSON Pardon me just a moment, Your Honor

3 CROSS EXAMINATION BY MR LAWSON

4 Q Ms Buxton, how are you?

5 A Good, how are you?

6 Q Fine Did you do the physical examination?

7 A No, I did not

8 Q Did you collect the Rape Kit?

9 A No, I did not

10 MR LAWSON I don't have any other questions

11 MS BUXTON Thank you

12 THE COURT Step down I take it she can be excused

13 MS PARR The State would call Peggy Tomlinson to the
14 stand

15 THE COURT All right

16 PEGGY ANN TOMLINSON, R N

17 BEING DULY SWORN TESTIFIES AS FOLLOWS

18 CLERK OF COURT Please be seated and state your full
19 name for the record

20 MS TOMLINSON My name is Peggy Ann Tomlinson

21 VOIR DIRE EXAMINATION BY MS PARR

22 Q Ms Tomlinson, where are you employed?

23 A Carolinas Hospital

24 Q And what do you do for Carolinas Hospital?

25 A I am a registered nurse

PEGGY TOMLINSON, R N - VOIR DIRE EXAMINATION BY MS PARR 225

1 Q And how long have you been with Carolinas Hospital
2 System?

3 A Since April of 2007

4 Q Okay And where were you employed prior to that?

5 A In Dallas, Texas

6 Q And are you an R N ?

7 A Yes, ma'am A registered nurse

8 Q Okay And how long have you been a registered nurse?

9 A Twelve years

10 Q Now where did you receive your certification to become a
11 registered nurse?

12 A At The State Community College in Harriman, Tennessee

13 Q And prior to becoming a registered nurse, what did you
14 do?

15 A I was a licensed practical nurse for twenty-years

16 Q And where did you receive your training?

17 A Eastern Idaho Vocational Technical School

18 Q Where were you employed prior to coming to Carolinas
19 Hospital Systems?

20 A Liberty Dialysis

21 Q And how long were you employed with them?

22 A A year and a half

23 Q Now have you had any other special training for your
24 job?

25 A I have As a registered nurse in the Emergency

PEGGY TOMLINSON, R N - VOIR DIRE EXAMINATION BY MS PARR 226

1 Department, we are required to have, ACLS which is a
2 Advanced Life Support that Nancy talked about PALS,
3 which is Pediatric Advanced Life Support We also have
4 Trauma Nurse which is also a curriculum that we have to
5 have Also, I have received training as a Sexual
6 Assault Nurse Examiner I was certified in Knoxville,
7 Tennessee for that And prior to that I was also a
8 Court appointed Special Advocate for children

9 Q Now when did you receive your certification as a Sexual
10 Assault Nurse Examiner?

11 A I don't have the exact dates but it would have been in
12 probably around 2000, 2003

13 Q And since that time how many sexual assault examinations
14 have you performed?

15 A Working in Knoxville we did several, since then I have
16 probably done --- a total probably maybe twelve

17 MS PARR Your Honor, at this time The State would
18 move to offer her has an expert as a sexual assault nurse
19 examiner

20 MR LAWSON For the purpose of collecting Rape Kits I
21 assume?

22 MS PARR Yes And help assisting with the
23 examination

24 MR LAWSON Without objection

25 THE COURT All right

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 227

1 DIRECT EXAMINATION BY MS PARR

2 Q Now what are your duties as an Emergency Room Nurse?

3 A We do primary care We do, like Nancy says, We can go
4 from different areas in the Emergency Department and
5 triage, which is seeing the patient when they first
6 arrive and classify them as to how sick they are Then
7 in the back, of course, we take care of them by doing
8 primary care, which is placing them on monitors, drawing
9 their blood, doing assessments, taking histories

10 Q Now on February 23, 2008 did you have an occasion to
11 speak with Gloria Williamson?

12 A I did

13 Q Okay Would you please tell us what time you saw her?

14 A I brought her back to the room at 6 35 p m

15 Q And when you brought her back to the room what did you
16 do initially?

17 A Initially we placed the patient in the room and then we
18 do have to leave for a while, because any time we have
19 to do a Rape Kit, it requires that we have to have
20 special equipment We have to make sure we have all
21 that equipment gathered, because once we go in the room,
22 we are not allowed to leave You can never leave,
23 because you can't leave your evidence, it has to be with
24 you at all times

25 Q Okay

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 228

1 A So, it requires, to some time --- to gather everything
2 that you need There is a lot of supplies that you have
3 to have to do a Rape Kit and you want to make sure you
4 have them all

5 Q Okay And did you do that on that evening?

6 A I did

7 Q Okay And once you gather those supplies would you
8 please tell us what you did?

9 A The first thing we have the patient to do is, if they
10 are fully clothed, so we have them to stand in the
11 middle of the floor We have this big white cloth or
12 sheet that is laid out on the floor, and you ask the
13 patient to undress one item at a time and each item is
14 placed in a different corner, and then you have them
15 remove their panties, that is bagged separately, and
16 then fold up the sheet You ask them to make sure they
17 brush any thing off on the cloth first, so if there is
18 any evidence it will fall on the cloth And you fold
19 the cloth up and you place that in a bag for evidence

20 Q And did you do that on that evening?

21 A I did

22 Q Okay And then what did you do after that?

23 A If the patient has to go and urinate or void, you go
24 ahead and allow them to that so that the exam will be
25 more comfortable for them So at that time we allowed

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 229

1 her to go to the bathroom And the bathroom is in the
2 room, the exam room, so she never leaves out of that
3 room She stays with me in the room at that time

4 Q Now before you did that, did you do a general assessment
5 of her?

6 A We do We listen to heart, her lungs We check the
7 body for different types of bruising, scratches, listen
8 to their abdomen, to see how their bowel sounds are
9 Just check to see what their appearance primary is --

10 Q Okay And would you please tell us what your general
11 assessment was?

12 A The patient was visibly crying and upset She had
13 scratches around both wrists that appeared to be from
14 being grabbed around both wrists She also had stated
15 to me that she had been bound around her wrists She
16 also had some bruises She had three bruises on her
17 right lower leg

18 Q Now is it common for bruising to appear a day or so
19 later?

20 A It is

21 Q Why?

22 A Some bruising occurs rapidly because it is from the from
23 capillaries which are the very small tiny veins that are
24 closest to the surface of the skin If you interrupt
25 those vessels, you can get bruising like right away

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 230

1 The veins are deeper vessels Deeper in the tissues
2 So when you hit those you are not automatically ---
3 Sometimes you will see like a pink spot but you won't
4 actually see the bruising until later the next day or a
5 few hours later because it takes that long for the
6 bruise to show up It takes longer for the
7 discoloration to come to the top of the surface, because
8 the vessel is deeper

9 Q Now once you did your general assessment, what did you
10 do?

11 A I am going to check my notes We always have to obtain
12 a consent to do the sexual assault We did obtain that
13 I'm going to check on my times for my bloods, because
14 I'm not sure I did my blood first or if I did my swabs
15 first Hang with me for one second Let me see if I
16 have that written down

17 Q Now while you are looking, let me ask you this?

18 A Okay

19 Q Is there a prescribed protocol that you are suppose to
20 use?

21 A There is a protocol and we have like a little cheat
22 sheet that you can go by Depending on the patient, you
23 don't have to follow precisely but there is protocol
24 that you do use

25 Q Okay And is it one that you check off when you

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 231

1 complete it?

2 A There is It is this sheet

3 Q Okay

4 A It's called Alleged Sexual Assault Protocol

5 Q Okay

6 A And it talks about gathering the supplies, notifying the
7 appropriate law enforcement, getting patient consent
8 And then it tells you, you know, to make sure you stamp
9 all your forms, envelopes, bags with the patient's name
10 Then that's where it goes and tells you to have the
11 patient undress over a hospital sheet on the floor, put
12 the appropriate clothes in the patient's bag, your
13 underwear in a different bag And then it goes on to
14 tell you, you know, to collect different items and stamp
15 them and put them in the package So, I mean, it gives
16 you like oral swabs, saliva, pubic hair You, kind of,
17 start from the top and kind of work your way down

18 Q And as you did each one of those items, did you initial
19 it on your sheet?

20 A I did

21 Q And so after you --- And you collected the swabs
22 yourself?

23 A I did

24 Q And once you collected those swabs, what did you do?

25 A Depending on the type of swab, like with the

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 232

1 fingernails, you scrap under the fingernails for those
2 clippings, and for those you have like another little
3 sheet of paper It goes on the paper, and you fold that
4 up and you put it in the envelope If you are swabbing
5 like the mouth, then those are wet and you have to let
6 them dry before you put them in the envelopes If you
7 are swabbing, like the body for DNA, you have to wet
8 those swabs first, swab the body, and then they have to
9 dry before you put them in

10 Q And did you do that?

11 A I did Like with the pubic combing, of course, you lay
12 a sheet under the patient, comb or like in her case she
13 was shaved, but you just do the best you can to get any
14 excess material that might be on her off and onto that
15 paper that you fold up and put into the case

16 Q Now --

17 A We also draw blood and send it

18 Q And do you draw the blood?

19 A I did

20 Q Now, I am going to show you this box that is marked as
21 State's Exhibit 19 for Identification Do you recognize
22 this?

23 A I do

24 Q And will you please tell us what that is?

25 A This is Sexual Assault Evidence Collection Kit It is

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 233

1 marked with the patient's name, the doctor's name, my
2 name as the nurse that collected it, and the hospital,
3 and the city and state that it was collected in

4 Q Okay And when you get that kit, what do you do with
5 that kit?

6 A You open it up and everything in here is what you will
7 need to collect rape samples Sometimes you have to get
8 extras, that is why I was saying that we try to get as
9 many extra supplies as we need, because sometimes the
10 kits don't hold enough, so you get extra supplies
11 Those also go in here, cause they have different
12 envelopes for everything that you collect, and then some
13 envelopes that say other and then you would mark what
14 you collected and put it in them

15 MS PARR Your Honor, at this time we move to enter
16 this in -

17 MR LAWSON State number?

18 MS PARR State Number 19

19 MR LAWSON No objection

20 WHEREUPON, STATE'S EXHIBIT

21 NUMBER 19 WAS MARKED AND MADE

22 A PART OF THE RECORD

23 A I found my notes At 7 45 I collected the urine It
24 looks like at 8 00 we collected the blood, and at 8 15
25 is when the doctor did his exam and we collected what we

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 234

1 call the GYN profile, which is the vaginal and cervical
2 swabs

3 Q Okay Now, I am going to show you what has been marked
4 as State's Exhibit Number 21, and you can use those
5 gloves

6 A Okay

7 Q Can you look at this and tell me whether you can
8 identify it?

9 A This is a bag with the patient's name, Gloria Williamson
10 on it The clothing inside is listed as a bra, a shirt
11 and blue jeans And part of this has been torn off I
12 can't tell if it has my signature on it

13 Q And did you put the items in a bag like this?

14 A Yes, ma'am

15 Q Okay And do you recognize these items?

16 A I can't say I recognize them from when I first got them,
17 but it is the bra, shirt and blue jeans that I charted
18 that was placed in there, in the bag And this would be
19 the big white bag that they stand on

20 Q Okay And these are the things that you got from Ms
21 Williamson on the night of this --

22 A Correct

23 Q -- when she came in?

24 A Correct

25 MS PARR Your Honor, The State would move to enter

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 235

1 into evidence State's Exhibit Number 21, clothing from Ms
2 Williamson

3 THE COURT All right, he doesn't object

4 MR LAWSON No objection

5 WHEREUPON, STATE'S EXHIBIT

6 NUMBER 21 WAS MARKED AND MADE

7 A PART OF THE RECORD

8 Q Ms Tomlinson, did you also recognize that?

9 A Yes, ma'am, this says that it is the underwear bag It
10 has Ms Williamson's name on it, my name, the date and
11 time that it is collected

12 Q And was this part of that kit as well?

13 A Yes, ma'am

14 Q Now I will show you --- Tell me if you can, do you
15 recognize those?

16 A This is vaginal smears, oral and rectal It has Ms
17 Williamson's name on it, my name, the date and the time
18 that the sample was collected Those are called smears
19 This has miscellaneous materials, pubic hair combing,
20 known pubic hairs, known head hairs, and it has her name
21 on it and my initials that I collected it

22 This is the DNA section It has known blood bag,
23 miscellaneous body fluids, bite mark envelopes, vaginal,
24 oral, and rectal slide holders Vaginal swabs, oral
25 swabs, rectal swabs and fingernail scrapings It has

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 236

1 Ms Williamson's name on it and my initials This is a
2 debris collection bag It has her name on it, my name,
3 the date and the time that it was collected, and my
4 initials on the evidence tape

5 This is the DNA It has Ms Williamson's name on
6 it and you can see where I wrote the date and time on
7 this little part here, it's kind of hard to see, but I
8 can tell that is definitely my writing And that was
9 obviously, was not collected by me That is something
10 that is done by the lab

11 Q Were those contents of the sexual assault kit?

12 A Yes, ma'am

13 MS PARR The State would move to enter these items as
14 evidence as State's Exhibit Number 20

15 MR LAWSON It that the whole bunch of everything
16 Without objection What about the --

17 THE COURT All right

18 WHEREUPON, STATE'S

19 EXHIBIT NUMBER 20 WAS

20 MADE PART OF THE

21 RECORD

22 MR LAWSON -- the panties? Did she --

23 MS PARR We've already entered them into evidence
24 The State would move to enter the panties as State's Exhibit
25 Number 25

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 237

1 MR LAWSON Without objection

2 THE COURT All right

3 WHEREUPON, STATE'S EXHIBIT

4 NUMBER 25 WAS MADE PART OF THE

5 RECORD

6 A The larger envelopes contain the different smaller
7 envelopes that I read off

8 Q After you collected all the samples and properly
9 packaged them, what did you do with them?

10 A Part of the samples that we collect for our hospital has
11 to go to our lab We have a protocol sheet that also
12 has to followed with that I called for my tech, his
13 name was Doug The sheet was filled out Doug signed
14 that he took it from me, and then when he took it to the
15 lab our lab signed that they received, and then the kit
16 and all the evidence that I collected, the Sheriff took
17 it from me at 22 10, which is 10 10 p m

18 Q And who did you --- Do you recall which deputy you
19 gave that to?

20 A I do not, sorry

21 Q And so at some point a pelvic exam was done, is that
22 correct

23 A Yes, ma'am

24 Q And were you a part of that?

25 A I was in the room with the physician, yes, ma'am

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 238

1 Q Okay What did you find during the pelvic exam? Were
2 you instructed to write, complete a form?

3 A The pelvic exam was done at 8 15 The doctor does the
4 internal exam He feels out the form on his section
5 He collects the samples and hands them to me, at which
6 time they are allowed to dry, and then I would put them
7 in the envelope and would seal the envelope, and initial
8 it

9 Q And also --- What we just admitted into evidence --

10 A That was part of the evidence, yes, ma'am

11 Q Okay All right Now which parts did you complete of
12 the assessment?

13 A I would have done the physical assessment on her, which
14 included listening to her heart, lungs, bowel sounds,
15 checking her skin for bruises and wounds, and
16 documenting those I would have collected urine and
17 blood, and I would have collected the pubic hairs, the
18 head hairs, samples from the patient as far as looking
19 for DNA, as far as swabbing the vaginal area, the rectal
20 area, inside of the mouth, anywhere she thought semen
21 might be would be swabbed

22 Q And did you gather information about whether or not she
23 had alcohol or any thing of that nature?

24 A Yes, ma'am Let me go to my --- There is a form that we
25 fill out that has the victim's name, and it says were

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 239

1 any medications, social drugs or alcohol taken before or
2 after the assault It's part of the Rape Kit, it is page
3 number two She stated that she had been drinking beer
4 around one in the morning And when asked if the
5 assailant had been drinking, that yes, he had also been
6 drinking beer, but she didn't know, you know, how much

7 Q Okay And did she indicate the amount that she had had?

8 A She said three

9 Q Okay All right And did you also find out information
10 in regards to coherence?

11 A That is on --- Yes, ma'am She said that verbal threats
12 were used and that binding was used But I do not have
13 any thing as far as gun, knife, choking, fists, binding,
14 drugs, or alcohol or any thing like that

15 Q All right Did you make drawings?

16 A We do have a page that has an anatomical drawing, and we
17 fill it in

18 Q And will you please tell us where you indicate on your
19 findings on the drawing --- Just describe it for the
20 jury

21 A On both hands I have that she has scratches from being
22 grabbed, and I have that she has three bruises on her
23 right lower extremity, that were pink in color, which is
24 the coloration that you would see when a bruise is first
25 starting They have different colors stages that they

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 240

1 go through as you bruise Two of them were dime size

2 One was a quarter size

3 Q Okay And did you make --- also make notation of
4 possible areas of semen?

5 A I did

6 Q And where were those noted?

7 A I've got on my drawing that I swabbed around the
8 buttocks and all around the genitalia area, the pubic
9 area, the pubic region

10 Q Now in regards to the pelvic exam, would you please tell
11 us a little bit about the way a woman who has gone
12 through puberty, genitalia operates or is able to
13 withstand various things

14 A Yes, ma'am As a child before you reach puberty the
15 skin has no elasticity or stretch to it, so therefore
16 you would see, a lot more tearing, a lot more trauma to
17 the area Once you --- When you reach puberty the area
18 receives elasticity and stretchability due to the
19 hormones that we receive that allows us to be able to
20 have sexual intercourse and to bear children That does
21 not go away until after the estrogen levels and the
22 hormone levels start decreasing over time So an older
23 elderly lady you would see is the same thing as a child
24 Once all the estrogen and hormones have left her body
25 then that tissue goes back into the same state,

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 241

1 therefore you would see more tearing and trauma to the
2 area

3 Q Now, a woman who would be in their twenties, thirties,
4 forties, fifties would you normally see tearing or major
5 injury?

6 A No, ma'am The reason why, again, is because of the
7 hormone levels and because the area still has the
8 elasticity and the stretchability to allow us to have
9 sexual intercourse and allow us to bear children

10 Q Now, if there was no obvious trauma to the vaginal area
11 would that mean that had not been a sexual assault that
12 occurred?

13 A No, ma'am

14 Q Why or why not?

15 A Again, because as women we have sexual intercourse, and
16 every time we had intercourse, if that was to be the
17 case, we would have tearing, ripping, severe trauma to
18 the area so therefore again because of the elasticity,
19 stretchability, and the hormones, we do not have that
20 tearing It is a normal process for us to have sexual
21 intercourse

22 Q Okay And did you see any tearing, or any signs of
23 trauma in Ms Williamson's vaginal area?

24 A No, ma'am

25 Q Now what treatments were provided to her?

PEGGY TOMLINSON, R N - DIRECT EXAMINATION BY MS PARR 242

1 A Let me go back to my treatment page We always provide,
2 --- We make sure that hopefully that the women cannot
3 get pregnant so we provide contraceptives We provide
4 antibiotics, to make sure she doesn't, or hopefully make
5 sure she doesn't contract any sexually transmitted
6 diseases In her case, we provided --- we did a tetanus
7 shot, which we always do anytime that you get wounds,
8 scratches, lacerations We do a tetanus shot if you've
9 not had one within the last fives years We do Rocephin,
10 we did Zythromax, and we did some Zophrin And the
11 Zophrin, is for nausea and vomiting We would give that
12 in case if the person was very upset to the point they
13 would become nauseated and not feeling well Sometimes
14 the Rocephin and Zythromax can cause that but we
15 generally will gave that to for that reason

16 Q Okay And so that was given to Ms Williamson, is that
17 correct?

18 A Yes, ma'am

19 Q Now, did Ms Williamson appear to be intoxicated?

20 A No, ma'am

21 MS PARR Please answer any questions the Defense may
22 have for you

23 MS TOMLINSON Thank you

24 MR LAWSON May it, please The Court

25 CROSS EXAMINATION BY MR LAWSON

PEGGY TOMLINSON, R N - CROSS EXAMINATION BY MR LAWSON 243

1 Q Nurse Tomlinson?

2 A Yes, sir

3 Q Now you are not trying to tell this jury are you, that
4 simply because a women has reached puberty and not yet
5 gone through menopause that she had been sexually
6 assaulted and have no visible signs of trauma in the
7 vaginal area, you are?

8 A Yes, sir I am

9 Q In no event, no way, and never is there vaginal trauma
10 in a woman from her twenties to her fifties when she is
11 sexually assaulted?

12 A Yes, sir, you can have it Depends on how heinous the
13 act is, how severe the perpetrator is What forms of
14 abuse he might apply to her, you can get tearing,
15 ripping

16 Q What about trauma? What about bruising? What about
17 just --- Like you hit your hand? Internal injuries
18 from a sexual assault, it can occur can it not?

19 A Yes, sir, it can

20 Q And it does occur regularly with sexual assault victims
21 doesn't?

22 A Out of the cases I have done we do not see that, no,
23 sir

24 Q You, I assume, interviewed Ms Williamson when she came
25 in that night, correct?

PEGGY TOMLINSON, R N - CROSS EXAMINATION BY MR LAWSON 244

1 A Yes, sir

2 Q Did she report to you that she was vaginally penetrated?

3 A Okay This is the physician who filled this out

4 Q The physician?

5 A The physician filled that out, sir

6 Q Were you there when he talked to her?

7 A No, sir

8 Q What did she indicate to you?

9 A I don't have a copy of that, sir I'm sorry

10 Q Do you have any of your notes?

11 A I do If you can address which section you are talking
12 about

13 Q Okay Well I assumed that these were right next to each
14 others That's the way they were given to me Did you
15 prepare part of this diagram?

16 A This is mine, yes, sir

17 Q You did this?

18 A This is mine

19 Q Is the doctor's writing on this also?

20 A This little section right here is the physician's
21 writing

22 Q Okay And these X-rays just indicate where you swabbed?

23 A Correct

24 Q Okay And the scratching indicated --- Did you notice
25 anything on her face?

PEGGY TOMLINSON, R N - CROSS EXAMINATION BY MR LAWSON 245

1 A I did not

2 Q Did you look there?

3 A I cannot recall if I looked there or not

4 Q On her face You didn't see her face?

5 A It was visible, I looked at her face, if it was covered
6 by hair, I might not have looked at that

7 Q Okay

8 A I did not make any notes as to her face or head, so
9 obviously, I did not see any trauma at that time

10 Q Okay And now the bruising is interesting because, it's
11 on the shin, is it not?

12 A It's on the lower front leg

13 Q We call that the shin, right there, shin right in there?

14 A Yes, sir

15 Q There was not bruising in the area in your thigh, no
16 bruising there?

17 A I do not show any bruising, no, sir

18 Q No pink spots, or anything?

19 A I do not show any

20 Q And you said that they were pink which indicates that it
21 was --

22 A -- New --

23 Q -- new And then so you can tell the age of a bruise
24 by the color?

25 A Yes, sir A bruise goes from pink, to a blue, to a

PEGGY TOMLINSON, R N - CROSS EXAMINATION BY MR LAWSON 246

1 darker blue and then as it starts getting older and
2 starts going away it turns green, it starts turning into
3 a green color

4 Q And so you can tell the actual age?

5 A Yes, sir

6 Q And what about this, is this the one, is that yours?

7 A I wrote this section The doctor wrote this section
8 This little bit right here is mine and this is his

9 Q Okay So you didn't do any of these questions Did you
10 write notes of when you interviewed her?

11 A The few notes I have are the ones that is on your
12 Emergency Department Date Assessment Tool

13 Q Did she report to you that she had --- was forced to
14 have oral intercourse?

15 A I do not have a note of that, sir

16 Q Ma'am?

17 A I do not have a note of that

18 Q You didn't take that down?

19 A No, sir

20 Q If she would have told you that would you have put it in
21 your notes?

22 A I would have

23 MR LAWSON Thank you, ma'am No further questions

24 MS PARR Nothing further for this witness, Your

25 Honor We would ask that she be dismissed

MANUEL FONSECA, M D - VOIR DIRE EXAMINATION BY MS PARR 247

1 THE COURT All right, free to go

2 MS PARR The State would now call Dr Manuel Fonseca

3 MANUEL FONSECA, M D

4 BEING DULY SWORN TESTIFIES AS FOLLOWS

5 CLERK OF COURT Please be seated State your full name
6 for the record

7 DR FONSECA My name is Manuel Fonseca

8 VOIR DIRE EXAMINATION BY MS PARR

9 Q Dr Fonseca, where are you employed?

10 A I am employed at Carolinas Hospital

11 Q And what do you do for Carolinas Hospital

12 A I am an emergency physician

13 Q And how long have you been with Carolinas Hospital
14 Systems?

15 A Since late 1999

16 MR LAWSON Defense will stipulate the doctor's
17 qualifications

18 MS PARR Thank you

19 THE COURT All right

20 DIRECT EXAMINATION BY MS PARR

21 Q Now on February of 2003, did you have an occasion to see
22 Ms Gloria Williamson?

23 A I did

24 Q Okay And where did you see her?

25 A In the Emergency Department

1 Q And would you please tell us what time you saw her?

2 A My initial assessment was at 19 00 which is 7 00 p m

3 Q And what was your initial assessment of Ms Williamson?

4 A Well from the record, I don't know if you --- It says,

5 she claims she was sexually assaulted about 2 00 ---

6 sometime between 2 00 and 4 00 a m on February 23rd

7 She reported to me there was vaginal penetration Then

8 I write, questionable ejaculation outside of the

9 patient She told me she had not bathed since then

10 Her last consensual intercourse was February 17th She

11 claims there was no other injuries She claims the

12 assailant got into her car and forced her --- and forced

13 her to pull over into a field

14 Q And what kind of assessment did you do after gathering
15 the initial information?

16 A Well that is just the history and then we obtain further

17 history as far as her medical problems, what surgery has

18 she's had and then, you know, the initial assessment is

19 actually at the same time I am evaluating for any life

20 threatening injuries That is the first thing I'll do

21 I will, assess if they are breathing, if they are having

22 any hemo-dynamic abnormalities, if their blood pressure

23 is low, if their heart rate is too high, any life

24 threatening injuries I check for any limb threatening

25 injuries, and then we proceed to a more focused physical

MANUEL FONSECA, M D - DIRECT EXAMINATION BY MS PARR

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1 exam In other words this complaint was a pelvic
2 complaint so we performed a pelvic exam

3 Q Did you find any life threatening --

4 A -- No, ma'am, not any life or limb threatening Those
5 are the biggest things that, you know, my job is to rule
6 out those first, and then proceed down too lesser

7 Q And would you please describe Ms Williamson's demeanor?

8 A Yes I documented she was anxious

9 Q And then you completed your more focused physical
10 examination, is that correct?

11 A Yeah, I mean I did --- We checked her head I checked
12 her throat, her neck, rule out any cervical injuries
13 We listened to her heart We listened to her lungs I
14 checked her abdomen We performed a pelvic exam And
15 we checked for any focal neurologic signs, is she weak
16 on one side, you know, if she had significant head
17 trauma, would there be any other signs, any obvious
18 deformities to the extremities, that sort of thing?

19 Q And did you find anything?

20 A No significant injuries that I note

21 Q And then what did you after you obtained that
22 information, when you did that examination?

23 A Well then, because the exam was done at 8 15, I left the
24 room, because I have to, wait for, you know, when there
25 is sexual assault, it is a step-by-step process that the

MANUEL FONSECA, M D - DIRECT EXAMINATION BY MS PARR 250

1 nurses have to follow to obtain evidence When they are
2 ready, they will call me to come and do the physical,
3 the pelvic exam, rather And that is when I obtain the
4 evidence for the kit

5 Q And, so, would you please tell us what your findings
6 were when you went back to do the pelvic exam?

7 A Okay As documented, and I don't know if you can see
8 ---on page two of the assault, the legal sheet, the
9 protocol, that there were in the vulva, which is the
10 external part of the vagina there were not obvious
11 evidence of trauma In the introitus, which is at the
12 entrance of the vagina, there was no obvious evidence of
13 trauma The hymen, she is post hysterectomy, so
14 obviously the hymen is not intact She is not a virgin
15 In her vaginal area I saw no obvious tears or evidence
16 of trauma In her anus showed no obvious evidence of
17 trauma

18 Q Now do you normally see evidence of trauma in a sexual
19 assault victim of a aged woman passed puberty?

20 A Not normally I have not

21 Q Now the fact that you did not see any trauma, examples,
22 tears, or anything of that nature, or abrasion, does
23 that mean, that a sexual assault did not occur?

24 A No

25 Q And why is that?

MANUEL FONSECA, M D - CROSS EXAMINATION BY MR LAWSON 251

1 A Well, it does not necessarily mean, there wasn't ---
2 If you see --- Just because I see no signs of trauma,
3 there still could have been a non consensual sexual act

4 Q Now, did she complain of any pain?

5 A I did not report that

6 Q And did you note --- see any bruising on her body?

7 A I noted there were no obvious --- When I say no obvious
8 signs of trauma, I mean no obvious deformities, no
9 dislocations, you know, again, my first initial priority
10 is to rule out life or limb threatening injuries So, I
11 did notice that on the nurse report there were some
12 scratches to her wrists, and the bruises as noted
13 earlier

14 Q But, those would not be the things that you looked for
15 normally, is that correct?

16 A I mean, if one of them requires suturing, yeah, I would
17 address it But my job is to rule out, again, life or
18 limb threatening

19 MS PARR Beg, The Court's indulgence Dr Fonseca,
20 would you please answer anything Mr Lawson may have for you

21 MR LAWSON May it, please, The Court?

22 THE COURT Sure

23 CROSS EXAMINATION BY MR LAWSON

24 Q Doctor, you see lots of patients in the Emergency Room,
25 I assume?

1 A Yes, sir

2 Q You have seen a lot since February the 23rd?

3 A Yes, sir

4 Q A fair assessment, as to what you are testifying to
5 today is what is in your records?

6 A Correct

7 Q Is that correct?

8 A That is correct

9 Q You don't have a lot of independent recollection of this
10 particular evaluation, right?

11 A I do not No, sir

12 Q That is why you take the notes and keep the records is
13 it not?

14 A That is correct

15 Q On page one of your format, I assume it is the same as
16 your page one?

17 A Yes, sir I'm sorry I'm trying to find it Yes, sir

18 Q Do you go through a series of questions with the
19 patient, or is this done with the nurse?

20 A No sir, this is myself

21 Q This is you And from your records did you ask her
22 about vaginal penetration?

23 A Yes, sir That paragraph, again, it kind of
24 reintegrates the history I had to write on the
25 Emergency Department Sheet, but it claims that she was

MANUEL FONSECA, M D - CROSS EXAMINATION BY MR LAWSON 253

1 sexually assaulted February 23rd between 2 00 and 4 00
2 a m She said the assailant got into the patient's
3 vehicle The patient was allegedly assaulted in a muddy
4 field Patient claims positive vaginal penetration, but
5 the assailant ejaculated outside her body Her last
6 consensual intercourse was February 17th

7 Q All right Then you have general alleged assault in
8 there, or specific questions Did the penis penetrate?

9 A Yes, sir And I checked off, attempted, that is, you
10 know, I don't know how deeply the penetration was

11 Q Okay And then the foreign object that's a no?

12 A Correct

13 Q Did experience ejaculation, yes? Correct?

14 A Yes, sir

15 Q And was there oral copulation? What is oral copulation?

16 A What is oral copulation?

17 Q Is it oral sex?

18 A Yes, sir

19 Q Victim by assailant That would be Ms Williamson by
20 the assailant, what she tells you?

21 A I documented no

22 Q No?

23 A Yes, sir

24 Q Okay Now let ask you something, doctor When you
25 examine --- How many examinations have you done on women

1 that has been in a sexual assault situation?

2 A Honest, I can't say I've been practicing emergency
3 medicine since 1992

4 Q You have been practicing Emergency Medicine since 92?

5 A As a resident I moonlighted in Emergency Departments,
6 and then when I completed my residency in 93, I've been
7 working full-time emergency

8 Q Hundred's?

9 A Perhaps, I have no idea

10 Q And is it, is it not true that in a woman who has been
11 sexually assaulted, there can be trauma in the vaginal
12 area, signs of trauma?

13 A Yes, sir, there can be

14 Q Because, there are muscles in that area, aren't there?

15 A Correct

16 Q And when it's unwanted penetration, those muscles
17 contract as opposed to loosen?

18 A Well, I mean, there are a lot of factors that go into
19 that I mean it's elast¹ of the tissues, you got, I
20 mean in some women they are not going to --- I hate to
21 say it, but they are not going to want to resist if they
22 know it could mean their life

23 Q Correct There is all kinds of circumstances?

24 A Yes, sir

25 Q And so you find it in some and some you don't?

MANUEL FONSECA, M D - CROSS EXAMINATION BY MR LAWSON 255

1 A Yes, sir

2 Q But as you said in your direct, just because you don't
3 find it that doesn't mean wasn't --- was not an assault,
4 right? Just because you don't find any trauma, doesn't
5 mean there wasn't an assault?

6 A That's right

7 Q But when you find trauma that normally indicates an
8 assault?

9 A Yes, sir That indicates more proof that there was an
10 assault, yes, sir

11 Q And that is why you do the vaginal examine?

12 A Correct And we obtain the swabs for samples, etcetera

13 Q And if you weren't looking for trauma you wouldn't have
14 to do a vaginal exam would you?

15 A No in a sexual assault, we always do the exam

16 Q Now let me, you know, I am interested about this ability
17 to tell bruises' age by color, because I had a
18 pathologist tell me one time that that is impossible

19 A Well, you can't say, oh, this bruise is from last
20 Thursday But usually as Peggy said, blood converts to
21 bilirubin under the skin, and early on if you apply
22 trauma to an area it's hard to say when you would see a
23 --- it would turn pink first How long it takes to turn
24 pink depends if someone is taking aspirin or a blood
25 thinner it will be immediately If someone is not, I

1 can't say how many hours it takes And then it goes
2 from to pink to red and it's funny, it turns into a
3 greenish color, then a yellowish color as the bruise
4 ages, and finally to a brown

5 Q But aging, you can't do it?

6 A Can't say, I don't think you can time it and say you
7 know, five-hours ago this happened --

8 Q -- The guy told me you couldn't even cut into them and
9 tell how old they are?

10 A No, but you know by the color --- In other words, red is
11 usually say the first day after, two days it may turn,
12 you know, but you can't exact --- I don't believe you
13 can

14 Q To many other characters to, I mean --

15 A -- I mean you can estimate --

16 Q -- Yeah --

17 A -- You know, if it's early, how many days

18 Q Did y'all do blood work?

19 A Yes, sir

20 Q Did you find any blood?

21 A I am just going to look at what we ordered I checked a
22 urine and a urine drug screen that was ordered, as well
23 as an rapid HIV as long as the patient consented to
24 that, and I had a hepatitis panel And then what is
25 called a GYN profile, which we perform cultures for a

MANUEL FONSECA, M D - CROSS EXAMINATION BY MR LAWSON 257

1 chlamydia and gonorrhea as well as --- the lab will exam
2 the mucus under the microscope and look for triptomonus,
3 or any sexual transmitted diseases

4 Q Did you get a lab report on medication?

5 A I'm sorry I am trying to look I don't have that
6 report

7 Q Was it done?

8 A It was ordered I don't --- Well, hold on a second, I'm
9 sorry I can't say I don't have the report with me
10 I did document that the rapid HIV test was negative

11 Q And is this the --

12 A That is the hepatitis panel

13 Q And the next page?

14 A This is the urine, which was normal The drug screen is
15 positive only for benzodiazepines

16 Q What is a benzodiazepine?

17 A Benzodiazepine is a class of drug as Valium, Zanax,
18 Clonipin, Adipan

19 MR LAWSON I don't have any further questions for
20 this witness

21 MS PARR Okay I don't have any further questions
22 for this witness We ask that he be allowed to --

23 THE COURT -- Free to go

24 MS PARR Your Honor, at this time we would call Grant
25 Sumersett to the stand

KEVIN GRANT SUMERSETT - DIRECT EXAMINATION BY MS PARR 258

1 THE COURT Okay

2 KEVIN GRANT SUMERSETT

3 BEING DULY SWORN TESTIFIES AS FOLLOWS

4 CLERK OF COURT Please be seated and state your full
5 name for the record

6 MR SUMERSETT Kevin Grant Sumersett

7 DIRECT EXAMINATION BY MS PARR

8 Q Officer Sumersett, where are you employed?

9 A Florence County Sheriff's Office

10 Q And how long have you been with the Florence County
11 Sheriff's Office?

12 A Going on four years now

13 Q And where were you prior to going to the Florence County
14 Sheriff's Office?

15 A Florence City Police Department

16 Q And how long were you with the city?

17 A Four years

18 Q And how many years of law enforcement experience you
19 have you had?

20 A Around eight

21 Q Now have you had any special training for your job?

22 A Just the police academy

23 Q And are you a certified police officer?

24 A I am

25 Q Now on February 23, 2008, did you have an occasion to

KEVIN GRANT SUMERSETT - DIRECT EXAMINATION BY MS PARR

259

1 respond to a call of sexual assault?

2 A I did

3 Q And where did you respond?

4 A To Ms Gloria Williamson's house

5 Q And do you recall what time you arrived there?

6 A 'Around 10 30, 10 26

7 Q 10 26 when?

8 A A M

9 Q And what did you find upon arriving?

10 A I spoke with Ms Gloria Williamson in her apartment
11 about her being sexually assaulted

12 Q Okay And when you got there please tell us who was
13 there?

14 A It was Gloria Williamson and one of her friends, I am
15 trying to find his name now, LeGrand Poston was there
16 and there was another gentleman, but he left

17 Q Okay Did you see her parents --- another lady there as
18 well?

19 A No, ma'am

20 Q Now please tell us about Ms Williamson's appearance
21 when you arrived?

22 A She was upset, crying, red in the face She was very
23 upset

24 Q And did she report to you --- tell you what had
25 occurred?

1 A Yes, she did

2 Q And so what did you do when she told you what had
3 occurred?

4 A I just told her to take her time and tell me what
5 happened, you know, that she would have to, go through
6 it again once the investigator got there --- but I
7 needed the initial report to contact the investigator
8 But it had to be in detail and she provided the
9 information

10 Q Okay Now did you, in fact, call an investigator?

11 A I did

12 Q Okay And who did you call?

13 A Investigator Helen Cain

14 Q All right Now, at that time did you take Ms
15 Williamson to the hospital or --

16 A We don't do that I advised her that if she needed an
17 ambulance that we could call one, and have one come and
18 they could take her or a friend could take her, but that
19 she did need to go within seventy-two-hours of the
20 assault

21 Q All right Now, did you go out and do any observations
22 of her vehicle?

23 A Yes, I did

24 Q Okay And what did you see?

25 A There was mud around the vehicle and on the inside of

KEVIN GRANT SUMERSETT - DIRECT EXAMINATION BY MS PARR 261

1 the vehicle

2 Q And was it consistent with being in a muddy field?

3 A Yes

4 Q Did you take photographs at that time?

5 A No, I did not

6 Q Okay Well did you subsequently go back to her
7 residence?

8 A Yes, and take pictures of her

9 Q And when was that?

10 A That was --- it was --- I think it was within the same
11 day It was on 2-24-08

12 Q Okay So that would have been the next day

13 A They called and advised me that Gloria Williamson had
14 called district dispatch and advised that her scrapes
15 and bruises that they were evident, and I went back and
16 took pictures

17 Q Okay And so you went and took some pictures of her?

18 A Uh-huh

19 Q And I am going to show you what has been marked and
20 entered as State's Exhibit 5-A and 5-B Can you --- Do
21 you recognize those?

22 A Yes, those are the pictures that I took that day of her
23 wrists, and a cut above her eye and the redness The
24 reason why is when, you know, when you get upset your
25 face turns really red and, you know, it is not going to

KEVIN GRANT SUMERSETT - CROSS EXAMINATION BY MR LAWSON 262

1 show up as well as if you wait and she waited to get the
2 pictures done

3 Q Okay

4 A Because they weren't showing up

5 Q Okay But now when you saw her the day before her face
6 was red?

7 A Uh-huh Yeah, she was crying

8 Q All right And so you got those the very next morning?

9 A Uh-huh

10 MS PARR Nothing further for this witness

11 MR LAWSON May it, please The Court

12 THE COURT Okay

13 CROSS EXAMINATION BY MR LAWSON

14 Q Officer Sumersett?

15 A Hey, Jack

16 Q How are you doing? Have you read your report before you
17 came in here today?

18 A Yes, I have I took the report

19 Q I know you did Did you take notes?

20 A Yes

21 Q Took good notes?

22 A These notes

23 Q Okay And that is in your report?

24 A Uh-huh

25 Q All right And you said you wanted her to tell you in

KEVIN GRANT SUMERSETT - CROSS EXAMINATION BY MR LAWSON

263

1 detail what happened, is that correct?

2 A That is correct

3 Q And what in detail did she tell you happened?

4 A She told me that she was assaulted that night at the
5 Wooden Nickel, that she had met a friend up at the
6 Wooden Nickel and that they were hanging out She said
7 that her and her friend LeGrand Poston, said to me that
8 the guy advised that he had been to prison before in the
9 bar and they became very wary of him She said that
10 they had a drink and on her way out the door that he
11 came up behind her and told her to get in her vehicle

12 Q Okay Came up behind her?

13 A Uh-huh

14 Q Getting in her vehicle Now and then she reported to
15 you that he took her to a field, a muddy field, correct?

16 A That is correct

17 Q And that he raped her twice, correct?

18 A Yes, that is correct

19 Q Did she say anything to you about him forcing her to
20 have oral sex?

21 A She said that he grabbed her by the hair and forced her
22 down, but that she resisted and he didn't do that
23 anymore

24 Q So you didn't put that in your report?

25 A I did put that in my report

1 Q You said he grabbed her by the hair?

2 A Right And forced her head down

3 Q But that there was no oral sex?

4 A No

5 Q Okay And that is not --

6 A -- That is not in my report

7 Q No, because that wasn't said, correct You weren't told
8 that?

9 A Our President says, that ain't sex I don't know I
10 would tend to disagree

11 Q Okay Now when you got there on the 23rd, did you have
12 a camera in your car?

13 A I did, that is correct

14 Q You did?

15 A Uh-huh

16 Q You didn't take any pictures?

17 A Not that day

18 Q No pictures of the car?

19 A No, sir That would be forensics

20 Q That would be forensics?

21 A Right

22 Q Did you think they were coming that day?

23 A After I called the Investigator, I was told that the
24 investigator would be in contact with her that day, and
25 that forensics would be coming out

KEVIN GRANT SUMERSETT - CROSS EXAMINATION BY MR LAWSON 265

1 Q Did you think she was going to go out and wash the car
2 that morning or that day?

3 A No, sir

4 Q Did you tell her not to?

5 A I don't advise her of that at all

6 Q In investing a crime, Grant --

7 A I am not an Investigator

8 Q Well in reporting the crime, in being the first officer
9 on the scene, what are you supposed to do?

10 A Take the report, call the investigator

11 Q And protect the crime scene?

12 A That is correct

13 Q And that car was part of a crime scene wasn't it?

14 A Yes, it was

15 Q Protect the crime scene Let me ask you something
16 What time did you get there?

17 A Technically, she had already left the crime scene

18 Q Huh?

19 A Her apartment was not the crime scene

20 Q I know her apartment wasn't but the automobile was?

21 A It was part of it

22 Q It was part of it

23 A That is correct

24 Q Based on what she said, part of the assault took place
25 in the car That makes that car part of the crime

KEVIN GRANT SUMERSETT - REDIRECT EXAMINATION BY MS PARR 266

1 scene, doesn't it, Grant?

2 A That is correct

3 Q What time did you arrive at her apartment? Do you have
4 the CAD report?

5 A I do have the CAD report, Jack

6 Q Okay

7 A At the top it says 10 26 I'm not sure if that is the
8 right time though

9 Q Are you looking at this CAD?

10 A No, sir

11 Q Is that not --

12 A 1 28 incoming call, --- okay, prior to --- I read the
13 wrong time on what time I arrived

14 Q What time did you arrive?

15 A 13 4637

16 Q 1 47?

17 A That is correct That is 1 46

18 MR LAWSON 1 46 in the afternoon Thank you, Grant

19 No further questions

20 REDIRECT EXAMINATION BY MS PARR

21 Q Officer Sumersett, what time did you say you responded
22 --- what time did you go to her house?

23 A It says on the CAD report 1 46 I know I said 10 26
24 earlier, but that is what I was reading off the top

25 Q Okay And that is the print time, is that correct?

KEVIN GRANT SUMERSETT - REDIRECT EXAMINATION BY MS PARR 267

1 A That is correct

2 MS PARR Okay Nothing further Your Honor, may we
3 take a break at this point?

4 THE COURT We can do that Don't talk about the case
5 jurors

6 (Whereupon, the jury exits the courtroom at 3 06 p m)

7 MR LAWSON How long?

8 THE COURT I don't' know I need to find out from
9 Patricia what else is on tap for today?

10 MS PARR Your Honor, I can do probably two more
11 witnesses

12 THE COURT All right

13 MS PARR And then one or two in the morning, and
14 we'll be ready to finish up

15 THE COURT Then you have two more in the morning?

16 MS PARR No, I have more than two more in the
17 morning, but they will be short witnesses

18 THE COURT All right So then we take twelve minutes
19 if that answers your question

20 (Whereupon, The Court was in recess from 3 07 until 3 20
21 p m)

22 MS PARR Your Honor, at this time we call Helen Cain
23 to the stand

24 THE COURT All right

25 HELEN CAIN

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

268

1 BEING DULY SWORN TESTIFIES AS FOLLOWS

2 CLERK OF COURT Please be seated and state your full
3 name for the record

4 MS CAIN Helen Cain

5 DIRECT EXAMINATION BY MS PARR

6 Q Ms Cain, where are you employed?

7 A Florence County Sheriff's Office

8 Q And how long have you been with the Florence County
9 Sheriff's Office?

10 A Thirteen years now

11 Q And how many years of law enforcement experience have
12 you had?

13 A Twenty-five completed

14 Q And would you please tell us what special training you
15 have had for your job?

16 A I have attended the South Carolina Criminal Justice
17 Academy where I was a Certified Police Officer And I
18 have been to various schools for different types of
19 classes, firearms, basic investigations, child sexual
20 assault, sexual assaults, there have been numerous of
21 them it's like fifty-six different classes

22 Q And which division are you employed or assigned in the
23 Sheriff's Office?

24 A I do criminal sexual conduct cases for children and
25 adults and child abuse

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

269

1 Q And how long have you been in that area?

2 A A total of thirteen years

3 Q Now were you working on or about February 22nd or 23rd,
4 2008?

5 A Yes

6 Q In which area were you working?

7 A Child abuse and sexual assaults

8 Q Now did you have an occasion to become involved in an
9 investigation of a sexual assault against Ms Gloria
10 Williamson?

11 A I did

12 Q Okay And when did you become involved?

13 A On that Saturday morning which was February 23rd, I got a
14 call from Deputy Sumersett

15 Q And were you on call or what was the situation?

16 A Yes, I was on call that weekend

17 Q Okay And when you got the call, tell us what you did
18 and what you do when you are on call?

19 A When we are on call, any time the deputies have a case
20 or questions then they are allowed to call us On this
21 particular day Deputy Sumersett called me and advised me
22 that he was taking a report with Ms Gloria Williamson
23 He stated that she was reluctant about going to the
24 hospital That she was scared and ashamed and did not
25 want to do the kit or forward with the prosecution

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

270

1 Q And as a result of that what did you?

2 A I advised Deputy Sumersett to talk with her and try to
3 convince her that even if she didn't want to go forward
4 with the prosecution it was very important that we
5 collect the evidence regardless, that we could talk
6 about the prosecution later And I advised him to go
7 back and talk with her about going to the hospital and
8 that if she went to call me back

9 Q Okay And then when was the next time you heard --

10 A -- The next time was that following Monday when I got
11 back to work, I pulled the report to look at it and
12 that's when I realized she had went to the hospital

13 Q Okay And then what did you do upon finding that she
14 had gone to the hospital?

15 A I made contact with her and got her to come in and give
16 me a recorded statement

17 Q And then?

18 A At that point I talked with her and she gave me a
19 recorded statement and she advised me of what happened,
20 and that's when I began the investigation and I started
21 talking to other people, the bartender at the bar,
22 LeGrand Poston which was the friend that went with Ms
23 Gloria to the Wooden Nickel and several other people
24 And we also went to the crime scene, Ms Gloria took me
25 back, and that's when I notified forensics and Adam

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

271

1 Moore met me at the crime scene

2 Q Now was this in the County of Florence?

3 A Yes, it was

4 Q So when did you officially begin your investigation?

5 A I spoke with Ms Gloria, I think, that Monday There
6 was a couple before she would come in talk with me
7 because she was real ashamed and did not want to come
8 in She was real embarrassed to what happened to her
9 I think I got her to come in that Wednesday and that's
10 the day we went to the crime scene

11 Q Okay And so when you went to the crime scene tell us
12 what --- How did you go to the crime scene, which route
13 did you take?

14 A Ms Gloria tried to explain to me how to get there She
15 remembers leaving the Wooden Nickel, that he pushed
16 across the console and got in the car and they headed
17 toward Second Loop And she described --- she was very
18 shocked that he was in and she couldn't tell me exactly
19 how they went, but she says, she ended up over next to
20 cemetery and Forrest Lake So I got on Cashua and I
21 asked her to take me from Cashua and she took me down to
22 the Shell Station at the corner of Cashua where you turn
23 at the red light and go over Forrest Lake And then we
24 turned onto --- I think that is Norwood, and then back
25 on Meirs and we went to the stop sign We took a right

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

272

1 Went down to the next drive which is Stanley and took
2 another right and the field was down on the left

3 Q And now when you got to that field what did you do?

4 A That is when I notified forensics Adam Moore met me
5 there and the two of us looked in the field and Adam
6 took photographs and everything And, the photographs
7 that he took, was that State's Exhibit 8-A, B, C, D?
8 Are those photographs that you are referring to?

9 A Yes, these are the photographs

10 Q And so after those photographs were made, what did you
11 do?

12 A After those photographs were taken, then we went to the
13 victim's residence and also took photographs of the
14 vehicle and processed it And Adam Moore and Lieutenant
15 Keith Lutken met with me there

16 Q Now before you went there, let me show you what has been
17 marked as State's Exhibit 9 for Identification Can you
18 identify State's Exhibit Nine?

19 A Yes, this is a mailbox showing the address of ADDRESS
20 which is a Marion G Broach, Senior's
21 residence And what this is --- This is where the
22 Defendant grew up at The Broach Family raised is what
23 I gathered in my investigation and this is what they
24 call the Broach Farm And part of the area in which it
25 occurred at was the Broach Farm It's straight across

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

273

1 the field around some woods to where he had parked

2 MS PARR The State would move this --- enter into
3 evidence as State's Exhibit 9

4 WHEREUPON, STATE'S EXHIBIT

5 NUMBER 9 WAS MARKED AND MADE

6 A PART OF THE RECORD

7 MR LAWSON No objection

8 THE COURT Okay

9 Q Now, Investigator Cain, you said that you proceeded back
10 Ms Williamson's home

11 A Yeah, we went back to her apartment where the vehicle
12 was processed

13 Q Okay And who processed that vehicle?

14 A Adam Moore

15 Q And how was that vehicle processed? You were not there
16 with him?

17 A I was standing there but I did not process the car, he
18 did I was talking with Ms Gloria at the time that he
19 was processing it

20 Q Okay All right While he was processing the vehicle,
21 did you have an occasion to find out details from Ms
22 Williamson as to what she said occurred?

23 A Yes

24 Q Now as a result of that, did you take certain items from
25 her?

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

274

1 A Yes, I did We had taken the makeup she was wearing
2 that night to compare it with any samples that we may
3 have

4 Q Okay And why would you have taken the make-up?

5 A Because, she stated that the Defendant had grabbed her
6 by the back of the head and pulled her down between his
7 legs and made him --- make her perform oral sex on him
8 And we wanted to make sure that if there was makeup
9 anywhere that we would have it to compare it with

10 Q And I am going to show what has marked as State's
11 Exhibit 18 for Identification purposes Do you
12 recognize that?

13 A Yes This is, eyeshadows that Ms Gloria gave to us
14 that she was wearing the night of the incident

15 MS PARR The State moves to enter into evidence as
16 State's Exhibit 18

17 MR LAWSON Without objection

18 THE COURT Okay

19 WHEREUPON, STATE'S EXHIBIT

20 NUMBER 18 WAS MARKED AND MADE

21 A PART OF THE RECORD

22 Q And, Investigator Cain, what did you do with the makeup
23 once you obtained it?

24 A It was placed --- It was given to Adam Moore and turned
25 into evidence

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

275

1 Q Now after you obtained the makeup and she told you what
2 the Defendant made her do, what else did you do?

3 A We also went to the Wooden Nickel and took photographs
4 of the Wooden Nickel, the outside and the inside

5 Q And when was that done?

6 A The date and time?

7 Q Yes

8 A I think we did it that Thursday I don't see it in my
9 notes, but I think it was that next day we went to the
10 Wooden Nickel because I had to contact this owner to
11 meet us down there before the bar opened

12 Q Okay And so you went there At what point did you
13 obtain the name of the Defendant as the suspect?

14 A It was already on the report Deputy Sumersett had
15 already determined that it was --- his name is Stacey
16 Evans Ms Gloria told --- also gave me a statement
17 that the Defendant was introduced to her as Stacey
18 Evans

19 Q And then after you went to the Wooden Nickel did you
20 have an occasion to go to the home of Mona LaBranche?

21 A Yes After the investigation was completed, I obtained
22 warrants on the subject for the charges and we went to
23 the apartment and we went there we knocked on the door
24 several times and announced that it was the Sheriff's
25 Department They would not open up the door Once we

1 were inside, the Defendant was there standing there with
2 a knife It was this type like it had pliers with it
3 also

4 Q Was the knife visible?

5 A Yes And he was placed under arrest and also spoke with
6 Ms LeBranche

7 Q Okay Now, where was he when you went inside the condo?

8 A He was right in the living room area when you went into
9 the door, it's like the living room is here, the kitchen
10 is on this side and it's all like one open area Then
11 there is a tiny hall with bedrooms and a bedroom at the
12 back

13 Q After you placed him under arrest, did you contain
14 consent to search?

15 A I did And I asked Ms Mona what clothing the Defendant
16 had on, and she told me that they were in the washroom
17 and the shirt was in a bedroom She obtained those for
18 me and put them in a bag

19 Q Now did she indicate to you whether or not those items
20 had been laundered?

21 A She said they had not been laundered

22 Q And when you obtained those items from her what did you
23 do?

24 A They were turned over to evidence

25 Q Now would that have been the items marked State's

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

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1 Exhibit Number 23 that has already been admitted, that
2 is a beige shirt?

3 A Yes, that is the beige shirt

4 Q Now once you obtained those items what did you do?

5 A I turned those into evidence and once we got back to the
6 department I wanted to look at the shirt We laid the
7 shirt out and I did observe what appeared to be makeup
8 because of some marks on the outer side of the shirt

9 Q If you could stand up and show us

10 A We laid the shirt out and you can see makeup running on
11 the side It wasn't like it was mashed on the side, it
12 looked like it was scraped down the side There was
13 also a hair on the other side

14 Q Okay And when you say the other side where?

15 A I think the makeup was on the left side and the hair was
16 on the right side And I may have that wrong, I think
17 that's how it was

18 Q Okay

19 A I'll have to look at the photographs

20 Q Okay I'm going to show you State's Exhibit 13-B, can
21 you identify that?

22 A Yes, this is the shirt that Mona gave me that was
23 identified as the Defendant's shirt the night the
24 incident occurred And it appears that there is makeup
25 on the left-hand side

1 Q And State's Exhibit 13-C?

2 A This is a closer view of the smears of what appears to
3 be makeup with a ruler beside it showing the scale

4 Q And State's Exhibit Number 16?

5 A Number 16 is a photograph with a hair on it, and that is
6 the ruler showing the length of the hair, around and
7 about length

8 Q Okay And what happened with that hair?

9 A The whole shirt was given to evidence where the hair was
10 obtained and placed into a bag and sent to SLED

11 Q Okay And who did that?

12 A Adam Moore

13 MS PARR The State moves to enter into evidence
14 State's Exhibit 13-B and 13-C as well as 16

15 MR LAWSON No objection

16 THE COURT Okay

17 WHEREUPON, STATE'S EXHIBIT

18 NUMBERS 13-B, 13-C AND 16 WERE

19 MARKED AND MADE A PART OF THE

20 RECORD

21 Q Now, Investigator Cain, so you obtained the shirt that
22 had the makeup and the hair, was that correct?

23 A Yes

24 Q And what was the purpose of your obtaining those items?

25 A To obtain any type of DNA off of them

HELEN CAIN - DIRECT EXAMINATION BY MS PARR

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1 Q Okay And what about the purpose of the makeup?

2 A To compare the marks that were on the shirt with the
3 makeup the victim had on that night

4 MS PARR May I approach the witness, Your Honor?

5 THE COURT Okay

6 Q Ms Cain, is there anything else that you did in this
7 particular case?

8 A I also received a call from Ms Gloria later on that
9 stated that she had the broken bracelet that no one
10 gotten it yet I wasn't aware of that and I went back
11 and picked that up and turned that into evidence also

12 Q And was that what has been admitted into evidence as
13 State's Exhibit Number 14?

14 A Yes, this is the bracelet that she gave me

15 Q Now, Investigator Cain, did you also have an occasion to
16 go to the Shell Station to obtain evidence there?

17 A Yes I had noticed that there were cameras on the side
18 of the building, and also I had spoken with my
19 Lieutenant that also stated that he had worked a case
20 there where there were cameras there So I contacted
21 the owner of that Shell Station and he did look at the
22 tapes and stated that he did see something fitting the
23 description of the victim's vehicle

24 Q And when was that --- When was the tape obtained?

25 A That was picked up I think the day or two after the

HELEN CAIN - CROSS EXAMINATION BY MR LAWSON

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1 arrest

2 Q And did you view the --

3 A -- I did

4 Q Now the photographs that you indicated of the
5 Defendant's shirt, 13 --- Now that's State's Exhibit 13-
6 A, was that the shirt that you obtained?

7 A Yes, it is

8 Q Now you indicated, and you tried to point it out --- Do
9 you have the laser?

10 A I can't see that very well As you can see right in
11 here there is some marks, that appears to be makeup and
12 it looks like it was kind of slid down Just little
13 slide marks right here and there

14 MS PARR Please answer any questions that Defense may
15 have for you

16 MS CAIN Okay

17 CROSS EXAMINATION BY MR LAWSON

18 Q Ms, Cain, you were called as I understand it --- When
19 you were called you were called by Officer Sumersett
20 when he was at the location?

21 A That is correct

22 Q And I think your report indicates that he told you she
23 didn't want to proceed or didn't want to go to the
24 hospital?

25 A That is correct

HELEN CAIN - CROSS EXAMINATION BY MR LAWSON

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1 Q And you told him to try and talk her into it?

2 A I advised him to talk with her, advise her how important
3 it was that the evidence be collected in case she
4 decided to prosecute

5 Q Well do you remind Deputy Sumersett, how important it
6 was to collect evidence at that time?

7 A He should have known that

8 Q And when did she actually go to the hospital --- was
9 that day was it not?

10 A I was told that she went that Saturday afternoon, yes

11 Q That same day?

12 A That same day

13 Q And let's see, if you talked with Officer Sumersett it
14 would have been some time around approximately 1 30,
15 2 00 but that's what time he was there?

16 A That is correct

17 Q And she goes to the hospital about 5 00?

18 A Yes

19 Q And the hospital, in their protocol is required to
20 notify law enforcement?

21 A I was not called I advised Officer Sumersett, if she
22 went to the hospital, to call me and no one else had
23 called me back

24 Q So the hospital didn't follow protocol?

25 A No one called me back

HELEN CAIN - CROSS EXAMINATION BY MR LAWSON

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1 Q Is the hospital supposed to notify law enforcement at
2 the time of taking a rape kit?

3 A Law enforcement was already notified so they may not
4 have notified someone again

5 Q So there is possible evidence of a crime out there to be
6 gathered but it's not being done?

7 A The Rape Kit is very important and that was gathered

8 Q I understand that I understand that When was the
9 first day that you actually spoke to Ms Williamson face
10 to face?

11 A It was on that Wednesday

12 Q The next week?

13 A I'll give you the exact date if you will let me refer to
14 my notes

15 Q Yes, ma'am

16 A I spoke with her on February 27th

17 Q 27?

18 A Yes, that is when I took a recorded statement face to
19 face

20 Q Okay And that would be the day that you then called
21 Adam Moore?

22 A Yes

23 Q At some point during that day And at that time you
24 asked him to process the car?

25 A We went to the crime scene

HELEN CAIN - CROSS EXAMINATION BY MR LAWSON

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1 Q You went to the crime scene And at what point did you
2 ask him to process the car?

3 A The car was also --- I don't have that exact date in my
4 file here but Adam has it

5 Q Okay So, in fact, the crime scene went for at least a
6 week without being looked at?

7 A Yeah, about four days

8 Q You didn't happen to ask Officer Sumersett to take any
9 photographs on that particular day did you, the 23rd?

10 A I had assumed because normally on the sexually assaults
11 like that, they go ahead and call forensics out

12 Q You assume that was done?

13 A I thought that he had done that

14 Q State's Exhibit 13-B, that is the shirt with the stains
15 Correct?

16 A Yes, sir

17 Q And you say that as you look at it that it looks like
18 the stains go down?

19 A It is consistent --- It looks like it is consistent with
20 what she said if he was on the driver's side and she was
21 on the passenger side and he grabbed her it appears as
22 if her face had rubbed against his shirt

23 Q But if you look at the stain as they are, the stains
24 look like they start at the bottom and move up, as
25 opposed as starting at the top and moving down

HELEN CAIN - CROSS EXAMINATION BY MR LAWSON

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1 A If she is sitting down and he comes this way it would
2 have hit right here

3 Q I mean, what I'm saying is --- I mean, I must be looking
4 at it this way, the stains Throw it up there, 13-C for
5 me Because if I look --- Can you put 13-B and 13-C
6 side-by-side

7 DETECTIVE Not at the same time?

8 MR LAWSON You can't

9 DETECTIVE No

10 MR LAWSON Well then, put 13-B up there first

11 DETECTIVE Can you see it, Counsel?

12 MR LAWSON That's it What was that?

13 DETECTIVE Can you see it, I don't have listed --

14 MR LAWSON Oh, you don't have it by numbers 13-B is
15 the shirt That's it

16 Q This what we are talking about right here

17 A Uh-huh

18 Q And what I'm talking about is that the lines are on the
19 bottom, the smudges are on top Is that correct?

20 A I am not sure what you are asking me, but if are asking
21 me why like this one is smaller than this one and then
22 that one is larger?

23 Q No, I'm asking you --- you got a situation where you
24 have a dark mark and then light marks, dark marks, light
25 marks, dark marks, light marks

HELEN CAIN - CROSS EXAMINATION BY MR LAWSON

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1 A Okay

2 Q The lighter marks are on the top, the dark marks are on
3 the bottom, right, that's all I'm asking

4 A I see it, kind of --- I see a dark mark, a light mark, a
5 dark mark and some lighter marks

6 Q Okay And the light marks and maybe the lines looks to
7 me like it is on the bottom

8 A If he is sitting down his shirt is going to be somewhat
9 wrinkled and as the force comes down, I mean it's going
10 to slide

11 Q Okay And depending on how it's worn and how it slides
12 Now this makeup, is this the special kind of makeup or
13 something or just regular makeup you can buy --- I don't
14 know anything about makeup or wear it

15 A This is a makeup that is somewhat expensive This would
16 be probably bought at Belk or a specialized makeup
17 section This is not something you would be out like
18 Wal-Mart or somewhere, Revco or somewhere

19 Q Okay Is that the only makeup she gave you that she had
20 on that night?

21 A No, sir There is a lot of makeup in that bag

22 Q Okay She gave you a whole bag of makeup?

23 A A whole bag of makeup

24 Q Do you know where that went, I mean, I thought it
25 jiggled around --- I don't know where it went?

HELEN CAIN - CROSS EXAMINATION BY MR LAWSON

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1 A Number 18

2 Q Number 18 Yeah, that's just all the --- The bag of it
3 is what I am looking for It wasn't put in evidence
4 Anyway, it was a whole bag full?

5 A That is correct

6 Q Okay, thank you And you work pretty much exclusively
7 in, sexual assault cases, is that correct?

8 A That is correct

9 MR LAWSON I don't have any other questions

10 REDIRECT EXAMINATION BY MS PARR

11 Q Ms Cain, when did you determine or find that out that
12 forensic had not been called to process the scenes what
13 did you do?

14 A After I spoke with Ms Gloria on that Wednesday?

15 Q And what did you do upon immediately upon finding out?

16 A That's when we went to the crime scene and to the
17 vehicle and start investigating everything

18 MS PARR Nothing further for this witness

19 MR LAWSON May it, please The Court

20 RECROSS EXAMINATION BY MR LAWSON

21 Q Ms Cain, in your professional opinion as a police
22 officer and an investigator, is that the proper time to
23 be analyzing the crime scene?

24 A Once you find out, a crime has occurred, you need to
25 immediately try to process the scene And when I found

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 out that it had not been processed then that's what we
2 did

3 Q Correct And the best time is the earliest time isn't
4 it?

5 A Yes

6 **MR LAWSON** Thank you

7 **THE COURT** You can step down

8 **MS PARR** Your Honor, at this time we would call Adam
9 Moore to the stand

10 **THE COURT** All right

11 **ADAM T MOORE**

12 **BEING DULY SWORN TESTIFIES AS FOLLOWS**

13 **CLERK OF COURT** Please be seated and state your full
14 name for the record

15 **MR MOORE** Adam Thomas Moore

16 **DIRECT EXAMINATION BY MS PARR**

17 Q Corporal Moore, where are you employed?

18 A With the Florence County Sheriff's Office

19 Q And how long have you been with the Florence County
20 Sheriff's Office?

21 A I began as an intern in 2000 I took a job as evidence
22 technician in 2004, and in 2006 I became a Crime Scene
23 Investigator or we're classified as Forensic
24 Technicians

25 Q And have you had any specialty training with your job?

1 A I have I've been through not only the basic law
2 enforcement at the academy to become a certified law
3 enforcement officer, but I've also been through basic
4 crime scene schools which have basic photography, basic
5 evidence collection procedures, and then I've also been
6 through advanced classes with photography, blood spatter
7 and other evidence collections

8 Q Now how many years of law enforcement experience have
9 you had in total?

10 A Three and half years of actual certified law
11 enforcement

12 Q Now in February of 2008 did you have an occasion to be
13 called out for forensic purposes in regards to a sexual
14 assault, against Ms Gloria Williamson?

15 A I did

16 Q And when did you first become involved in this case?

17 A On Wednesday, February 27, 2008

18 Q And please tell us how you were brought into this case?

19 A I was called around 2 24 p m On that date, I was
20 contacted by Investigator Helen Cain She asked me to
21 respond to a field area at Cashua Drive and Stanley
22 Drive which is in Florence County I was told that this
23 is where the alleged sexual assault had taken place

24 Q And as a result of that what did you do?

25 A Investigator Cain, kind of briefed me on the incident

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 and told me that the victim had taken her to this field
2 and she identified it as the place where the alleged
3 sexual assault had occurred We then did a brief
4 walkthrough, just kind of looking for any signs of
5 evidence that we could find After we did a brief
6 walkthrough, I began photographing the scene as it was
7 that day I photographed the scene and then began
8 looking for pieces of evidence more closely

9 Q And the photographs that were entered into evidence as
10 State's Exhibit 8-A, B, C, D and E Were those
11 photographs that you made?

12 A You said 8-A, B, C, D and E?

13 Q Yes

14 A Yes, these are my photographs that I took

15 Q Then after you made those photographs what did you do?

16 A I began looking for other signs of evidence Anything
17 that a vehicle may have come and gone from this area,
18 any kind of footwear impressions I was briefed that
19 the victim's drivers license and currency was money, so
20 I was looking for currency and Ms Williamson's driver's
21 license Any kinds of signs of a struggle, because we
22 were also told that the victim had tried to escape from
23 the suspect and I was looking for any type of
24 disturbances in the ground, of course, this was
25 approximately three to four days afterwards There had

1 been heaving rain I did find what appeared be tire
2 tracks going in and coming out which was one set is what
3 the picture show I photographed those The tire
4 tracks from the Stanley Drive into the field went 149-
5 feet I measured it with a wheel I photographed these
6 tire tracks and looked for other signs of evidence and
7 we couldn't find anything else The tire tracks, they
8 were only partial tire tracks they weren't very very
9 useful

10 Q And then after you photographed the field what did you
11 do?

12 A That was it for my involvement in this for that day I
13 transported my photos They are stored on a member card
14 in our camera Took them back to the Sheriff's Office
15 and downloaded them and entered them into evidence where
16 they were securely stored

17 Q And now did you have occasion to do further forensic
18 work in this case?

19 A I did The next day, February 28th at approximately 9 00
20 a m this would have been the night after Investigator
21 Cain had taken the suspect into custody and retrieved
22 the clothing, the beige shirt, the blue jeans She
23 brought those items to me and said that she had found
24 what appeared to be makeup and hair on them, and that is
25 when I took them into our evidence, logged them in and

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 then took them to our forensic lab and laid it out and
2 photographed the T-shirt

3 Q And was that the photographs we saw a short while ago,
4 13-A, B and C that has been entered into evidence?

5 A Yes, these are my photographs showing the shirt with the
6 marking of what appear to be some type of red stain and
7 showing the hair

8 Q Now on that shirt, did you collect anything else from
9 that shirt?

10 A Besides photographing the items I did collect a hair
11 It was packaged and entered into evidence as an
12 additional piece of evidence to be sent to the SLED lab
13 for analysis

14 Q Okay I am going to show you what has been marked as
15 State's Exhibit Number 22 for identification

16 A This is an envelope how we store our stuff in our
17 evidence room It's got the case number and a sticker
18 with a bar on it that gives what it is The label says
19 hair from shirt, and that is a hair from a shirt with my
20 handwriting on it That I can't identify

21 **MS PARR** The State moves to admit into evidence the
22 hair

23 **MR LAWSON** Without objection

24 **THE COURT** Okay

25 **MR LAWSON** I assume it's traveled other places I

1 assume it's gone other places other than just to Adam?

2 MS PARR Yes

3 WHEREUPON, STATE'S EXHIBIT

4 NUMBER 22 WAS MARKED AND MADE

5 PART A OF THE RECORD

6 Q After you photographed those items and put them in
7 evidence what did you do --- Did you continue to
8 investigate this matter?

9 A Yes On the following day which would be Friday,
10 February 29th at approximately 1 00 p m myself and
11 Lieutenant Keith Lutken which is my direct supervision,
12 we went to the area field surrounding Stanley Drive and
13 Cashua and searched the other fields looking for the
14 identification and any kind of currency, any signs of a
15 vehicle that may have come in or out Trying to find if
16 there was an additional place, because the victim had
17 told the investigator that she remembers going to two
18 different locations, so we were trying to find if we can
19 see maybe the identification and currency was left at
20 another location After we got done --- We didn't find
21 anything in searching the fields surrounding the general
22 areal Approximately 3 00 p m we sent to Ms
23 Williamson's residence on Jeffrey's Circle in Florence,
24 South Carolina which is just behind the Wooden Nickel,
25 not just behind but a couple of hundreds yards behind

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 the Wooden Nickel and we processed her vehicle

2 Q And what did you do to process her vehicle?

3 A To process a vehicle we start by photographing the
4 outside of the vehicle as we find it We photographed,
5 and then we photographed the interior as we find it
6 After we get done photographing everything, we look for
7 any sign --- any kind of evidence, a hair, collect DNA
8 samples, if there is anything visible or anywhere that a
9 suspect may have touched anything like that We also --
10 In this it was muddy so the vehicle had actually been
11 washed prior to us processing the vehicle, but there was
12 still mud there so I photographed that I took swabs
13 from the steering, the front seat, the steering wheel
14 adjuster, the door release handle, the interior handle
15 to open the door, the door handle to shut the door from
16 the inside, the rubber seal --- the gasket around the
17 door I took swabs from all of those places What I
18 was trying to do is anywhere that the victim may have
19 touched or left anything of him or the suspect may have
20 touched or left any of himself behind I was swabbing
21 to try and find his DNA Also collected hairs from the
22 vehicle as well and I swabbed the running board on the
23 driver's side because the victim related to me that
24 there was some type of substances there prior to being
25 washed, but it was gone after the washing, so swabbed it

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 just in case Some DNA was still there and had survived
2 the washing

3 Q Now you said you made photographs of the interior and
4 exterior of the vehicle?

5 A Yes

6 Q First of all I am going to show you what has been marked
7 as State's Exhibit 12-F Can you identify that?

8 A This is a photograph of the driver's side rear
9 undercarriage showing mud that was till caked on under
10 the vehicle even after the washing And that is this
11 picture

12 Q And this was Ms Williamson's vehicle?

13 A Yes, ma'am, that was the driver's side rear
14 undercarriage

15 MS PARR The State moves to enter this picture into
16 evidence as State's Exhibit 12-F

17 MR LAWSON No objection

18 WHEREUPON, STATE'S EXHIBIT

19 NUMBER 12-F WAS MARKED AND MADE

20 A PART OF THE RECORD

21 Q And, Corporal Moore, you took these other photographs as
22 well, and if you would refer to them by exhibits
23 numbers

24 A This is Exhibit 12-E, showing the driver's side
25 acceleration and brake pedal with mud on them I did

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 take that photograph The next picture that was the
2 picture I had just said

3 MR LAWSON Are we --- Is it in evidence?

4 MS PARR Yes They are going in as they are
5 identified

6 MR LAWSON And they've been, testified to?

7 A This is the driver's side showing mud on the door at the
8 speaker

9 Q Now would you show us where you took hair samples from
10 in the car?

11 A Hair samples were taken, hair samples were taken from
12 the driver's side at the seat We didn't print off the
13 pictures from that area --- right along the bottom side
14 closest to the door of the front seat After I
15 collected them, we asked if Ms Williamson had any kind
16 of pets, and she said she did and we identified them as
17 dog hair That's what the hairs were They were not
18 sent for any kind of analysis because they were
19 identified as dog hair by myself and Lieutenant Lutken

20 Q Now, Corporal Adam Moore, what else did do in order to
21 process this case?

22 A That same day that we processed the vehicle, February
23 29th, we also collected the makeup from Ms Williamson
24 The next Monday, which would March 3rd, I went and
25 searched the victim's pants just to check and make sure

1 that the hospital had not missed the identification or
2 currency that would have been in the pants, and there
3 was nothing in the pockets of the pants On Tuesday,
4 March 4th, Lieutenant Lutken and I went to the Florence
5 County Detention Center and met with the Defendant
6 Stacey Evans, to obtain what we call a suspect kit, and
7 what this is, is a collection sort of like a sexual
8 assault collection kit We collect none hair, none DNA,
9 from the suspect and myself collected the pulled pubic
10 hairs, combed pubic hairs, pulled head hairs from
11 different sides and different areas of the head and a
12 nurse drew a sample of blood from the Defendant Stacey
13 Evans

14 Q And would that have been --- Can you identify those
15 items?

16 A This is a SLED Evidence Bag containing our envelope,
17 like I previous stated, that has our case number and the
18 bar code marker labeling it as suspect kit This is a
19 suspect kit This is what all the collection samples
20 that we get go in On the back of it is an evidence
21 tape seal with my initials on it showing that I secured
22 this and sealed it up to be sent to SLED

23 Q And is your signature on the SLED Evidence Bag?

24 A The inside of each --- Inside of the packet are the DNA
25 section which is blood sample Inside of this which has

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 my initials on it showing that I sealed it Inside of
2 it is a plastic bag with bubble-wrap The vials that --
3 - You go to the hospital, and they draw blood and put
4 them in It has to be sealed and secured in one of
5 these so it doesn't get broken in transport It has the
6 name of the nurse on duty, Tammy Edwards, who works for
7 the Sheriff's Office and this is what SLED does The
8 pink base at the bottom is actually a sticker that she
9 would put the suspect's name on and her name but it has
10 been demolished apparently by SLED I can't testify as
11 to how it got messed up, but you should be able to read
12 his name, her name, and the date when she collected
13 this But this is how she is in there And this is the
14 tray section that has pulled head hairs, pulled hairs,
15 pubic hair combing and pulled pubic hairs, and it has my
16 initials on it showing that I was the one who collected
17 and sealed it in here

18 MS PARR The State moves to enter this into evidence
19 as State's Exhibit Number 24

20 MR LAWSON Don't you want to put it in the SLED bag?

21 MR MOORE Actually it was in this and this was in
22 that SLED bag Yeah, I can put it back

23 MS PARR Objection?

24 MR LAWSON No objection

25 WHEREUPON, STATE'S EXHIBIT

1 NUMBER 24 WAS MARKED AND MADE

2 PART A OF THE RECORD

3 Q Now can you identify what has been reference as makeup
4 marked for identification purposes at this time as
5 State's Exhibit Number 26 Corporal Moore, can you
6 identify that?

7 A Yes, this is the rest of the makeup that was given to us
8 by Gloria Williamson on February 29th This has a bag
9 with the case number written on it in my handwriting

10 Q And where was that taken?

11 A This was taken from her She actually gave it to us
12 She put all of her makeup in this bag while we were on
13 the scene

14 Q And it was taken to SLED?

15 A It was taken to SLED

16 Q Now, did you make diagrams of the areas in questions?

17 A Yes, ma'am I made diagrams of the Wooden Nickel, the
18 area around the Shell Station showing Norwood Drive,
19 Cashua drive, and Golf Terrace Boulevard I made a
20 sketch of the wooden Nickel, Jeffries Lane, and
21 Greenland Drive, showing the area where the Wooden
22 Nickle is located, and I also made a sketch, a close up
23 of the Shell Station showing where the camera and a
24 cable marker that you can see in the video

25 Q Now is this one of the sketches you made?

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 A Yes, ma'am That is my sketch of the Wooden Nickel
2 showing the interior and parking areas

3 Q Do you recognize this?

4 A Yes, I do That is diagram Irby Street and Jeffries Lane
5 showing where the Wooden Nickel is in relation to other
6 businesses around the area

7 **MS PARR** The State would move to admit State's
8 Exhibit Number 2 into evidence

9 **MR LAWSON** Without objection

10 **THE COURT** All right

11 **WHEREUPON, STATE'S EXHIBIT**

12 **NUMBER 2 WAS MARKED AND MADE A**

13 **PART OF THE RECORD**

14 Q And can you identify State's Exhibit Number 2?

15 A Yes, that is another one of my diagrams showing the
16 Shell Station --- showing the Shell Station, Norwood
17 Road and Cashua Drive, Golf Terrace Boulevard and 1349
18 is the address where the suspect was staying

19 **MS PARR** The State moves to enter into evidence
20 State's Exhibit Number 4

21 **MR LAWSON** Without objection

22 **THE COURT** Okay

23 **WHEREUPON, STATE'S EXHIBIT**

24 **NUMBER 4 WAS MARKED AND**

25 **ADMITTED INTO THE RECORD**

ADAM T MOORE - DIRECT EXAMINATION BY MS PARR

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1 **MS PARR** Your Honor, The State would move to
2 introduce into evidence the makeup that has been marked as
3 State's Exhibit Number 26

4 **MR LAWSON** Thought it was already in there

5 **THE COURT** It's in

6 **MR LAWSON** All right

7 **THE COURT** No objection

8 **WHEREUPON, STATE'S EXHIBIT**

9 **NUMBER 26 WAS MARKED AND**

10 **ADMITTED INTO THE RECORD**

11 Q Now Corporal Moore, was there anything else you want to
12 add?

13 A On March 4th we were --- Investigator Cain to the
14 investigation we were told that the Defendant would
15 sometimes go to a Blue Shed We obtained --
16 Investigator Cain obtained a search warrant We
17 executed the search warrant at the Blue Shed
18 Photographs were taken The scene was searched, and no
19 evidence pertaining to the case was found After we
20 cleared from there we went to the Wooden Nickel and that
21 is when the business was photographed and the sketch of
22 the business was made On Wednesday, March 5th, I met
23 with Investigator Cain at the Shell Station at the
24 corner of Cashua and Norwood, and that is when we
25 photographed the Shell Station, Golf Terrace Boulevard,

ADAM T MOORE - CROSS EXAMINATION BY MR LAWSON

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1 and that is when I made the sketch of the Shell Station
2 and the surrounding areas And that is the end of what
3 I did

4 MS PARR Nothing further of Corporal Moore

5 MR LAWSON May it, please The Court

6 CROSS EXAMINATION BY MR LAWSON

7 Q So you have, a forensic lab instead of a CSI?

8 A Yes, sir, that is what we are classified as

9 Q Well that's just not fair They ought to let you guys
10 be CSI

11 Let me ask you, how much evidence did you really
12 expect to find on that automobile after it had been
13 washed, and it was almost a week later that you were
14 processing the outside anyway?

15 A Evidence on the outside after being washed --- the
16 potential for evidence is always there You never know
17 what kind of evidence could be found I never have any
18 expectations of as to what we're going to find My job
19 is to go and find whatever I can I don't come with any
20 preconceived notations of finding anything We're
21 trying to, search and locate anything that could be
22 useful in a trial

23 Q You rather get to that car sooner or later?

24 A I'd rather get to it sooner

25 Q Now, didn't you testify I thought that there was heavy

1 rain between the 23rd, and when you went to the field?

2 A There were heavy rains around that time I am not sure
3 --- there were rains around that time, not heavy, I
4 don't know, I may have said heavy, but I'm not a weather
5 man, I'm not 100% sure There were rains and the field
6 was muddy as shown in the pictures

7 Q Okay But did that happen between the time of the
8 alleged rape --

9 A -- Yes, sir --

10 Q -- and when you went out there?

11 A Yes, sir, they did The rains did occur in between the
12 23rd, I think is when the alleged rape occurred and when
13 I went out on the 27th of February

14 Q What if you had gone out on the 23rd?

15 A Like I said, I don't know I can't say there would have
16 been better evidence or not cause --

17 Q -- If you're looking for tire tracks Now, just be
18 honest with me

19 A Yes, sir

20 Q And with the jury

21 A Yeah

22 Q You are looking for tire tracks You go to a field The
23 field is muddy You expect to find tire tracks?

24 A Yes, sir

25 Q If it hasn't rained?

ADAM T MOORE - CROSS EXAMINATION BY MR LAWSON

303

1 A Or if it has, either way, you'd expect to find tire
2 tracks if a vehicle has been in

3 Q When are the best tire tracks, the ones before the rain
4 or after the rain?

5 A Prior to the rain

6 Q Prior to the rain, okay, that is all I'm asking The
7 best evidence is the quickest evidence you can get to?

8 A Yes, sir

9 Q Now when you took the pictures of the shirt on the
10 twenty-eighth, correct?

11 A Yes, sir

12 Q And then the field on the twenty-ninth?

13 A No, sir The field --- we went to it on February 27th

14 Q Twenty-seventh?

15 A Yes

16 Q And then on the twenty-ninth?

17 A We went back and just searched again looking for the
18 identification and the currency

19 Q And the currency, what were you looking for?

20 A Money

21 Q How much?

22 A U S currency I don't know Investigator Cain said
23 that her drivers license was missing and money

24 Q And money?

25 A Yes

1 Q Didn't say how much?

2 A I was not told any specific amount

3 Q And so but did you look --- Oh, were you involved with
4 the search of the Defendant's home?

5 A No, sir

6 Q Okay Do you know when that home was - When you
7 searched the shed, what were you looking for
8 specifically?

9 A Any kind of evidence that would be linking the Defendant
10 to the victim and --- We were looking for the driving
11 license Again, we were trying to find if he may --- if
12 he had of taken would it have been in that shed hidden
13 somewhere but we didn't find anything in the shed

14 Q No knife Did you look for a knife?

15 A No, sir

16 Q You didn't look for a knife Do you know if they looked
17 for a knife when they searched the house?

18 A I do not I wasn't there

19 Q Do you have a forensic technician on call 24/7, correct?

20 A Yes, we do There is somebody on call There is three,
21 a crime scene, or forensic technician, and one of us is
22 on call every week

23 Q And when --- Who normally calls you to the scene?

24 A It could either be a deputy himself, a patrol supervisor
25 or an investigator, any one of those three can call for

ADAM T MOORE - CROSS EXAMINATION BY MR LAWSON

305

1 forensics

2 Q And when are you supposed to be called?

3 A When a supervisor or investigator deems it necessary to
4 call

5 Q When can a deputy call?

6 A I couldn't answer that

7 Q So a deputy can't really call?

8 A A deputy can call his supervisor and say, hey this is
9 what I've got, can we call forensics and then that
10 deputy can call us and request for us to come He
11 always has to run it by the supervisor A deputy just
12 can't pick up the phone and say, I need forensics out
13 here He has to check with his sergeant or lieutenant
14 who is in charge

15 Q So Deputy Sumersett couldn't of called you on the 23rd?

16 A He would of had to checked with is supervisor and then
17 called and asked for whoever was on call I don't recall
18 if I was on call

19 Q Why didn't Helen Cain think that Officer Sumersett
20 was going to call forensics that day?

21 A I would assume --- I can't speculate as to why Being a
22 CSC, criminal sexual conduct, of this nature she may
23 have assumed the supervisor would have told him to call
24 forensics

25 Q Assumed But you are telling us he couldn't have called

1 on his own?

2 A No, sir He would of had to check with his supervisor

3 Q And most of what you did in this case was process and
4 document the evidence for purposes of chain of custody?

5 A Yes, sir Collection, preservation, photographs of
6 evidence for a trial

7 Q You did look for fingerprints?

8 A Yes, sir, we did Dusted the Tahoe for prints

9 Q The what?

10 A The Chevrolet Tahoe that was the victim's vehicle that
11 we processed

12 Q I thought you said you dusted the tires for prints, I'm
13 sorry

14 A No, Tahoe --- Tahoe

15 Q Cause I was --- Remember why you dusted the tire, okay,
16 the Tahoe, did you find any useable print?

17 A No, no useable fingerprints or palm prints were located
18 on the vehicle

19 Q When you do the swabs inside, you do that before you do
20 fingerprints?

21 A It depends We can actually do fingerprinting and then
22 swab an area If a fingerprint is like a smug,
23 something we can tell there is somebody has recently
24 touched it, we can actually swab that even with the
25 fingerprint dust on it and SLED can analysis and

ADAM T MOORE - CROSS EXAMINATION BY MR LAWSON

307

1 retrieve DNA, so it does it either way You can
2 fingerprint it first or --- Fingerprint first then
3 collect or collect samples and then fingerprint, but if
4 you collect samples before fingerprints, if they are
5 good fingerprints you will loose them

6 Q You will destroy them with the swab?

7 A Yes, you would destroy the fingerprint with the swabs

8 Q What did you do in this case, swab first, fingerprint
9 first?

10 A The areas that I swabbed were not able to be
11 fingerprinted It was a rough material, plastic that
12 fingerprints would not have shown up on

13 Q So they don't show up on just anything do they?

14 A No, sir, they don't

15 Q How often you dusted a car and got a fingerprint
16 anywhere?

17 A Maybe one or two out of ten cars that we process, we may
18 find a print, whether it's useable or not the numbers
19 drop Fingerprints even though they're there, they have
20 to have a pretty high number of details to be useable

21 Q And that is not very often, is it?

22 A I'd say about 1% of the time

23 Q 1%?

24 A 1 to 2%, yes, sir

25 MR LAWSON Nothing further, Your Honor

ADAM T MOORE - CROSS EXAMINATION BY MR LAWSON

308

1 MS PARR Nothing else for this witness, Your Honor

2 THE COURT You can step down

3 MR MOORE Thank you

4 MS PARR Your Honor, may we approach

5 THE COURT You can do it

6 THE COURT All right, jurors, here's the deal We are
7 going to finish tomorrow sometime Y'all will be
8 deliberating sometime tomorrow We are going to stop for the
9 day You know like I told y'all, I told the lawyers to put
10 up whatever they want, but if they didn't finish by 5 00 they
11 could check out the jail too and look at the time No, I'm
12 kidding I did tell them to move it on and they did a good
13 job I admit they've all done a good job They didn't drag
14 it out today

15 Don't talk about the case tonight We will start in the
16 morning at 9 15 didn't work, 9 30 Need all y'all here at
17 9 20 now, or we're going to come looking for somebody

18 Again, don't go out by the Wooden Nickel and check it
19 out See y'all in the morning

20 (Whereupon, the jury exits the courtroom at 4 45 p m)

21 THE COURT All right, is the door shut?

22 BAILIFF Yes, sir

23 THE COURT They all gone?

24 BAILIFF Yes, sir

25 THE COURT All right, Mr Evans?

ADAM T MOORE - CROSS EXAMINATION BY MR LAWSON

309

1 MR EVANS Sir?

2 THE COURT It's a little premature but here's the
3 deal Eventually sometime tomorrow The State is going to
4 quit --

5 MR EVANS -- Sir?

6 THE COURT Sometime tomorrow The State is going to put
7 up all the evidence they are going to put up You understand
8 that?

9 MR EVANS I think I know what you're talking about
10 You mean, they going to put up everything

11 THE COURT They'll be through tomorrow

12 MR EVANS Yes, sir

13 THE COURT And then you are represented by Mr Lawson,
14 you know, you can put some witnesses, you can testify or not,
15 I'm not putting any pressure on you but that is a pretty
16 important decision

17 MR EVANS Yes, sir

18 THE COURT You got all night to think about it, you
19 know

20 MR EVANS Yes, sir

21 THE COURT And I'll ask you again tomorrow at some
22 point --

23 MR EVANS That would be great

24 THE COURT -- but now is a good time to be talking to
25 him about whether to testify or not

1 MR EVANS Okay

2 THE COURT Good reasons to testify, and good reasons
3 not For instances, changes are if you got a prior record
4 they can bring that out I call tell the jury not to count
5 it on whether you committed the crime, but they can consider
6 if they want to, on your credibility, things like that Just
7 things to think about

8 MR LAWSON May it, please The Court For the record
9 I would state we've been talking about whether he will
10 testify or not for about the last two months

11 THE COURT Yeah, I understand It's an important
12 decision

13 MR LAWSON Yes, sir

14 MR EVANS We just want to see what everything looks
15 like

16 THE COURT I understand I'm not putting any pressure
17 on you I'm just telling you we are getting close to the time
18 that --- you been talking about it for two months but come
19 tomorrow you are going to have to decide

20 MR EVANS Yes, sir

21 MR LAWSON Thank you, Judge

22 THE COURT All right Have a good night And if they
23 gave you a razor last night it was dull

24 (Whereupon, The Court concludes its business for the day
25 at 4 55 p m)

J KIM COCKFIELD - DIRECT EXAMINATION BY MS PARR 311

1 (Whereupon, The Court begins its business for the day at
2 9 20 a m on Wednesday, December 10, 2009)

3 -- DAY THREE OF TRIAL --

4 THE COURT Everybody ready

5 MS PARR Your Honor, one thing, my SLED agents should
6 be here at 9 30 I have another witness I am going to start
7 with I may just need a minute when they come

8 THE COURT Okay

9 MR LAWSON May we approach while the jury is coming
10 in?

11 THE COURT Yes, you can do that

12 (Whereupon, the jury enters the courtroom at 9 20 a m)

13 MS PARR Your Honor, The State would call Kim
14 Cockfield

15 THE COURT Okay

16 J KIM COCKFIELD

17 BEING DULY SWORN TESTIFIES AS FOLLOWS

18 CLERK OF COURT Please be seated State your full name
19 for the record

20 MS COCKFIELD Jennifer Kim Cockfield

21 DIRECT EXAMINATION BY MS PARR

22 Q Good morning, Ms Cockfield Where were you employed?

23 A Florence County Sheriff's Office

24 Q And how long were you with the Florence County Sheriff's
25 office?

J KIM COCKFIELD - DIRECT EXAMINATION BY MS PARR

312

1 A Approximately seven years

2 Q Okay And what did you do for the Florence County
3 Sheriff's office?

4 A I was an evidence technician

5 Q And have you had any special training for your job?

6 A I was a crime scene previous to the training associated
7 with that

8 Q Okay Were you in law enforcement prior to working with
9 the Sheriff's office?

10 A Yes, I was with the City of Florence five years prior to
11 that

12 Q Okay Now are you a certified law enforcement officer?

13 A Yes, ma'am

14 Q And where did you get your certification from?

15 A South Carolina Criminal Justice Academy

16 Q Now to become a crime scene technician, did you have to
17 have any special training?

18 A I have an associate's degree in criminal justice, but
19 other than that on the job training

20 Q Now did you have an occasion to become involved in the
21 case against Stacey Evans?

22 A Yes, ma'am, for evidence purposes

23 Q And would you please tell The Court when you first
24 became involved in this matter?

25 A I took the items to SLED that were logged into evidence

J KIM COCKFIELD - DIRECT EXAMINATION BY MS PARR

313

1 Q And when was that?

2 A March 13, 2008

3 Q And where is SLED located?

4 A Broad River Road in Columbia

5 Q Now would you please tell us specifically what items you
6 took to SLED?

7 A The Criminal Sexual Kit from Gloria Williamson He
8 pants, clothing, shirts, hair from the shirt, pants from
9 Stacey Lee Evans, three pairs of underwear from Stacey
10 Lee Evans, seven sets of swabs, Suspect Kit, makeup from
11 Gloria Williamson, blood from Gloria Williamson,
12 underwear from the CSC kit and hair from the floorboard

13 Q And those items were taken on?

14 A March the 13th

15 Q I am going to show you items which have been admitted
16 into evidence We are going to start with item 18
17 Can you identify State's Exhibit 18?

18 A Makeup

19 Q And was that part of the makeup that you took to SLED?

20 A Yes

21 Q Okay And State's Exhibit Number 26?

22 A Labeled makeup from Jeffries Circle, Florence, from
23 victim

24 Q Okay And did you take that item as well?

25 A Yes It should have my initials on the slip

J KIM COCKFIELD - DIRECT EXAMINATION BY MS PARR

314

- 1 Q What has been entered into evidence as State's Exhibit
2 Number 24, the suspect kit Would you please tell us if
3 you can identify that?
- 4 A Yes, it has my initials on the slip
- 5 Q And number 24, State's Exhibit 24?
- 6 A This is the contents from the CSE Kit, and there are my
7 initials
- 8 Q Item 23, State's Exhibit 23?
- 9 A That's the shirt of the victim It should have been in
10 another bag
- 11 Q Do you recognize this?
- 12 A Yes
- 13 Q And what is this?
- 14 A It's a shirt
- 15 Q That you took to SLED?
- 16 A Yes
- 17 Q Okay State's Exhibit Number 19?
- 18 A It's the box that contains the CSC Kit that I took to
19 SLED
- 20 Q State's Exhibit Number 21?
- 21 A It is clothes, that was taken to SLED
- 22 Q Ms Cockfield, did you also --- once these items were
23 taken to SLED and analysis completed did you transport
24 them back?
- 25 A Yes, ma'am

J KIM COCKFIELD - CROSS EXAMINATION BY MR LAWSON

315

1 Q Okay And do you recall when you brought those back?

2 A I'll have to see the chain of custody for the evidence

3 MS PARR Your Honor, may I approach the witness?

4 THE COURT You can approach

5 A September 24, 2008

6 Q And were all the items intact when you took them and
7 brought them back?

8 A Yes ma'am, they were

9 MS PARR Please answer any questions the Defense may
10 have for you

11 CROSS EXAMINATION BY MR LAWSON

12 Q Ms Cockfield, you had nothing to do with the
13 investigation?

14 A No, sir

15 Q All you did was carry the evidence from Florence to
16 Columbia, and from Columbia back to Florence?

17 A Yes, sir

18 MR LAWSON I don't have any questions, Your Honor

19 THE COURT All right, you can step down

20 MS COCKFIELD Thank you, sir

21 MS PARR Your Honor, we would ask that the witness be
22 excused

23 THE COURT The witness is excused

24 MR LAWSON Without objection

25 MS PARR Your Honor, if we could just have a moment

J KIM COCKFIELD - CROSS EXAMINATION BY MR LAWSON

316

1 to give the other witnesses

2 THE COURT All right Jurors, don't talk about the
3 case Just ease out for a minutes

4 (Whereupon, the jury exits the courtroom at 9 35 a m)

5 THE COURT Attorneys?

6 MR LAWSON Yes, Your Honor

7 THE COURT The smallest of things but the foreperson
8 is physically sick back there He's in the bathroom throwing
9 up I think we just let him go home We don't want to catch
10 whatever he's got But that's up to y'all He hadn't ask to
11 go but I think we should offer him the right to go home if
12 he's throwing up Whatever y'all want though

13 MR LAWSON Defense would offer him the option of --

14 THE COURT If he wants to hand around we're not
15 forcing him off

16 MR LAWSON Yes, sir

17 THE COURT Bring the him out Bring the foreman out
18 and we'll ask him

19 THE COURT All right, well, I'm coming back in about
20 five minutes, I'll guess you'll be ready be then

21 THE COURT Ms Parr, you ready to roll

22 MS PARR Yes, Your Honor

23 THE COURT Bring the foreperson out

24 THE COURT Mr Foreman, just stop right there Here's
25 the thing I am the longest serving Circuit Judge I've never

J KIM COCKFIELD - CROSS EXAMINATION BY MR LAWSON

317

1 missed a day of holding Court I had twenty-two law clerks
2 I hadn't had a one that hadn't missed one or two day, you
3 know I am fortunate that I've all had head colds and things
4 like that I've never really been sick They tell me you
5 might be feeling a little under the weather It's your
6 choice If you think you can tough out --- if you tough it
7 you're not going to get paid anymore

8 **MR FOREMAN** Loose a lot of money, right

9 **THE COURT** Yeah So anyway --

10 **MR FOREMAN** No, I think I'm fine

11 **THE COURT** It's your call All the attorneys and the
12 parties say it's up to you

13 **MR FOREMAN** I'm fine I got on that elevator

14 **THE COURT** All right

15 **MR FOREMAN** I wasn't feeling good I left work and
16 came over here and was feeling kind of nauseated, and when I
17 got on that elevator every floor it stopped at I could feel
18 it coming on

19 **THE COURT** That's fine If y'all right, just hang in
20 there Just stand there, and bring everybody else out

21 (Whereupon, the jury enters the courtroom at 9 40 a m)

22 **THE COURT** What he said was if I got it everybody else
23 is going to get it

24 **MS PARR** Your Honor, State calls Jeremy Weis to the
25 stand

AGENT JERRY WEIS - VOIR DIRE EXAMINATION BY MS PARR

318

1 THE COURT All right

2 JEREMY WEIS

3 BEING DULY SWORN TESTIFIES AS FOLLOWS

4 CLERK OF COURT Please be seated State your full name
5 for the record

6 MR WEIS Special Agent Jerry Weis

7 VOIR DIRE EXAMINATION BY MR PARR

8 Q Agent Weis, where are you employed?

9 A I am employed with South Carolina Law Enforcement
10 Division commonly known as SLED

11 Q And how long have you been with SLED

12 A Approximately seven and a half years now

13 Q Okay And what is your job entitlement?

14 A I am the forensic toxicologist

15 Q Could you explain what forensic toxicologist is?

16 A Sure A forensic toxicologist analysis biological
17 samples for the presence of absence of drugs, poisons
18 and/or alcohol and it interprets those results for
19 Court's of Law, Law Enforcement, other entities as need
20 be

21 Q Now what are your duties?

22 A As of right now I am specifically assigned to the death
23 investigation of the section of the Toxicology
24 Departments I typically handle death cases that come
25 in, however, I also work criminal sexual conduct cases

AGENT JERRY WEIS - DIRECT EXAMINATION BY MS PARR

319

1 and any other cases that might come in as need be
2 This involves an analysis of the case samples that come
3 in and again the interpretation of those results

4 Q Now what is your educational background?

5 A I've got a degree in Biochemistry from the University of
6 Iowa Shortly after completing that I moved down to
7 South Carolina here and began my employment at SLED I
8 did attend the Criminal Justice Academy, and I am a
9 certified law enforcement officer, as you might expect
10 After completing that, I began my toxicology specific
11 training at SLED reached lasted upwards of two years

12 Q Now have you testified as an expert in Court?

13 A I have

14 MS PARR At this time I would offer Special Agent
15 Jeremy Weis as an expert in the field of forensic toxicology

16 MR LAWSON Without objection

17 THE COURT Okay

18 **DIRECT EXAMINATION BY MS PARR**

19 Q Agent Weis, what is the procedure by which a specimen is
20 received in the SLED laboratory for analysis?

21 A Well, when a specimen is brought into SLED by a
22 delivering Officer from whichever agency it might be,
23 and they are directed to our log in area There they
24 meet with, one our log in technicians and they are
25 assisted with the process That evidence is assigned a

1 specific laboratory number The case as a whole is
2 assigned a laboratory number and then that specific
3 piece of evidence would be assigned an item number
4 From that point that evidence is relinquished to that
5 evidence technician who then places it into an evidence
6 storage area that they have near, in log in Shortly
7 after one of our technicians or usually one of our
8 technicians from Toxicology, or it can be an analyst,
9 comes down retrieves that evidence from a log in
10 technician, carries it up to the fourth floor where our
11 department is located and places it into a large walk up
12 refrigerator that is located there From that point I
13 take custody of it

14 Q Was a specimen submitted to the SLED Forensic Lab for
15 analysis in this case?

16 A It was

17 Q And do your records indicate who delivered the specimen
18 to SLED?

19 A Yes, they do That evidence was brought in by Evidence
20 Technician Cockfield

21 Q And was the specimen submitted in accordance with your
22 lab standard operating procedure?

23 A When I received the evidence it was in tact and it was
24 in a SLED Evidence Bag That is something I didn't
25 mention, but the evidence after it is brought in, logged

AGENT JERRY WEIS - DIRECT EXAMINATION BY MS PARR

321

1 in, is placed into a SLED Evidence Bag that is sealed,
2 and then initialed and dated by the delivering officer
3 And when I received that evidence bag, yes, all of these
4 things had been done and it was intact

5 Q And what specimens were submitted to you for analysis?

6 A Specifically, there were two gray top tubes of blood and
7 one yellow serum separated tube of blood

8 Q And who did those specimen's belong to?

9 A Based on the label that was on the gray top tube of
10 blood, which I analyzed the specimens belonged to Gloria
11 Williamson

12 Q And did you perform any analysis on this specimen?

13 A Yes, I did

14 Q And what analysis did you perform?

15 A When a sample comes in the door to Toxicology, one of
16 the very first things we do and sometimes the only thing
17 that we do with a criminal sexual conduct case is a
18 blood alcohol analysis, and that is specifically a head
19 space gas chromatography analysis that we do

20 Q Okay And can you explain a little bit about what that
21 is?

22 A Sure Head space gas chromatography, first of all is
23 the most widely accepted method for the determination of
24 alcohol levels in forensic samples in the world, and
25 that is what we used More specifically, chromatography

AGENT JERRY WEIS - CROSS EXAMINATION BY MR LAWSON

322

1 is really just a fancy word for separation And what
2 that means is that there is different substances, the
3 alcohol in drinks is called ethanol, but there is
4 different substances that are volatiles and there are
5 many others, isopropanol, methanol Chromatography
6 allows us to separate all of those different volatiles
7 Moreover, what we can do is actually quantitate and tell
8 you exactly how much of that substance is there so we
9 can distinguish it from other things and we can tell you
10 how much is there

11 Q Now what were the results of your analysis in this case?

12 A The results on the blood sample that was labeled Gloria
13 Williamson were negative for ethanol

14 Q Did you perform any other tests on the specimen
15 submitted to you?

16 A No, I did not

17 MS PARR No other questions, Your Honor

18 THE COURT Okay

19 MS PARR Mr Weis, would you please answer any
20 questions the Defense may have for you

21 MR WEIS Yes, ma'am

22 MR LAWSON May it, please The Court

23 THE COURT Okay

24 **CROSS EXAMINATION BY MR LAWSON**

25 Q Agent Weis, the only thing you tested for ethanol?

AGENT JERRY WEIS - CROSS EXAMINATION BY MR LAWSON

323

1 A That is correct

2 Q Didn't do any tests for drugs or any other substance?

3 A No, sir

4 Q And what you are telling us basically is that you were
5 testing --- like the ole Breathalyzer use to do, it
6 tells you what the percent of alcohol is by weight, by
7 volume?

8 A The science is a little different but the end result is
9 about the same

10 Q And what is the --- Do you know at what time that sample
11 was drawn?

12 A Yes, I believe I do Based on the label that was on the
13 tube of blood that analyzed it appears to be February
14 23, 2008 at 8 00 p m

15 Q Say it again, please

16 A Based on the label it appears to be February 23, 2008 at
17 8 00 p m

18 Q That is eight at night?

19 A Eight at night

20 Q What is the rate at which the blood removes alcohol?

21 A There is an average elimination rate of 0 015 grams per
22 deciliter or 015% per hour

23 MR LAWSON That's all Your Honor

24 MR WEIS Thank you

25 THE COURT Okay

BETTY BUTLER - VOIR DIRE EXAMINATION BY MS PARR

324

1 **MS PARR** Nothing further for this witness We would
2 ask for the witness to be allowed to leave

3 **THE COURT** All right, you're free to go

4 **MS PARR** Your Honor, at this time we would call Ms
5 Betty Butler to the stand

6 **THE COURT** All right, Ms Butler

7 **BETTY BUTLER**

8 **BEING DULY SWORN TESTIFIES AS FOLLOWS**

9 **CLERK OF COURT** Please be seated State your full name
10 for the record

11 **MS BUTLER** Betty Butler

12 **VOIR DIRE EXAMINATION BY MS PARR**

13 Q Ms Butler, what is your occupation?

14 A I am a forensic technician

15 Q And where you are employed?

16 A I am employed with State Law Enforcement Division also
17 known as SLED

18 Q And how long have you been employed with SLED?

19 A Twelve and a half years

20 Q And in which department are you employed in?

21 A I am employed in the evidence processing unit in DNA

22 Q Okay what are your duties at SLED?

23 A As a forensic technician what we do we examine evidence
24 for biological fluids We look for semen, blood, hair,
25 fibers, glass, depending on the case, that's what we

BETTY BUTLER - VOIR DIRE EXAMINATION BY MS PARR

325

1 look for

2 Q Okay Now you said you have been with SLED how many
3 years?

4 A Twelve and a half years

5 Q Okay And have you been in this particular department
6 that whole twelve years?

7 A No, I haven't For two and half years

8 Q Okay Would you please tell us the other departments you
9 were in?

10 A Evidence control, and DNA prior to that

11 Q How many years were you with evidence control?

12 A Seven years

13 Q And then --

14 A It all totaled actually five and a half years I was in
15 there three years at first then seven years in evidence
16 control, and then I came back to the DNA Department in
17 the Evidence Processing Unit

18 Q Now what specialized training have you had in the area
19 of forensic evidence processing?

20 A We have trained on hundreds of items by a forensic
21 technician and our Lieutenant in the DNA Department
22 What we do --- Before we can go online or before we can
23 process any cases we have to take a proficiency test and
24 a competency test And we are tested every year after
25 that

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

326

1 Q Have you been qualified as an expert as a Forensic
2 Technician in evidence processing before?

3 A Yes, I have

4 MS PARR Your Honor, at this time The State moves to
5 offer Ms Butler as an expert as a Forensic Technician in
6 evidence processing

7 MR LAWSON Without objection

8 THE COURT Okay

9 **DIRECT EXAMINATION BY MS PARR**

10 Q Now please provide a general overview of evidence
11 processing?

12 A Evidence processing as I said before we examine for
13 biological fluids such as semen, blood, we look for
14 hairs, fibers, sometimes glass, and sometimes touch DNA
15 What we do --- when we look for examples, if we look for
16 semen we do a chemical test and if it is a possibility
17 of semen it will turn purple, and if we look for blood
18 we do a chemical test, and if it's a possibility if it's
19 blood it will turn pink

20 Q Now did you receive items in this particular case
21 involving a Stacey Evans and Ms Gloria Williamson

22 A Yes, I did

23 Q Okay And what SLED lab number was that?

24 A SLED lab number L-08-3797

25 Q And when did you receive these items?

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 A I received the items on August 25, 2008

2 Q And which items did you receive?

3 A I received SLED Item number Item 2, blue jeans belonging
4 to Gloria Williamson SLED Item 3, the bra belonging to
5 the victim SLED Item 4, the shirt belonging to the
6 victim SLED Item 5, shirt belonging to Stacey Evans,
7 the subject Item 7, blue Jean belonging to the
8 subject Item 8, underwear belonging to the subject
9 Item 9, another pair of underwear belonging to the
10 subject Item 10, underwear belonging to the subject
11 and Item 21, the underwear belonging to the victim

12 Q Now how can you identify these items?

13 A Every case has a SLED number as I stated before,
14 L-08-3797 Every item, every piece of evidence has to
15 have an item number for tracking Once we open up a box
16 and we examine the box, we get a piece of evidence we
17 have to put --- we know that it is an item, because when
18 it comes in the door it is an item and has to have an
19 item number And then after we examine it, we do a
20 cutting, we also have to give it another item number for
21 tracking throughout the system

22 Q I am going to show you State's Exhibit 21 that has been
23 entered into evidence First of all, Ms Butler, can
24 you identify this bag?

25 A Yes, I can On every piece of evidence that we get in,

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 we have to have a lab number which is L-08-7797 We put
2 the item number that is in the bag, which is 2 0 through
3 4 0 We have to have our initials and the date we
4 processed the item And the same thing --- this is a
5 piece of store paper that we process every item on
6 Again, we have the item number two thorough four, our
7 initials, the lab number L-08-3797 and the date that we
8 processed it, 9-3 of 08

9 Q And what item was that?

10 A These are item numbers two through four

11 Q How can you identify those items?

12 A Every item has the item number, in this case this is the
13 bra, 3 0, my initials and the lab number This is the
14 shirt, 4 0, my initials and the lab number L-08-3797
15 Blue Jean, the item number 2 0 my initials, B W B , and
16 the lab number L-08-3797

17 Q Now before we go onto the next item would you please
18 tell us what you did with that item, the blue jeans, who
19 those blue jeans belong to?

20 A This is Item 2 0 These blue jeans belongs to Gloria
21 Williamson In this case we were looking for the
22 presence of semen What we do, we have an alternate
23 light source where once we turned off all the lights we
24 have this light and glasses that we put on and it
25 foreshcesses Everything that fluoresces has a white --

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 - a bright white color, we circle, and after we finish
2 circling we turn back on the light As I stated before
3 we do a chemical test If there is semen present, or a
4 possibility that it is present, it will turn purple We
5 have to tests every marking that we circle We have a
6 negative or if it is a positive we will cut it out, give
7 it a different item number which is right here, it's a
8 2 1 The cutting is marked 2 1 also It goes into an
9 envelope We tape it shut I put my initials and the
10 date, the item number, the lab number and the test that
11 I perform on it, and put it into a heat-sealed pouch

12 Q And did you make a number of cuttings on those blue
13 jeans?

14 A Yes, I did This is our heat-sealed pouch, that we
15 would put our evidence in, seal it across the top, my
16 initials, the date, sign it and date it and it have the
17 lab number L-08-7797, the container number for
18 tracking purposes

19 Q Okay

20 A When there is a subject and a victim you never put the
21 subject's cuttings and the victim's cuttings in the same
22 heat-sealed pouch We will put it under the same
23 container number but a different heat-sealed pouch So
24 that is why you see another heat-sealed pouch This
25 particular one is a victim heat-sealed pouch We have

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 items numbered 2 4, 2 3, which is the cuttings that I
2 took, 2 6, 2 5, 2 2 And this is a hair from Item 2 4
3 which is Item 4 1 This is a hair from the panties
4 which is Item 21 2 This is 2 1, cutting, and 21 1
5 cutting

6 Q And how can you recognize those items?

7 A It always has the same lab number L-09-3797, which have
8 the description on the blue jeans, have the cutting for
9 semen, and then you tape it, my initials with the date
10 and I sealed it

11 Q And those cuttings fit into the blue jeans that you --

12 A -- Yes, it does I have each --- each cutting I take
13 as I said before we have to put the item number which is
14 2 1, and you can match it up to the cutting which is
15 marked 2 1 throughout the jeans, which I made cuttings
16 2 1 through 2 6 on the jeans

17 Q And I believe you had those items came out of this bag
18 as well with your initials?

19 A These items here are from the subject Items, 8 1, 8 2,
20 these are all cutting, 9 2, 9 1 This is hair, 7 5, 7 4
21 cuttings 7 3 from the blue jeans of the subject,
22 cuttings 7 2 cuttings, subject 8 4, the hair 5 1,
23 a cutting 5 2 from the T-shirt cutting 7 1 from the
24 blue jeans of the subject, cutting 8 3 from the
25 underwear, subject cutting This is the hair from the

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 subject, and this is Item 10 2 This is Item 10 1 from
2 the underwear cutting This is hair, Item 9 3 This is
3 a cutting from the shirt, subject 5 4 This is a
4 cutting from the T-shirt 5 3 subject Item 5 5 from the
5 long sleeve shirt, subject here

6 MS PARR At this time The State would move to enter
7 into evidence cuttings and samples from the Defendant's
8 clothing as State's Exhibit Number 27

9 MR LAWSON Without objection

10 THE COURT All right

11 WHEREUPON, STATE'S EXHIBIT

12 NUMBER 27 WAS MARKED AND MADE

13 A PART OF THE RECORD

14 MS PARR And state would move to enter into evidence
15 or moves to enter into evidence cuttings from Gloria
16 Williamson's clothing as State's Exhibit Number 28

17 MR LAWSON Without objection

18 THE COURT Okay

19 WHEREUPON, STATE'S EXHIBIT

20 NUMBER 28 WAS MARKED AND MADE A

21 PART OF THE RECORD

22 MR LAWSON Your Honor, do understand she introduced
23 cutting my client's jeans?

24 MS PARR Yes

25 MR LAWSON Would you like to put the jeans in as

1 well?

2 MS PARR Actually I thought you put the jeans in
3 already

4 MR LAWSON No, that is for identification You can
5 mark --- put your sticker on it

6 MS PARR And that has actually been marked for
7 identification as State's Exhibit Number 1

8 WHEREUPON, STATE'S EXHIBIT

9 NUMBER 29 WAS MARKED AND MADE A

10 PART OF THE RECORD

11 Q Can you identify what we'll put in as State's Exhibit
12 29?

13 A Yeah, that has been marked as --

14 Q -- Now it's number 29

15 A 29 This is Item 7 0, my initials, the lab number
16 L-087797 and the date I processed it, 9/4/08 This is
17 the paper that I processed the item on Item 7 0, my
18 initials, the lab number, and the date I processed it
19 The blue jeans of the subject, Item Number 7 0, my
20 initials and the lab number, L-087797

21 Q Ms Butler, what were your findings?

22 A On our SLED Item Number 2 0, the blue jeans, I took
23 cuttings 2 1 through 2 6 which came up as a purple color
24 which is possibility that there was semen there On
25 3 0, which is our item number which is the bra from the

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 victim, I tested several areas and it came up negative
2 so I didn't do any cuttings On Item 4 0 which is this
3 shirt of the victim I tested several areas there and it
4 came up negative so I didn't do any cuttings but on
5 Items 2, 3 and 4 I pulled hairs off of those particular
6 items and labeled it as 4 1 as hair

7 MR LAWSON 4 1 is hair?

8 A Yes

9 MR LAWSON Not my turn yet, I'm sorry,

10 Q And your other items?

11 A Our Sled Item Number 5 0, the long sleeve T-shirt from
12 the subject, I made cuttings 5 1 through 5 4, came up
13 positive, purple is positive, possibility as semen I
14 did four cuttings and 5 5 I collected hair off of that
15 item Item 7 0 which is the blue jeans from the
16 subject, I did 7 1 through 7 4 which is possibly --- it
17 was semen, and 7 5 was hair I collected off that item
18 Our SLED Item Number 8, the underwear from the subject,
19 I did cuttings 8 1 through 8 3 which came up positive,
20 possible it was semen so I did some cuttings, and 8 4 I
21 collected hair off that particular item Our SLED Item
22 Number 9, the underwear from the subject, I did cuttings
23 9 1 and 9 2 off of that item and 9 3 I collected hair
24 off of that item Our SLED Item Number 10, the
25 underwear from the subject, I did one cutting off of

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 that, 10 1 and I collected hair off of the item which is
2 2 2 And Item Number 21 is the pants from the victim I
3 did one cutting, 21 1 and I collected hair off of that
4 item which was 21 2

5 Q, Thank you Now please discuss your procedure once you
6 have processed and completed each item

7 A Once I have completed each item and get the cuttings,
8 as I said I put them into a envelope I tape this shut,
9 put my initials, the date It has the lab number and I
10 put it into a heat-sealed pouch, date it, put the
11 container number, the lab number and then call the
12 analyst to pickup the evidence

13 Q In this particular case after you did the cuttings what
14 did you do with them?

15 A I called Katie Coy, to pick it up and she picked them
16 up

17 MS PARR No further questions for this witness Will
18 you please answer any questions the Defense may have for you?

19 MR LAWSON May it, please The Court

20 THE COURT All right

21 CROSS EXAMINATION BY MR LAWSON

22 Q Good morning, Ms Butler

23 A Morning

24 Q Now just a few questions On the list that I have on
25 some of things that you went over, pardon me for --- but

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 you said 4 1, did you say that was hair?

2 A Yes, it was

3 Q Well on my list it says debris from shirt, would that be
4 the same thing?

5 A Yes, it is

6 Q Okay, so you call hair debris?

7 A Yes

8 Q Oh, okay And then let me ask you this now, the test
9 that you are not positive tests are they?

10 A No, it's the possibility perhaps it's --- from what I
11 gather

12 Q All right And, so what you do is, you then preserve
13 those areas and send it to the DNA lab where they
14 determine whether or not there is a positive result or
15 something they can test?

16 A Yes

17 Q You are just identifying possible areas for testing is
18 that correct?

19 A Yes

20 Q Now when you get these items of clothing, do you examine
21 them first to determine if there are any tears or rips
22 in them?

23 A Sometimes we do

24 Q Did you do --- In a sexual assault case would it be
25 normal to look for tears or rips where the clothes may

1 have been ripped off or something done like?

2 A Sometimes if it's an usual rip and we may note it on our
3 worksheet saying that the clothes had a hole in it or a
4 rip

5 Q But don't you think that would be a good idea to note
6 that if you are going to cut and hole in something?

7 A We normally note, if the rip or tear we do note it on
8 our worksheet In this case, I didn't note it on my
9 worksheet

10 Q Any tears or rips in any of the clothing that you
11 examined is that correct?

12 A May I review my notes, please?

13 Q Yes, ma'am

14 A On our SLED Item 5 0, the long sleeve T-shirt, I have a
15 noted where it says there are three black circles on the
16 front of the shirt that came from the agency

17 Q Okay And you don't know whether those were made by the
18 agency --- I mean, would that be an evidence indicator
19 like you do the circles on your circles?

20 A I don't know I only note it because I saw it on there
21 I don't know what the agency did

22 Q Right But based on your recollection and your review
23 of your notes, there was nothing on any of the clothing
24 to indicate any tearing or rip prior to your cutting --
25 - the cuttings that you took, ripping our tearing?

BETTY BUTLER - DIRECT EXAMINATION BY MS PARR

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1 A No Our 5 0 is the only thing that was unusual in this
2 particular case that I noted on my worksheet

3 Q And that was not a rip or a tear that was you noted some
4 circles or something on it?

5 A That is correct

6 Q Okay And you examined all of the clothing that was
7 submitted in this case?

8 A I examined all the ones that I received Looking at the
9 log in sheet, yes, I did

10 MR LAWSON All right Thank you, Ms Butler

11 MS PARR Nothing further for this witness We would
12 ask that she be allowed to be dismissed

13 THE COURT You can step down and leave if you like

14 MS PARR Your Honor, The State would call Katie Coy

15 THE COURT All right

16 THE COURT Do You want to take a break? All right,
17 jurors, some of us need breaks they say, so don't talk about
18 the case, just step out

19 (Whereupon, the jury exits the courtroom at 10 30 a m)

20 THE COURT All right Any time I send them out, you
21 know, you've got fourteen of them it takes at least fifteen
22 minutes

23 MR LAWSON Thank you, Your Honor

24 (Whereupon, a recess was taken from 10 25 until 10 40
25 a m)

KATIE COY - VOIR DIRE EXAMINATION BY MS PARR

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1 THE COURT All right, everybody ready?

2 MR LAWSON Yes, Your Honor

3 MS PARR Yes, Your Honor

4 (Whereupon, the jury enters the courtroom at 10 40 a m)

5 THE COURT Okay

6 MS PARR Your Honor, The State would call Katie Coy
7 to the stand

8 THE COURT All right

9 KATIE COY

10 BEING DULY SWORN TESTIFIES AS FOLLOWS

11 CLERK OF COURT Please be seated and state your full
12 name for the record

13 MS COY Katie Coy

14 VOIR DIRE EXAMINATION BY MS PARR

15 Q Ms Coy, what is your occupation?

16 A I am a Forensic DNA Analyst with the South Carolina Law
17 Enforcement Division

18 Q And how long have you been with SLED?

19 A Approximately three years

20 Q What are you duties at SLED?

21 A I receive biological evidence from agencies across The
22 State I examine these items for evidence for the
23 presence of body fluid such as blood, semen and saliva
24 I develop DNA profiles from items of evidence as well
25 known reference standards from individuals and I can

KATIE COY - VOIR DIRE EXAMINATION BY MS PARR

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1 compare them to determine if they match I generate
2 reports on my findings, and testify in Court when
3 needed

4 Q Now what is your educational background?

5 A I have a bachelor of science degree in forensic science
6 with a concentration in forensic biology from Virginia
7 Commonwealth University in Richmond, Virginia I also
8 have a master of science degree in forensic science with
9 a concentration in forensic biology from the same
10 university

11 Q What specialized training have you had in the area of
12 forensic DNA analysis?

13 A I have over three years of college course work and
14 laboratory training in forensic DNA analysis I have
15 completed courses in biochemistry, molecular biology,
16 statistics, population genetics, and serology and DNA
17 analysis I have completed a joint DNA internship with
18 the Virginia Department of Forensic Science, and
19 Virginia Commonwealth University

20 In addition, I have completed an in-house training
21 program at SLED under the supervision of Court Qualified
22 Analyst During that time I was training in evidence
23 handling, report writing, serology and DNA analysis

24 I have also completed a week long training section
25 giving by Applied Systems, which is the company that

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 manufactures all of the instrumentation that we use in
2 our lab

3 And finally, I have also completed a statics
4 workshop for DNA analysis

5 Q Have you been qualified as an expert in serology and
6 forensics DNA analysis before?

7 A Yes, I have

8 MS PARR At this time, I offer Ms Coy as an expert
9 in serology and forensic DNA analysis?

10 MR LAWSON Without objection

11 THE COURT All right

12 MR LAWSON She talks to fast for me

13 **DIRECT EXAMINATION BY MS PARR**

14 Q What is serology?

15 A Serology is the identification of body fluids such as
16 blood, semen and saliva

17 Q What is DNA?

18 A DNA stands for deoxribonnucleic acid It's a chemical
19 that is found in almost every cell of your body with the
20 exception of red blood cells DNA is responsible for
21 carrying genetic information from generation to
22 generation It is what codes for all our traits such as
23 hair color and eye color We get half of it from our
24 mom and half from our dad Over 99% of DNA is the same
25 between individuals, however, there is a very small

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 percent that differs and that's what we examine in
2 forensics, to differentiate between individuals No two
3 people should have the same DNA except for identical
4 twins

5 Q If I could get you to slow down just a little

6 A Okay

7 Q And if you will explain just a little slower what DNA
8 is?

9 A Okay DNA stands for Deoxribonnucleic It is a
10 chemical that is found in almost every cell of your body
11 with the exception of red blood cells It codes for
12 everything, all of your traits such as hair color, and
13 eye color And you get half from our mom and half from
14 our dad Most of our DNA is the same between
15 individuals, but there is a very very small percent that
16 differs, and it's that part that were testing in
17 forensics to develop a DNA profile Any by comparing
18 profiles we can determine if they match

19 Q Okay And what is a DNA profile?

20 A A DNA profile is a unique genetic identifier to a given
21 sample It is simply a string of numbers It is very
22 similar to a social security number In forensics we
23 look at fifteen different locations on the DNA, and at
24 each of these locations we develop a set of numbers
25 All of the sets of numbers together is what makes up a

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 DNA profile So, by comparing the sets of numbers for
2 items of evidence and known reference standards I can
3 see if they match

4 Q Okay Did you receive items in this case to analyze?

5 A Yes

6 Q First, did you receive a set of sexual assault evidence
7 kit labeled from Gloria Williamson?

8 A Yes, I did

9 Q Can you identify that?

10 A When I process items, I put the sample in a small
11 plastic tube like this, and it is just my practice to
12 return the items of evidence with the submitting
13 agency's evidence

14 Q What item is that one?

15 A I believe these are from the cutting that Betty Butler
16 processed

17 Q I am going to show you what has been entered into
18 evidence as State's Exhibit 20

19 A This is how a sexual assault evidence collection kit
20 will be submitted to SLED Each envelope is placed into
21 a heat-sealed pouch, labeled with our SLED lab number,
22 and signed and dated by the submitting officer

23 Q And can you identify the items in that bag?

24 A Can I put on gloves?

25 Q Sure

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 A We typically receive two separate pouches, one
2 containing biological fluids, and a known blood
3 standard, and then a trace evidence kit that contains
4 items such as hairs And in this one as well there is
5 an a debris collection

6 Q Pardon me?

7 A This kit also had a debris collection

8 Q Okay And when you received those items, were they
9 intact?

10 A Yes, they were

11 Q And what did you do upon receiving those items?

12 A First when we receive a Sexual Assault Kit, we inventory
13 the kit for the presence of certain swabs and hair
14 items

15 Q And do they have the requisite swabs in there?

16 A Yes, it was a typical kit that we received

17 Q And then once you analyzed the items what did you do
18 with it?

19 A With the kit?

20 Q Yes

21 A I package everything back up and sign it and seal it

22 Q Okay I also asked you can you identify what has been
23 entered into evidence as State's Exhibit Number 24?

24 A Our SLED Number Item Number 18 is a Suspect Evidence
25 Collection Kit from Stacey Lee Evans

KATIE COY - DIRECT EXAMINATION BY MS PARR

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- 1 Q Now, once you received those bodily fluids, the blood
2 standards from the Defendant and the victim Ms Gloria
3 Williamson, what did you do with them?
- 4 A The sexual assault evidence collection kit from the
5 victim, I would process that kit for semen or and/or
6 hairs And the suspect kit, I would just test for the
7 blood standard
- 8 Q Okay Now did you also receive cuttings from the
9 Defendant's clothing as well as cuttings --- Let me back
10 up Did you receive cuttings from Ms Gloria
11 Williamson's jeans?
- 12 A Yes
- 13 Q And did you analyze those cuttings once you received
14 them?
- 15 A Yes, I did
- 16 Q Okay I am going to show you what has been admitted
17 into evidence as State's Exhibit Number 28 Can you
18 identify those packages?
- 19 A These are cuttings from Items 2 and Items 21 or SLED
20 Number L-08-3797
- 21 Q Okay And what are those cuttings specifically from,
22 what items?
- 23 A They are listed as from blue jeans and from panties
- 24 Q Okay And who do those items belong to?
- 25 A I believe they belong to Gloria Williamson

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 Q Now did you also receive cuttings from the Defendant's
2 clothing?

3 A Yes

4 Q I am going to show you what has been entered into
5 evidence as State's Exhibit Number 27 Do you recognize
6 that?

7 A Yes, I do My initials are on the seal and it has our
8 SLED lab number

9 Q Now what were your results when you analyzed these items?

10 A The clothing items?

11 Q Pardon me?

12 A The clothing items?

13 Q The clothing items When you analyzed the cuttings from
14 Ms Williamson's jeans, which have been identified as
15 2 1, 2 2, 2 3, 2 4, 2 5 and 2 6, on your analysis

16 A The partial DNA profile developed from the semen on Item
17 2 5 matches the DNA profile of Stacey Evans The
18 probability of randomly selecting an unrelated
19 individual having a DNA profile matching the semen on
20 this item is approximately one in 5 1 trillion

21 Q And that number again?

22 A One in 5 1 trillion

23 Q Okay And what about cuttings from 2 6?

24 A The partial DNA profile developed from the semen on Item
25 2 6 is insufficient for reliable interpretation

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 Q Okay And 2 1?

2 A The DNA profiles developed from the non sperm fractions
3 of Item 2 1, 2 2, 2 5 and 2 6 are mixtures of at least
4 two individuals Gloria Williamson and Stacey Evans
5 cannot be excluded as possible contributors to these
6 mixtures

7 Q And when you say they cannot be excluded are you saying
8 that more than two persons?

9 A No, it's just a mixture of at least two individuals

10 Q Okay And those two persons are the Defendant and Gloria
11 Williamson?

12 MR LAWSON Objection, that is not what she is saying
13 at all

14 THE COURT That is not what she is saying

15 MR LAWSON Let her testify to what she is saying

16 THE COURT All right All right I ruled for you

17 A Gloria Williamson and Stacey Evans cannot be excluded as
18 contributors

19 MS PARR May I have The Court's indulgence?

20 THE COURT All right

21 Q Was there any semen found in the vaginal, or oral, or
22 rectum swabs that you examined?

23 A No

24 Q What about from any smears?

25 A There were no spermatozoa identified on the smears

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 Q Would you --

2 A -- There were no spermatozoa identified on the smears

3 Q Okay And so the only semen that you found was on the
4 blue jeans?

5 A Yes

6 Q And on 2 5, the semen identified belonged to?

7 A The partial DNA profile developed from the semen on Item
8 2 5 matches the DNA profile of Stacey Evans

9 Q Now did you also receive cuttings from the Defendant's
10 shirt?

11 A Yes

12 Q Okay Did you perform any analysis on that?

13 A No, I didn't

14 Q Okay Why or why not?

15 A We test the most probative items of evidence first
16 Typically you start with a rape kit and then move on to
17 victim clothing, and if we get a probative result our
18 testing stops We're not required to continue testing

19 Q Now you testified that the results were one in 5 1
20 trillion?

21 A The statistic is approximately one in 5 1 trillion

22 Q Okay What is the population of the world?

23 A The world's population is approximately 6 6 billion

24 Q Okay And what does that mean, in relations to the
25 results?

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 A The statistic that we generate is to determine how rare
2 a DNA profile is One in 5 1-trillion is extremely rare
3 profile A trillion is approximately 1,000 larger than
4 the world's population

5 Q Did you have an opportunity to analyze Item Number 6?

6 A Yes

7 Q And what was the result of that?

8 A Noting a profile foreign to Gloria Williamson was
9 developed from Item 6

10 Q And where was that item taken from?

11 A Item 6 was described to me as hair from a shirt

12 MS PARR May I have The Court's indulgence?

13 THE COURT All right

14 Q I am going to show you what has been entered into
15 evidence as State's Exhibit Number 22

16 MS PARR May I have The Court's indulgence? One of
17 the items entered has been --

18 Your Honor, may we have a short break?

19 THE COURT Okay, jurors, don't talk about the case
20 They got to look for some documents

21 (Whereupon, the jury exits the courtroom at 11 03 a m)

22 THE COURT Y'all got it?

23 MS PARR Yes, Your Honor

24 THE COURT See if they are ready

25 (Whereupon, the jury enters the courtroom at 11 14

KATIE COY - DIRECT EXAMINATION BY MS PARR

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1 a m)

2 Q (By Ms Parr) Ms Coy, can you identify what has been
3 entered into evidence as State's Exhibit Number 22 which
4 is right before you?

5 A Yes This is logged in as SLED's Item Number 6 and my
6 initials are on the label

7 Q Okay And you analyzed that is that correct

8 A Yes

9 Q And what was the result of that?

10 A No DNA profile foreign to Gloria Williamson was
11 developed from Item 6

12 Q Now you indicated that there were a number of other
13 items submitted to you, but you did not do an analysis
14 on them is that correct?

15 A Yes

16 Q And why did you not do an analysis?

17 A As I said before we work on the most probative items in
18 a case and once we have a probative result we are not
19 required to continue testing

20 Q Okay And did you prepare a report?

21 A Yes, I did

22 Q Okay And is that the report before you now?

23 A Yes This is a supplement report

24 MS PARR Your Honor, at this time The State would
25 move to enter a copy of the report into evidence

KATIE COY - CROSS EXAMINATION BY MR LAWSON

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1 **MR LAWSON** I object to the report going in, Your
2 Honor, she's testified

3 **THE COURT** If he objects, it doesn't come in You can
4 ask her about anything on there

5 **MS PARR** Would you please answer any questions the
6 Defense may have for you

7 **MR LAWSON** May it, please The Court

8 **THE COURT** Okay

9 **CROSS EXAMINATION BY MR LAWSON**

10 Q Ms Coy -- it's Coy?

11 A Coy

12 Q Coy, pardon me As I understand it, the DNA molecule is
13 a fairly extensive molecule, is that correct?

14 A That is correct

15 Q Right big molecule too, isn't it?

16 A Right

17 Q At present I think that we have deciphered approximately
18 5% of that molecule, is that correct?

19 A I would believe the entire Gene as been sequenced

20 Q Ma'am?

21 A I believe the entire molecule has been sequenced

22 Q It has been sequenced --

23 A -- Correct --

24 Q -- and identified for purposes of what it does, and what
25 results are there, are you sure about that?

KATIE COY - CROSS EXAMINATION BY MR LAWSON

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1 A I am not familiar with sequences, I test for non
2 sequencing parts of the DNA

3 Q How much of the DNA molecule is used for identification
4 purposes?

5 A In forensics we look at fifteen different locations on
6 the DNA that are known very widely between individuals

7 Q That amounts to be about 2% of the molecule?

8 A I am not certain of the exact percentage

9 Q Would that be close?

10 A I don't know I can't speculate

11 Q Now what testing procedures do you have available at
12 SLED?

13 A We perform STR/PCR DNA analysis

14 Q STR, just one test Are there other tests available?

15 A There are other DNA tests available, yes

16 Q And the one test that you use is specifically for
17 identification purposes, is that correct You're not
18 looking for anything else in relation to the DNA
19 molecule?

20 A Correct We are looking for identification purposes

21 Q Like what you said about the hair color, eye color, and
22 how you walk, talk, the way you act, whatever, your
23 disposition When you say there is no analysis
24 performed, do you mean that you didn't even look at the
25 rest of the evidence?

KATIE COY - CROSS EXAMINATION BY MR LAWSON

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1 A I will put a SLED item number on that evidence but I
2 will not do any analysis on it

3 Q Now, did you have anything submitted to you other than
4 known blood samples that were blood related?

5 A Typically a suspect kit will have a blood standard in it
6 as well as known head hairs and pubic hair combings

7 Q And you had known blood samples from Stacey Evans and
8 from Gloria Williamson, which allowed you to develop a
9 DNA profile for each of them, correct?

10 A Correct

11 Q And from that profile you then take your unknown or
12 whatever the evidence is, submitted and test it and try
13 to match it to those profiles?

14 A Correct

15 Q When you are developing that profile I notice your ---
16 little things where you clip off the end of the swab and
17 put it down in --

18 A -- the tubes --

19 Q -- then shake it up or whatever, and that's what you do
20 the DNA I've seen that on TV

21 A Yes Yes

22 Q CSI does that But you then, use that to run a test,
23 and the first thing you get out is it a graph that shows
24 highs and lows along a spectrum of different markers
25 that you are looking for identification purposes?

KATIE COY - CROSS EXAMINATION BY MR LAWSON

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- 1 A Right We have a computer printout with we call them
2 peaks
- 3 Q Peaks?
- 4 A Yes
- 5 Q And those peaks are then transferred onto the chart that
6 you send us in your report?
- 7 A Correct
- 8 Q So, that is a matter where you determine the level of
9 the peak based on what you see on the graph?
- 10 A There is a computer program that designates the --
- 11 Q -- Has the number on the bottom of it?
- 12 A Correct
- 13 Q And then it shows you the peak
- 14 A Right
- 15 Q You take that number off the bottom and transfer it to
16 your profile sheet?
- 17 A Right We get the profile on a computerized sheet and
18 we transfer it to a table format
- 19 Q Okay And then you --- one you --- The one thing that
20 concerns me, and I've had this before, is mixed samples
21 And I assume that is just a very difficult situation is
22 it not?
- 23 A What do you mean by mix samples?
- 24 Q You have mixed samples in this case do you not?
- 25 A A mixture?

1 Q A mixture

2 A Yes

3 Q Of more than one DNA?

4 A Right

5 Q And I saw in your report where you said that Stacey and
6 Gloria Williamson could not be excluded

7 A Correct

8 Q Okay Now, you know, I am a lawyer, and what I see as
9 not be excluded, may not be exactly what you are saying
10 as a scientist by not being excluded So you're not
11 including anybody as a result of those findings are you?

12 A I am saying I have --- The mixture that I have there is
13 no DNA that is foreign to either of those two people,
14 which is why they are not excluded

15 Q But you don't have enough to make a definite distinction
16 as to which is which, is that correct?

17 A As I said, there are mixtures and there is nothing
18 foreign to either of those two people, and that is how
19 we word it You can say that these people cannot be
20 excluded as a contributor to those mixtures

21 Q All right But you don't do a statistic on that do you?

22 A You don't have to, no

23 Q Why not?

24 A We do a statistic on the most probative item of
25 evidence

KATIE COY - CROSS EXAMINATION BY MR LAWSON

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1 Q On the most probative item and then you quit What kind
2 of a statistic, how do you figure the statistic --- What
3 known samples do you use in your statistical analysis?

4 A How do you get the statistic?

5 Q Yeah

6 A We use the FBI's program to generate our statistics

7 Q The FBI program?

8 A Uh-huh

9 Q Do you know how it works?

10 A Yes It is a probability calculation We look at
11 fifteen separate locations on the DNA Each of those is
12 a separate tests There is a probability for each test
13 You can multiple them together to get your statistic
14 It is very similar to rolling a die If you roll a die,
15 your probability of getting one is one in six If you
16 roll that die again, your probability of getting one is
17 one in six So your probability of getting both of them
18 is one in thirty-six It's the same principle

19 Q And so it just builds up down and you add --

20 A -- Correct --

21 Q -- as you go down and how many categories do you do?

22 A Our profiles are fifteen

23 Q Fifteen profiles, so that can add the numbers up real
24 quick can't it?

25 A Correct

1 Q Statistics?

2 A Yes

3 Q Thank you Now, did you try to determine through
4 analysis any --- other than the ones that you did
5 analysis on, any of the cutting that were submitted to
6 you whether they were semen, blood, anything like that,
7 did you do any analysis on them?

8 A I processed the victim's jeans, Item 2

9 Q And other than that, I mean the other items The items
10 that I see where you say no analysis performed, did you
11 do any anything on them?

12 A No

13 Q Now 4 1 was the debris from shirt, and Ms Butler told
14 me that was a hair You didn't do any tests on that?

15 A No

16 Q Why not?

17 A As I said, we work with the most probative items If I
18 have a probative result, I don't continue testing any
19 additional items

20 Q Well, let me ask you this Can you really test hair at
21 SLED?

22 A Yes

23 Q What if there is no root on that hair?

24 A If there is no root then our testing doesn't work, and
25 we can send it off for additional testing

KATIE COY - REDIRECT EXAMINATION BY MS PARR

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1 Q That's right, because you can't do Mitochondrial DNA
2 can you?

3 A Not currently

4 Q And you got to have a root on the hair to hair at SLED,
5 don't you?

6 A Correct

7 Q Okay Is it possible that you didn't perform analysis
8 on that because it didn't have a root on it?

9 A I did not even open the package

10 Q You didn't even open it I don't have any other
11 questions

12 **REDIRECT EXAMINATION BY MS PARR**

13 Q The item in which you found Stacey Evan's DNA was that a
14 mixture?

15 A There were several cutting from that item Item 2 5 was
16 not a mixture

17 Q And was that part of the cuttings from Ms Williamson's
18 jeans?

19 **MR LAWSON** Your Honor, not appropriate redirect
20 That's already asked and answered

21 **THE COURT** All right

22 **MS PARR** Your Honor, I --

23 **THE COURT** Ask one or two questions I mean he just
24 asked two questions

25 Q And that was from Ms Williamson's jeans, is that

JOSEPH D POWELL - VOIR DIRE EXAMINATION BY MS PARR

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1 correct?

2 A Item 2 is listed as being jeans from Gloria Williamson

3 Q Nothing further, Your Honor

4 THE COURT You can step down

5 MS PARR Your Honor, we would ask that she be

6 excused

7 THE COURT All right

8 MR LAWSON Without objection

9 MS PARR Your Honor, The State would call Joe Powell

10 THE COURT Okay

11 JOSEPH D POWELL

12 BEING DULY SWORN TESTIFIES AS FOLLOWS

13 CLERK OF COURT Please be seated and state your full
14 name for the record

15 MR POWELL My Joseph D Powell P-O-W-E-L-L

16 VOIR DIRE EXAMINATION BY MR POWELL

17 Q Mr Powell, where are you employed?

18 A I am currently employed at the South Carolina Law
19 Enforcement Division in the forensic area called Trace
20 Evidence

21 Q And how long have you been with SLED?

22 A Twenty-seven years

23 Q And would you please tell us your educational
24 background?

25 A I received a Chemistry Degree from the University of

JOSEPH D POWELL - VOIR DIRE EXAMINATION BY MS PARR 359

1 Southern Mississippi After receiving my degree, I came
2 to South Carolina and began to work on an advanced
3 degree I stopped after about a year of study and
4 became employed with SLED After becoming employed
5 there, I went through an extensive in house training
6 regiment dealing in area of drug analysis and trace
7 evidence After completing my training, I then began to
8 take work involving all the counties in The State, where
9 I perform both drug-analysis, as well as trace evidence
10 After seven years, The State had the opportunity to
11 refine the Forensic Program where they were able to
12 subdivide and break out from the drug section to trace
13 evidence, and where I went with them Two years later I
14 became promoted to supervisor of that section and have
15 remained supervisor ever since

16 Q And what do you do in your particular area?

17 A In our particular area we look at many different facets
18 of forensics We deal with gunshot residue, this is the
19 residue which is produced when you shoot a weapon We
20 look for it on the hands, face or an object near it

21 A bullet-hole analysis How far away was somebody
22 when they were shot

23 Pain analysis This is going to be where you have
24 a transfer from car to car, car to architectural
25 structure

JOSEPH D POWELL - DIRECT BY MS PARR

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1 Excelerants Where someone tried to burn a home
2 down or burn up an automobile we test for that

3 Trace other This is where we look at a mirrored
4 of different things such as building materials In this
5 case, we looked at makeups All types of various
6 materials that maybe just looked to be compared with

7 And we deal with glass analysis and other forensics
8 that may not fall into certain categories at SLED

9 Q And have you been declared an expert before?

10 A Yes, I have, many times

11 MS PARR Your Honor, The State would move to have
12 Agent Joe Powell declared an expert in trace evidence

13 MR LAWSON No objection, Your Honor

14 THE COURT Okay

15 DIRECT EXAMINATION BY MS PARR

16 Q Now, Mr Powell, did you have an occasion to receive
17 some evidence in this particular case?

18 A Yes, ma'am, I did

19 Q Okay And would you please tell The Court what you
20 received?

21 A I received two items of evidence One was a container
22 containing various types of makeup products, both
23 eyeliners, eyeshadows, foundation, things like that and
24 a container which contained clothing This clothing was
25 listed as belonging to the subject I was asked to look

JOSEPH D POWELL - DIRECT BY MS PARR

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1 for any type of makeup, and if I found any makeup see if
2 I could compare it to the makeup that was submitted to
3 me, to see if there was any that would match back to it

4 Q Okay And I am going to show you what has been entered
5 in evidence as State's Exhibit Number 18 Can you
6 identify that?

7 A Yes State's Exhibit 18 is one of the small units of
8 materials I examined This is actually one of the
9 standards that I worked with This was found with other
10 types of makeup products in a larger bag

11 Q I am going to show you what has been marked as State's
12 Exhibit --- Entered into evidence as State's Exhibit
13 Number 26

14 A What has been listed as State's Exhibit's Number 26 you
15 say?

16 Q Yes

17 A Twenty-six is going to be a paper bag which contains
18 within it, other makeup products Originally, this
19 container was inside with these materials After I went
20 through my initial examination, I separated this
21 container out, for I found it had some value, and I
22 wanted to do some additional testing on it

23 Q I am going to show you what has been entered into
24 evidence as State's Exhibit Number --

25 A -- 23 --

1 Q -- 23

2 A Yes State's Exhibit Number 23 is a paper bag
3 containing my initials This was part of a larger box
4 which contained items of clothing This particular
5 piece of clothing is listed as a shirt as from the
6 subject

7 Q Okay And did you have an occasion to examine that
8 shirt?

9 A Yes, I did

10 Q All right, Mr Powell, would you please tell us what
11 kind of examination or analysis you did on these items?

12 A The first thing that I did is I took the garments and in
13 this case they were both shirts, pants, some underwear
14 and some other materials I took each item of clothing
15 and I laid them out on a examination table and began to,
16 look to see if I could find any materials that would be
17 close or similar to makeup On the shirt I found three
18 lines almost parallel to each other approximately an
19 inch and a half in length, very narrow, very fine, on
20 the shirt I found no other makeup or anything on any
21 other items of clothing, so I then began to focus my
22 energy towards the shirt only I took and cut out that
23 area, so that I could take and place it into an
24 instrument to be able to, analysis the material When I
25 analyzed it, I found that it contained components that

JOSEPH D POWELL - DIRECT BY MS PARR

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1 are found in makeup products In this case it had two
2 primary materials, titanium dioxide and iron oxide
3 These are two materials Titanium dioxide is actually
4 white This is what you will find in white paint, other
5 types of --- like automobiles if you get white This is
6 a material that they add to give it the white The red
7 is going to be from iron oxide Certain types of iron
8 oxide can give you a red color So I was looking at a
9 mixture of both white and red to give you, basically, a
10 bronze or --- some people have different titles for it,
11 but it is just a mixture of those two colors The
12 eyeshadow pallet which has disappeared --

13 Q I put it right over here so it wouldn't disappear

14 A Yes, thank you The eyeshadow pallet which is the
15 manufacturer calls this a sedona sunset, has four
16 different pallets in it The lightest pallet is
17 principally titanium dioxide with some binders of other
18 materials The reds are basically the addition of more
19 iron oxide to give it a deeper redder color This color
20 pattern is the color range I found on the shirt so I
21 focused my energy on this material I went to compare
22 the chemical makeup of these various pallets with what I
23 found on the shirt, and found that this material on this
24 shirt could very well have been made by this eyeshadow

25 Q And where were those reddish lines found in the shirt?

JOSEPH D POWELL - CROSS EXAMINATION BY MR LAWSON

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1 A They are found on the lower part front of the garment
2 And again, they are all three lined up as if the shirt
3 was bunched and wiped across the face one time giving
4 you discreet lines of makeup, but they're all made at
5 the same time They are not separate makeup lines, they
6 are all made up as if the garment as bunched up and as
7 you rub your face against it or something happens you
8 will get these individual lines

9 Q Did you test any other garments? Did you find anything
10 else?

11 A Well I looked at all the clothing that was found within
12 the submitted evidence I found no makeup of any type
13 on any of the other pieces of evidence

14 MS PARR All right Will you please answer any
15 questions the Defense may have?

16 MR POWELL Yes, ma'am

17 MR LAWSON May it, please The Court

18 THE COURT Okay

19 CROSS EXAMINATION BY MR LAWSON

20 Q Agent Powell, is it my understanding that you looked at
21 all the clothes submitted?

22 A All the clothing submitted from the subject, yes, sir
23 I was only looking at the clothing from the subject and
24 the makeup containers

25 Q All right And you looked at all the makeup in that

JOSEPH D POWELL - CROSS EXAMINATION BY MR LAWSON

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1 container?

2 A Yes, sir, I did

3 Q And what all kinds of makeup were in that container?

4 A There is a --- where is it? Here it is I found
5 eyeliners, eyeshadows, I found foundational makeup, it
6 is a large collection of makeups

7 Q And you were told that the victim was wearing some or
8 all of this makeup at the time of the occurrence?

9 A I was actually told just to look and see if I could find
10 makeup Once I found the coloring on the garment, I
11 then looked through the makeup itself and stuff to see
12 if I found something within that color range to work by

13 Q All right Did you see anything on any of the clothing
14 that you looked at that appeared to be mascara in
15 nature?

16 A No, I did not

17 Q So the only makeup that you found was this --- And what
18 is this makeup used for, do you know, I mean I don't use
19 it so I --- I assume you don't either --

20 A --No, sir, I do not I do not My wife would be very
21 offended if I did No, this right here is used
22 primarily as a shadow, meaning you use it to be able to
23 enhance around the eyes I also in my research consulted
24 with other people in the department who use this
25 material they say --

1 Q -- Y'all got guys there who --

2 A -- No, sir, not the guys but the ladies

3 Q I was just checking

4 A Who sat down here that tell me that what they also do is
5 there is mixing process they can also do to kind of help
6 bring out some of the colors in the cheeks so they would
7 use it with addition to the foundation

8 Q So it could be all over the face?

9 A I don't know if I want to say all over the face but yes,
10 it would be used to bring out certain points of the
11 face, highlight certain colors or textures you would
12 like to bring out

13 Q And the only thing that you found in the bag that was
14 consistent with what you saw on the shirt was that?

15 A Yes, sir, that is correct

16 Q And you can say it's the same thing can't you?

17 A No, sir The material we find would definitely match
18 with a chemical material from this, or any of the
19 products that maybe produced using these same chemical
20 makeup So, I can't limit it to just this pallet of
21 colors

22 Q Right, because there are so many different kinds of
23 makeup And, they all basically made out of the same
24 thing aren't they?

25 A Well it depends upon your color We have to stay --- As

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1 long as the makeup you're talking about has the iron
2 oxide and titanium dioxide then, yes, it would be any of
3 the makeup out there But obviously is you have a
4 different color pattern then that would not fall within
5 this group

6 Q Great, but I'm talking about is that is not the only
7 brand of makeup that comes in that color?

8 A This is correct

9 Q So any makeup that comes in that color would have
10 basically the same chemical foundation?

11 A In most cases, that is correct Now there maybe a few
12 depending upon your price range, they may use a
13 different product Every level of makeup the chemical
14 used is going to be based upon the costs The more
15 expensive you have the more different materials you may
16 use and so there maybe some difference But these
17 materials here, titanium dioxide and iron oxide are very
18 common in the market

19 Q And I assume you don't have one of those SLED programs -
20 -- One of those FBI programs like the DNA people do, so
21 you can do a statistics on this do you?

22 A The only program we use is found in our heads, sir

23 MR LAWSON Thank you, sir No further questions

24 MS PARR Nothing further for this witness, Your

25 Honor

THE STATE V STACY LEE EVANS

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1 **THE COURT** Okay, you can step down and be excused

2 **MR POWELL** Thank you, sir

3 **MS PARR** Your Honor, that would be The State's case

4 **THE COURT** Okay State's case That means, The State
5 is not going to put up any more evidence, jurors, we will
6 just break for lunch, because I got to run over what is in
7 evidence and so forth with the attorneys

8 Be back at 1 15, a little longer, but it's going to take
9 us a while to get out of here, okay

10 Don't talk about the case

11 (Whereupon, the jury exits the courtroom at 11 40 a m
12 for the morning recess)

13 **THE COURT** Tell me know, when the door shut

14 **BAILIFF** That's all, Judge

15 **THE COURT** All right I understand that The State has
16 rested Does that help anybody?

17 **MR LAWSON** May it please The Court, the defense at
18 this time will move for a Directed Verdict, an acquittal on
19 the basis that there is a failure of evidence to present the
20 case to the jury

21 **THE COURT** Do you agree, Ms Parr?

22 **MS PARR** No, Your Honor, of course, we do not agree

23 **THE COURT** Well, unfortunately --

24 **MR LAWSON** Your Honor, I would say that there are a
25 number of exhibits notwithstanding Judge The counting of

THE STATE V STACY LEE EVANS

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1 exhibits should not be the appropriate determination Thank
2 you, Your Honor

3 THE COURT All right You have talked it over with
4 Mr Evans? What is the defense, plans?

5 MR LAWSON We've talked, Your Honor At this point,
6 I would say that he will not testify But, if we could wait
7 until after lunch

8 THE COURT Yeah, talk about it over lunch And, what
9 about any other witnesses? Are you going to call any?

10 MR LAWSON I have one possible witness, and I don't
11 know if I am going to call him or not, Judge

12 THE COURT All right What form of verdicts do you
13 want me to send back It is just guilty or not guilty of the
14 four counts isn't it?

15 MR LAWSON I see no lesser included offenses

16 THE COURT We could stretch it and charge second
17 degree on one of them maybe, but that is not worth it, I
18 wouldn't think But, whatever you want

19 MR LAWSON I don't think so, Judge I think it is
20 straight up It is either guilty or not guilty as charged

21 THE COURT All right Does The State agree to that?

22 MS PARR Yes, Your Honor

23 THE COURT All right Then we will be back at 1 15
24 ready to roll

25 MR LAWSON Thank you, Your Honor

THE STATE V STACY LEE EVANS

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1 **THE COURT** Oh, Mr Evans I don't want to put any
2 pressure on you We talked about it briefly yesterday

3 **MR EVANS** Yes, sir

4 **THE COURT** When we get back from lunch, you've got
5 time --- you will have time to think about it again You've
6 been thinking about it for months, but whether you testify

7 **MR EVANS** I've been thinking about it, sir

8 **THE COURT** Good reasons to testify, good reasons not
9 Your lawyer has been over all of them with you, I'm sure

10 **MR EVANS** Yes, sir

11 **THE COURT** Okay

12 (Whereupon, The Court was in recess from 11 45 a m
13 until 1 24 p m)

14 **MR LAWSON** Your Honor, I've always heard the Defense
15 never rest, but in this particular case, the Defense will,
16 also rest

17 **THE COURT** Okay

18 **MR LAWSON** My client has made the decision that he
19 will not testify, Your Honor

20 **THE COURT** All right, Mr Evans, I know you went over
21 all of it I am going to bring the jury out now

22 Do you want me to tell them not to take into account the
23 fact that he did not take the stand?

24 **MR LAWSON** Pardon?

25 **THE COURT** You want me to not mention it?

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1 **MR LAWSON** You are talking about at this point, or
2 during the charge?

3 **THE COURT** During the charge

4 **MR LAWSON** During the charge

5 **THE COURT** Yes, sir

6 **MR LAWSON** Just the general charge that the Defendant
7 has no duty to prove --

8 **THE COURT** Sure I would like to go further but I
9 won't, and say they shouldn't even consider the fact that he
10 didn't testify

11 **MR LAWSON** That is correct, Your Honor

12 **THE COURT** Okay But when they come out, I just have
13 to tell them that you aren't going to present any --

14 **MR LAWSON** I'll rest

15 **THE COURT** You can just say you rest You can just
16 say it, and I don't have to anything if you like

17 **MR LAWSON** I'll do that, Your Honor

18 **THE COURT** All right, then by doing that you do get
19 that advantage, which you discussed with your client that you
20 get to close

21 **MR LAWSON** Correct, Your Honor

22 **THE COURT** Since you cleverly only marked the one
23 exhibit for identification

24 **MR LAWSON** Yes, Your Honor And then The State put it
25 in anyway

CLOSING ARGUMENTS BY MS PARR

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1 **THE COURT** All right, anything else you want me to
2 charge the jury other than the ordinary stuff?

3 **MS PARR** No That will be fine

4 **MR LAWSON** Circumstantial evidence is in the charge

5 **THE COURT** Well all of your DNA evidence is
6 circumstantial

7 **THE COURT** All right, bring them out

8 (Whereupon, the jury enters the courtroom at 1 25 p m)

9 **THE COURT** Okay, right before lunch The State rested
10 What is the Defense up to?

11 **MR LAWSON** Defense rest at this point, Your Honor

12 **THE COURT** All right, Defense rest, you may proceed
13 Rest just means no more evidence will be presented

14 Remember, Defense does not have to prove they are not
15 guilty Ms Parr

16 CLOSING ARGUMENTS BY MS PARR

17 **MS PARR** Ladies and gentlemen, first I would like to
18 thank you for the attention that you paid in this particular
19 case At the beginning of this case I told you what this
20 case was about And I also told you that this was a very
21 serious case with horrific crimes that were crimes that were
22 committed against Ms Gloria Williamson

23 At this time, I want to tell you what I think the law
24 --- a little bit about the law --- I think the Judge is going
25 to charge you He is going to go into detail One thing he

CLOSING ARGUMENTS BY MS PARR

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1 will tell you, he will charge about reasonable doubt What
2 is reasonable doubt in law? A reasonable doubt it a kind of
3 doubt that would cause a reasonable person to hesitate to
4 act, and that is the burden that The State has to prove
5 today, or in this particular case

6 The Defendant is charged with kidnaping and criminal
7 sexual conduct in the first degree And the law as I am
8 going to tell you, as it applies to those two charges, what
9 we consider the substantive of the law for the charges ---
10 but the Judge will also give you a number of other charges
11 about the credibility of the witnesses, the believability of
12 the witnesses, and things of that nature, which is also
13 important in this particular case as in all criminal cases

14 But the law, or the substantive of the law for the
15 crimes in which the Defendant is charged with is as follows
16 Is criminal sexual conduct in the first degree, and that is
17 what this Defendant is charged with, three counts The State
18 has to prove several elements in order to convict the
19 Defendant of that

20 The first element The State must prove is that the
21 Defendant engaged in a sexual battery with the victim A
22 sexual battery is sexual intercourse, cunnilingus, fellatio,
23 anal intercourse or any intrusion however slight of any part
24 of a person's body, or any object into the genital or anal
25 openings of another person's body unless the intrusions are

CLOSING ARGUMENTS BY MS PARR

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1 for recognized medical purposes

2 Once The State proves, that a sexual battery has
3 occurred, The State must prove beyond a reasonable doubt that
4 an aggravated circumstance has occurred Aggravated force
5 means the use of physical force or physical violence of a
6 high and aggravated nature to overcome the victim This
7 includes the threat of using a deadly weapon Or that the
8 victim submitted to sexual battery while the victim was also
9 the victim of forcible confinement, kidnaping, robbery,
10 extortion, burglary, housebreaking, or any other similar act

11 This Defendant is also charged with kidnaping
12 Kidnaping according to the South Carolina Statute is, that
13 the Defendant knowingly and unlawfully ceased, confined,
14 held, kidnaped, abduct or carries away, another person
15 without authority of law To do a thing unlawfully is to do
16 it willfully against the law

17 Knowingly means with knowledge, consciously, not
18 accidentally

19 Cease means to take hold of suddenly or forcefully

20 Confine, means to limit, restrict, or enclose within
21 bonds, in prison, or shut or keep in The State does not
22 have to prove all of these things, but we have to prove any
23 one of them

24 Something done without authority of law is something,
25 which the law does not sanction, permit, allow, condone, or

CLOSING ARGUMENTS BY MS PARR

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1 provide justification for But kidnaping does not have to be
2 for any personal or monetary gain, for any legal purpose, but
3 may be for any reason whatsoever

4 In this case, you all have been here for two-and-half-
5 days, and listened to testimony You know that Ms Gloria
6 Williamson, also known as Ms Gloria, that you all have heard
7 her referred to as a fifty-four-year-old-women, who is
8 employed with Mount Hope Cemetery as an Office Manager, where
9 she has been so employed for over eleven years She is also
10 the mother of two grown daughter, twenty-seven and twenty-
11 nine We also know from her testimony that she has been
12 married over twenty-years, but she is now divorced And at
13 the time of this incident had been separated over eight
14 months living by herself On the date that started this
15 dreadful event, she went to work as usual Nothing out of
16 the ordinary At Mount Hope on Friday's they get off early
17 She got off at 3 00 Took a coworker/friend LeGrand Poston,
18 up here to pay child support, dropped him off because he
19 didn't have a ride And then, he wanted to go to the Wooden
20 Nickel so she dropped him off at the Wooden Nickel Although
21 there was some testimony that says she came in early, maybe
22 had one beer and left or whatever --- although she contends
23 that she went back about 10 00 or 10 30 But in any event,
24 it was a normal Friday for her She went to the bank, ran
25 errands, bought groceries, got gas, nothing out the ordinary

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1 But LeGrand asked her to please to come and have a drink with
2 him at the Wooden Nickel, not thinking anything was going to
3 happen

4 Now, you know, you've heard about the Wooden Nickel,
5 that it's a bar And at the beginning of the trial I asked
6 if you, you know, if you had bias or whatever against the
7 Wooden Nickel, bars, or whatever, to please just leave them
8 here, because even if a person went to a bar, they do not ask
9 for what happened to her And as I said before, where she
10 was, where it started it out, that is inconsequential to what
11 happened, because as you know she could have been leaving
12 church or any place like that, and the same thing could have
13 happened But as I said before had she known --- of course,
14 we don't have that foresight, and she didn't have that
15 foresight that night Nothing told her, Ms Gloria, you
16 don't need to go there, you need to stay home She got the
17 call from LeGrand, so she went back to the bar with him She
18 sat there, and said she went because she thought, you know,
19 he was there, she would be safe, but that turned out to be
20 far from what happened In any event, they are sitting
21 there She had a couple of beers Even the bartender said
22 she had three at the most She wasn't drunk She wasn't
23 intoxicated or anything of that nature But this person
24 comes in, being the Defendant You know, he says a few
25 things at first, he and his girlfriend, Mona They order a

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1 drink, go back to the back of the Wooden Nickel, and a little
2 while later he comes up to them Ms Gloria and LeGrand are
3 sitting at the end of the bar and he precedes to really
4 ingratiate himself in their conversation You know, it's
5 kind of like a pest that just won't go away And that is
6 what we have here He stood there They never invited him
7 to sit down or anything of that nature, but he strikes up a
8 conversation, mostly with LeGrand about tattoos, things of
9 that natures He evens pulls out and shows him that he has a
10 knife And then, you know, he's kind of trying to get
11 friendly with Ms Gloria And the interesting thing is when
12 he introduced himself, he says his name, but then he says but
13 they call me Psycho Psycho Well, you know, Ms Gloria
14 still didn't think of anything, you know, think anything of
15 it, you know, this guy's still there But if you recall Ms
16 Dena's testimony, the bartender, she said she could tell that
17 he made her uncomfortable, and that was her testimony And
18 LeGrand said when he started touching her, he even told him,
19 don't touch my boss lady How about keep your hands to
20 yourself But all the time, I believe the Defendant had it
21 in his head what he wanted to do What he planned to carry
22 out that night Ms Gloria stayed there several hours, and,
23 in fact, she testified on the stand that she did go back to
24 play pool She said she thought LeGrand was going She
25 started shooting pool with the Defendant, but realizing

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1 LeGrand wasn't going to play, so she left him and went back
2 up to the front She said, she never had any other contact
3 with the Defendant other than, back there playing pool,
4 nothing else And no one else testified that there was
5 anything else other than that

6 Now I know the Defense asked whether or not she danced
7 with him She denied dancing with him LeGrand said she
8 didn't dance with him, and the bar tender said she never saw
9 her dancing with him And then LeGrand says he leaves Now
10 the interesting thing is, if you recall, the Defendant came
11 with his girlfriend, Mona They came in a taxi cab Well he
12 puts Mona down Bottom line is, he dropped her She was
13 right there She even came up to him when he never came
14 back, and he told her just to go back They said that he did
15 not treat her nicely that night, and the tone he used with
16 her, and she ended up leaving him there But he didn't care,
17 because he didn't care about Mona, because he was fixated on
18 Ms Gloria That is who he wanted And what he did was,
19 when LeGrand got ready to leave, LeGrand said he told her
20 that he was going, because he'd had enough Now he was
21 honest on the stand He said he had been there drinking He
22 didn't pull any punches He didn't say anything He didn't
23 try to cover it up He put it all out up there that he had
24 been drinking, and he'd had enough and it was time for him to
25 go He asked her whether or not she was going to be okay

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1 She said she would She was going to finish up the last few
2 shallows, and she was right behind him

3 Now, Ms Dena said she thought that Ms Gloria left
4 first But she did say she wasn't definite, but what she was
5 definite about that she knows that the Defendant did not
6 leave with her But she said, the Defendant left almost
7 immediately after she did, because he followed her to her car
8 after LeGrand left, and that is why he did that He knew
9 after he'd gone --- because that is who had been protecting
10 her all night from him was LeGrand He figured now he has
11 free-reign, and he followed her to her car which was parked
12 on the side of the Wooden Nickel And once she got to her
13 car, getting in, that is when he forced his way in on her,
14 making her go, or pushed her over to the passenger side, and
15 he took command of her car And she asked him, what was he
16 doing Of course, she said he made a story of saying well
17 your Old-Man told me to do this And what did he do? He
18 took her by way of Second Loop Road She said she didn't
19 know all the turns they made But she knows they ended up at
20 a field, off of Cashua in Forrest Lake Subdivision I submit
21 to you, on the north side of the lake as we call it, on
22 Stanley Drive, which was a stretch --- there are no houses
23 there And he was very familiar with it because, that end
24 was part of his family, or the persons who raised him It
25 was part of the Broach's property, so he was well familiar

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1 with that area And from the pictures, not only is there a
2 field, it's a wooded area right there So from the street,
3 Cashua looking in, you wouldn't see it unless you came down,
4 or came onto Stanley He pulled off the roadway so it could
5 be kind of secluded And what did she do? Like all of us
6 she jumped out and tried to run It had been raining, wet,
7 muddy, she didn't get far She fell And if you will look
8 you will see mud on her jeans He caught her Grabbed her
9 around her wrists and confined her, because she wasn't free
10 to go She was confined from the point when she got ready to
11 leave the Wooden Nickel, and he got in her car, took her keys
12 and pushed on the passenger side, that is when her
13 confinement began And he still did not let her go And
14 what did he do after that? After he caught her, she is
15 begging for her life She begged him, but he forced her,
16 drug her around the --- and not literally dragging on the
17 ground, but by the hand around the driver's side And I know
18 some may ask, you know, why he just didn't do it around the
19 passenger side where she was, and why didn't she run that
20 way? Well, remember, she drove in, she couldn't run that
21 way, because you had nothing but the woods there She was
22 trying to run out in the open And as she got behind the car
23 --- the truck is when she fell --- the SUV, and he drug her
24 on around the driver side, because he had plans He knew
25 what he was going to do He at that point, he made her pull

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1 her pants down and penetrated her vagina from the back And
2 do you know what he said, he tells her Well, I'm not going
3 to leave any DNA in you I am going to finish in my hand
4 That is what he did And the evidence bears out, there was
5 no DNA, no semen or anything inside of her, because when he
6 thought he got to that point he decides that he was going to
7 pull out, and that is what he did And I submit to you, that
8 is why we have his semen with his DNA on her jeans in the
9 back, as opposed to inside of her, that is consistent with
10 what she said happened

11 As I said before this was a sick notion that he had
12 already conceived and, you know, like a person with a
13 nickname Psycho, that is part of the plan He knew he could
14 not have her any other way, so he decided this is his way of
15 getting control over her Because I submit to you, he is not
16 somebody she would have picked, but he picked her, and was
17 not going to let her go

18 Not only did she beg for her life --- And what she told
19 you, she told you from that stand, most candidly, as she
20 knows now that she didn't think she was going to die that
21 night, but what he did to her, and the way he did it, she
22 knew she was going to die that night That must be an awful
23 feeling But that is what she encountered at the hands of
24 Mr Psycho, in a muddy field

25 So, after he did that the first time they get back in

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1 the car, the SUV and drive around But he drives around in a
2 circle, and she thinks they went back to the same place He
3 didn't have enough He wanted more At that time, he
4 decided that he was going to make her perform oral sex on
5 him And what did he do? She didn't do it voluntarily He
6 grabbed her by the head, and forced her head down in his lap,
7 making her strike her head on the stirring wheel And I will
8 get to the fact about the Defense Counsel wanting to say
9 well, you know, she never told anybody about the oral sex,
10 all she said is that it was vaginal penetration, but we'll
11 get to that

12 Well he got frustrated, because he told her to suck it,
13 and he put his penis in her mouth But when nothing would
14 happened, then he got frustrated got her back out the car,
15 and decided that he was going to enter her from behind again
16 The same drill And after he finished what he wanted to do,
17 at that time, after still saying I'm not going to leave
18 anything inside of you, he drives to the Shell Station, which
19 is right around the corner, in walking distance, and he goes
20 there And she is still pleading, begging, just let me go
21 I won't tell anybody, just let me go It was at that time
22 when he drives to the Shell Station, he enters from Norwood
23 Lane --- I mean Norwood Road And he parks, and the car is
24 facing Cashua over by the gas pumps And according to the
25 testimony yesterday from Mr Townsend, you know, it's on that

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1 fast mode that has like, seven cameras or eight cameras
2 really and it records motion, and it's really in fast time
3 And so when it slows down I think he said it was actually
4 about four minutes that he recorded the car, the SUV actually
5 being there The full size SUV, which would be consistent
6 with what Ms Williamson said And you see the body getting
7 out, the male subject getting out and going across the street
8 as she said, all of that is consistent But what does he do?
9 He says he doesn't want to go to jail, so he takes his shirt
10 off, he wipes down the inside of the vehicle so there is no
11 evidence left He tells her that is what he was doing, and
12 that is what bears out in regards to the results

13 Ladies and gentlemen, she is distraught She jumps over
14 in the driver's side and all she could think about is going
15 home You know it's not every day that you think you're
16 going to be raped I mean, you know, no matter what you do,
17 you read the newspaper you know there is a possibility, but
18 you're thinking that's not going to happen But
19 unfortunately she had to live that reality, because it
20 happened to her And she's thinking, as she testified, she
21 is so ashamed, why me? Why did this happen to me? What did
22 I do to deserve this? That is what she told you from that
23 stand That is what she told the therapist

24 No, she didn't call law enforcement immediately, because
25 she was embarrassed She didn't want anybody to know She

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1 didn't want anybody to know she had been at the Wooden
2 Nickel She had two daughters She didn't want them to know
3 what had happened to her But she was literally a mess
4 emotionally She called LeGrand He and his mother came
5 that morning, and they found that she had been crying, I mean
6 she was just distraught They finally convinced her --- They
7 called somebody they knew with the city, he arrived Found
8 that it didn't happen in the city's jurisdiction, so the
9 county was called, Summersett came Now I will submit to
10 you, he didn't do everything he should have done But, you
11 know, that doesn't make it happen any less Ms Agnes got
12 her to go to the hospital

13 Now as I said he didn't do everything he should have
14 done, and she not knowing, the car was filthy from all the
15 mud so she had the car cleaned Luckily, they didn't do such
16 a good job, because they still left a whole lot of mud there,
17 even though they call themselves detailing the car So we
18 won't say who --- We don't know who did it, who cleaned it,
19 but needless to say, they didn't do the best job they could
20 have Good for this case that they didn't, because days
21 later when Helen Cain got on the scene as sometimes as I
22 refer to as, Johnny on the Spot When she became aware of
23 the case, she immediately called out everybody to process the
24 scene She got all the pictures of the vehicle done Went
25 out to the scene Found the scene Got the video footage

CLOSING ARGUMENTS BY MS PARR

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1 from the store, from the Shell Station She did everything
2 that she could possibly do to corroborate what Ms Gloria
3 said

4 Ladies and gentlemen, I submit to you that when Ms
5 Gloria went to the hospital that wasn't an easy thing to do
6 To go to the hospital and have to tell somebody, you know,
7 you've been raped But she mustered up the energy
8 administered to do that that Saturday evening And I know
9 you could question, as she should have gone earlier, she
10 should have done this, she should have done that But I
11 submit to you, all of those people saying what she should
12 have done, they have not been in her shoes to know what you
13 would have done But even the nurses said, Ms Buxton said,
14 she was very upset, crying, saddened, and had an elevated
15 heart rate She even classified her as a two, a somewhat
16 high risk until Ms Tomlinson who was going to assist with
17 the sexual assault exam could put her in a room She told
18 them what happened to her, which was consistent with what she
19 told She also told them that he had bound her hands, by
20 holding her hands, dragging her The doctor as well as Ms
21 Tomlinson told you, they noted bruised around her wrists
22 She also told you, Ms Gloria told you, that the bracelet she
23 had on, dug into her wrist which is consistent with the
24 bruising and it even broke her bracelet The bracelet is in
25 evidence for you to take a look at They also saw bruises on

CLOSING ARGUMENTS BY MS PARR

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1 her lower leg, under the knee, consistent with what he did to
2 her, well when she fell as well being pull across the console
3 in her car

4 Ladies and gentlemen, I know when you hear about rape
5 you expect all of this tearing and all this trauma to the
6 vaginal area I told you at the beginning of this case we
7 didn't have that But from that stand, the nurse and the
8 doctor told you, in most cases you don't have that, but yet
9 still a sexual assault occurred And they explained the
10 reason is because women who gone through --- once you have
11 gone through puberty the vaginal area, is designed to
12 withstand some intrusion into the body That is how babies
13 are born Some people have ten pound babies And
14 unfortunately, the vaginal area doesn't know whether it's a
15 wanted penis or an unwanted penis I mean that is just the
16 way the body was made So, we don't have tearing here or
17 anything like that We never indicated that there would be
18 because in most cases it's not, but yet still it doesn't mean
19 it did not occur

20 Dr Fonseca also noticed the scratches and bruising
21 And he noted that she had told him that he did not ejaculate
22 inside of her

23 Now, Defense asked, well did she ever tell you that he
24 made her perform oral sex on him They said they don't
25 recall her saying that But, Dr Fonseca said, that is not

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1 uncommon either, because people are embarrassed to say that
2 That is just not something people feel comfortable in doing,
3 and Ms Gloria was no different

4 Let's look at the Defendant's behavior after this
5 incident occurred When he went home that morning after
6 4 00, because this happened between like 2 00 and 4 00, Ms
7 Mona said that she saw him about 7 30 or 8 30 to 9 00 that
8 morning She said she asked him what time he got home and it
9 was around 4 00, and she said he was acting very suspicious,
10 very strange for days, until law enforcement came She
11 noticed all the mud on his boots, consistent with the muddy
12 field that he had taken Ms Gloria He wanted to keep the
13 blinds down Pacing back and forth saying he needed to
14 think Always looking out the window, would not let her open
15 the door Now I submit to you if you hadn't done anything
16 why do you want to be held up in the house, okay Hadn't
17 done a thing Why would you want to have all the blinds down
18 and not anybody answer the door? And that's the thing, but
19 that is what we have here And, in fact, when law
20 enforcement came that Wednesday, I think it was 27th, some
21 where in there because a couple of days later he's still
22 acting the same way So much so that her condo is on the
23 second floor he wants to jump off the second story balcony
24 He wants to cut her screen Of course, she said oh no She
25 didn't let him do that Now she let him move in after a week

CLOSING ARGUMENTS BY MS PARR

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1 or so, but she didn't let him cut her screen though She
2 drew the line But in any event, he was trying to get away
3 Hadn't done anything why? Law enforcement is at the door,
4 and she finally opens the door, and he is standing there with
5 a knife raised, and they take him in Ms Cain also during
6 her investigation skills got consent to search, and Mona gave
7 her the clothes that the Defendant had on that night, because
8 he hadn't washed them or anything, and she took them into
9 evidence And luckily we see, you all have seen the pictures
10 and the shirt that had Ms Gloria's --- or was consistent
11 with the makeup of Ms Gloria Now when you also heard
12 testimony from Ms Gibson, the Counselor that Ms Gloria had
13 been seeing trying to get through this unfortunate situation
14 And she did have --- She was going through a divorce so she
15 did have the stress as well But this event really just kind
16 of blew her out the water I don't know how else to it, I
17 can't sugarcoat it This was, you know, a whole lot for her
18 to handle, for anybody to handle even under normal
19 circumstances And Ms Gibson said that she was distraught
20 when she came to her Tearful Anxiety Hopeless Just a
21 whole lot of things are going on And even so much so that
22 she ended up changing cars with her daughter because she
23 couldn't even bear to be in her own car A prisoner of her
24 car, because of what he had done to her Now I think Mister
25 --- I can't put words in Mr Lawson's mouth, but from the

CLOSING ARGUMENTS BY MS PARR

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1 questions he asked Ms Gibson he said well can you ---
2 Aren't these symptoms, commons for people who have a
3 traumatic experience, you know could she just look it up on
4 the internet and just get all of things out and just make all
5 of this up Hello, most people just don't do stuff like
6 that You know why? It doesn't make sense Now Mr Lawson
7 told you during his open, he said, let's look at the
8 evidence And I know I have already talked some about the
9 evidence and I am not going to go on too much longer, but
10 yet, let's look at the evidence What Ms Gloria told you
11 corroborate what those who left the bar said that the
12 Defendant followed her He drove her to a muddy field How
13 do we know that? Mud on her jeans that is in evidence Mud
14 on her car There are pictures of that A rape occurred How
15 do we know that? There is evidence of penetration from the
16 victim's testimony Also, there was semen on the clothes
17 We have the bruises on her hands, bruises on her head, that
18 we have photographs of

19 Now they want you to think, you know, probably there
20 wasn't any oral sex But if we look at his shirt and Mr
21 Powell just kind of laid it out when he said it was like
22 someone --- the shirt was kind of bunched up You know
23 like when you sit down and then your shirt just kind of, you
24 know, and unless you're real thin, and you have a lot of
25 space, but anyway, it's just bunched up and the pattern from

CLOSING ARGUMENTS BY MS PARR

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1 where she says, he forced her down went straight on down He
2 analyzed the makeup and it was consistent with her makeup
3 Now that Corroborates what she said occurred Also, her hair
4 was found on his shirt They analyzed it and Ms Coy
5 testified that that hair was not foreign to Gloria
6 Williamson, which means that was her hair on his shirt, the
7 DNA showed that When he finished, as she testified that he
8 took her to the Shell Station, that was corroborated There
9 was the security camera who caught the vehicle right there
10 just like she said it was He was there about four minutes,
11 sufficient time in which to take his shirt off and wipe off
12 the evidence She said, he ran across What does the video
13 show? Someone going across the street

14 Now we also have other DNA evidence The Defendant's DNA
15 evidence was found on Gloria Williamson's jeans in the back
16 area Why? Because, he had them pulled down because he had
17 intercourse with her from behind, and the results indicate
18 his DNA, one in 5 1 trillion times And Ms Coy said the
19 world population is six billion And when asked, was that in
20 relations to these results, she said it's almost a thousand
21 times larger than the world population

22 So, we have looked at the evidence as Mr Lawson asked
23 you to do But now he also said, don't leave your common
24 sense here And I don't want you to leave your common sense
25 here either Never asked you to And, in fact, I want you

CLOSING ARGUMENTS BY MS PARR

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1 to use your common sense, because that is what we need here
2 We need common sense You know, you hear about people crying
3 rape but the person who usually cry rape, and it's not rape
4 is a teenager, a college person, or somebody get caught
5 having sex and they shouldn't be We don't have that here
6 Or someone rich and famous, and someone is trying to get
7 money out of them We definitely don't have that here Or
8 someone who has a vendetta against someone else We don't
9 have that here either Ms Gloria didn't know the Defendant,
10 had never met him Had never seen him until this night She
11 didn't even have to tell anybody, nobody would have ever
12 know This was not something that you want to brag about,
13 let the whole world --- all of Florence know, well, I've
14 been raped That's not something you want anybody to know,
15 so common sense would say she didn't have any reason to tell
16 this

17 And lastly, if this was so consensual, if that is what
18 they want to say, it was consensual, why go to a muddy field
19 when she lived by herself two blocks from the Wooden Nickel
20 Doesn't make sense? In the cold, in the dark, in a muddy
21 field Sure doesn't sound romantic to me I submit to you
22 because it wasn't consensual That was the Defendant's Psycho
23 mind working That is what he wanted

24 Ladies and gentlemen, I submit to you this has been an
25 ordeal for Ms Gloria, and it has been an ordeal for the past

CLOSING ARGUMENTS BY MS PARR

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1 couple of days for her having to relive this I said she came
2 to you as candid as she knows how She never said her
3 clothes were ripped or anything of that nature, because he
4 made her pull her own clothes down She tried to run but he
5 caught her She couldn't go anywhere She didn't fight him
6 after that because she wanted to live Because he already
7 said he had a knife and he would kill her And there is no
8 mud on his --- I don't think there is any mud on his jeans,
9 and that is because he didn't fall down He wasn't in the
10 mud, she was

11 Ladies and gentlemen, we ask you to look at all the
12 evidence you have been presented to you, and I know it's been
13 a lot Review the testimony that you have heard, and judge
14 the believability and the credibility of the witnesses that
15 have come forward And we just ask you to find this
16 Defendant guilty of all the charges as charged Thank you

17 MR LAWSON May it, please The Court?

18 THE COURT Sure

19 MR LAWSON Do you want to take a short break or
20 should I go ahead?

21 THE COURT Depends on how long you are going to sum
22 up?

23 MR LAWSON Your Honor, I wouldn't think it would take
24 me more than two hours, Judge, but --

25 THE COURT Two hours --

CLOSING ARGUMENTS BY MR LAWSON

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1 MR LAWSON No, I'm kidding, Judge I'm not going to
2 argue two hours

3 THE COURT Bottom line, they are good for about forty-
4 minutes, if you going to take more than that then we'll break

5 MR LAWSON I don't need that

6 CLOSING ARGUMENTS BY MR LAWSON

7 MR LAWSON May it, please The Court, Ms Parr, Mr
8 Foreman, ladies and gentlemen of the jury, again, I want to
9 thank you You have paid attention, you've listened, and now
10 it's just about time for you to go to judge the evidence
11 You have been hearing the evidence coming in as it has come
12 in

13 Now, the Judge is going to charge you the law and there
14 are a few things I want to talk to you about the law and
15 about the evidence As Ms Parr was talking an old saying
16 comes to my mind and that is, beauty is in the eye of the
17 beholder, and apparently evidence is also in the eye of the
18 beholder, because what I heard in this case and what she
19 heard in this case it is two opposite ends of the spectrum
20 That is why you are here Because, it doesn't matter what I
21 heard, or what she heard, it matters what you heard, because
22 you are the sole and exclusive judges of the facts and the
23 evidence in the case Now, the one thing that she said that
24 I agree with and that is The State of South Carolina is the
25 prosecuting party in this case and as a result of that is

CLOSING ARGUMENTS BY MR. LAWSON

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1 this country, my client, Stacey Evans, comes into this
2 courtroom presumed innocent and until The State of South
3 Carolina proves him guilty by the evidence beyond a
4 reasonable doubt, then it's your duty to find him not guilty
5 If on the other hand, The State of South Carolina convinces
6 you beyond the reasonable doubt that he is guilty it's your
7 duty to find him so But not whimsically or for some reason
8 but based on the evidence in light of the reasonable doubt
9 A doubt in which you can give reason A doubt that causes
10 the honest juror in search of truth hesitate that, not stop,
11 hesitate Is there something in this evidence that just
12 doesn't look right It doesn't fit in It doesn't go
13 together You see, I look at this in a total different way
14 than The State does, because what I am looking for is
15 evidence that will convince me, beyond a reasonable doubt
16 that this was a horrible, tragic, violent, premeditated,
17 kidnaping and rape, not a situation of sex between two
18 adults Because I am looking for evidence of the meanness
19 that was described by the victim through her direct
20 testimony The story that she told you unlike the story that
21 she told others because from count there is four to five We
22 got --- well actually we may have more because there is
23 police officer that The State didn't call, so we could see
24 what she may have told him And the thing about this case
25 that amazes me, everybody says she didn't report it, she was

CLOSING ARGUMENTS BY MR LAWSON

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1 calling people at first light, basically Depends on if you
2 can believe what time LeGrand knows whether he got up at 9 00
3 or 11 00, what time the call came in By that time she is
4 already telling people And, The State says well he's not,
5 you know, rich people so you can extort money from them and
6 cry rape Well, you know, a married lady separated goes out
7 with a friend of hers, a guy, just maybe that's why you call
8 rape Settlement Agreement hasn't been approved by a Court
9 Can't get what you want from your Ex Adultery ain't a sweet
10 thing to be looking at Friend of your friend Is word
11 going to get back? Oh, yeah So the word gets out first
12 What is consistent with --- okay, now, the first thing, to
13 tell Summersett that he comes up -- behind her and grabs her
14 on the way to her car Tells Helen Cain on the other hand
15 she's in the car, he grabs her and throws her over the
16 console after taking the keys and then takes the car comes
17 out to Second Loop Road Drives down Second Loop Road to
18 Cashua, two of the busiest streets in Florence on a Friday
19 night, with a kidnaped women inside of the car, and then
20 takes her to a field and rapes her once, drive back out to
21 Cashua and then come back to the field to rape her two more
22 times It doesn't make sense and it doesn't fit the
23 evidence Look at her pants It is consistent with them
24 being muddy at the very bottom Not up to the knees and if
25 she fell down in a muddy field there is going to be mud on

CLOSING ARGUMENTS BY MR LAWSON

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1 the knees See, just a couple of weeks ago I tripped ---
2 and I hate to tell you, but I tripped and fell on the
3 sidewalk My wife says I can't walk and chew gum at the same
4 time I skint both knees --- my knee still has a skid mark,
5 I saw it immediately It wasn't two days later It wasn't a
6 day later I skint my head It was immediately --- my
7 finger is still got a scab on it All of that was
8 immediately, immediately evident because I had a traumatic
9 event I think she fell All we have is possibly three
10 bruises on one shin No bruising to the upper thigh, the
11 buttocks area, no internal trauma Nothing to indicate that
12 this was a forceful, mean, double vaginal rape And then the
13 oral sex, I don't know --- of course Summersett didn't put
14 it in his report The hospital says no I mean the doctor
15 has got it right there in his records He asked her Why
16 would you lie to the doctor, if it is the truth, tell the
17 whole way through don't change it Lord, have mercy Any
18 clothes torn anywhere Any tears, any rips, anything anywhere
19 on any clothing to indicate a struggle of any kind And
20 makeup anywhere other than on the shirt Any makeup from
21 tears, where your eyeshadow runs --- or your mascara runs
22 when you cry When somebody pulls you down Where is there
23 going to be mascara? Pants, underwear, shirt, everywhere
24 You're crying, and you're upset, and the only makeup that is
25 anywhere is the base makeup on a shirt that could come from

CLOSING ARGUMENTS BY MR LAWSON

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1 anywhere Where is the other makeup if this was a traumatic
2 event? If this is what it was alleged to have been

3 Now, you know, it's interesting to me and that is a job
4 I don't envy you at all, you have to judge the evidence
5 Now, Poston --- LeGrand Poston says he left first Ms
6 Williamson's said he left first But the bartender said, Ms
7 Williamson left, Mr Poston left, and Stacey left And what
8 is the interesting thing that Dean says, I asked her would he
9 have had to pass Mr Poston to catch up to her and what did
10 Dena say No, he would have had to run over Mr Poston to
11 catch up with her Now, you saw Mr Poston and you've seen
12 Stacey Could he have run over Mr Poston to get to her or
13 did he walk with her to the car? I don't know You have to
14 decide if Dena is telling the truth about who left when, or
15 if she saw what she thinks she saw She is the only one
16 there that night, that wasn't drinking, let's put it that
17 way You know, because we know LeGrand was drinking We know
18 Ms Williamson was drinking And the thing that gets me is
19 somebody --- she never said that she went back there at
20 4 00, 4 30, 5 00 and had a beer and then left and came back
21 But LeGrand Poston on cross examination --- he didn't say
22 it on direct but when he talked to Ms Cain in his statement
23 and on cross examination didn't he admit that he came by
24 there at 4 00 --- 4 00 or 5 00, stopped and had a beer, left
25 then came back about 7 00, because Dena said she was there

CLOSING ARGUMENTS BY MR. LAWSON

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1 when she came on to work And you look at his shirt If you
2 take a shirt off and you wipe it across the console of a car
3 and the front of a car inside or out, I don't care if I
4 cleaned my dash today, tomorrow there is dust gathering on
5 it I can't figure out where it comes from but it's there
6 And you look at that shirt and you tell me it looked like
7 something had been cleaned off with it And you tell me what
8 other reason there could be for that car being there four
9 minutes even if did that why is that car there four minutes
10 And if --- watch that thing again, watch the brakes lights
11 because the brake lights go off that means the car is in
12 park, because if the car is not in park the brake lights are
13 off the car is going to roll out of the view of that camera
14 The brake lights come back on and they stay on and they left
15 off and the car pulls off and there is somebody standing
16 there Why is the car there so long? That is a long time
17 You get in your jury room and you sit and you say okay let's
18 time four minutes and somebody Nobody say a word, let's
19 just sit here and wait four minutes See how long that is
20 See how long that is There are things that just don't add
21 up The evidence does not fit the crime There is no
22 evidence of a traumatic struggle inside that car One reason
23 I was upset with Officer Summersett because there could have
24 been pictures taken of that automobile not so much the
25 outside --- I don't give a flip about mud on the outside, I

CLOSING ARGUMENTS BY MR. LAWSON

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1 especially don't care about mud under the wheel, for heaven's
2 sakes look at your own car when you go home this afternoon
3 and look under the wheels and there is going to be dirt under
4 there That is the only place they could take a picture like
5 that But the car was washed for heaven's sake Evidence
6 was possible destroyed I want pictures from the inside of
7 the car, because as much struggling back and forth as there
8 were with mud everywhere there should have been mud from one
9 side of the inside of that car to the other side There
10 should have been shoe marks There should have been mud
11 everywhere inside that car And all he had to do was, look
12 in there and take pictures for us, and we would say hey look,
13 there was a struggle inside that car Nobody has testified
14 about that But there was a brutal struggle if you believe
15 what she said Back and forth over the console four or five
16 times during the event of the night as described by the
17 victim How can there not be evidence in there? But I
18 submit to you, Grant Summersett is a good enough cop If he
19 looked in that car and he saw that he --- he saw that we'd
20 have pictures of it I submit to you we don't have it
21 because it wasn't there It wasn't there because it didn't
22 happen like The State says it did Could not have happened
23 that way There is no physical evidence that legitimizes
24 There is no physical evidence and no trauma --- I mean, you
25 know, the --- I couldn't believe it The State put pictures

CLOSING ARGUMENTS BY MR. LAWSON

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1 into evidence and had you --- had them identify as the
2 right eye to be consistent with the story And it is not the
3 right eye It's the left eye Absolutely inconsistent with
4 the story they tried to sell you But they wanted to put it
5 in thinking nobody is going to look, harder enough to see the
6 truth and that is our job That's your job to look hard
7 enough to see the truth Don't just take on face value what
8 the government says It's our duty as citizens to stand up
9 and say government prove it We are not going to allow the
10 government in this country to dictate, to us what we believe
11 and what we don't We are citizens of a free country and we
12 stay free as long as we have people like you that will serve
13 on juries to arbitrate between the government and the people
14 And that is what this is about It's not about what The
15 State said in its opening statement, the life of Ms
16 Williamson It's The State of South Carolina versus Stacey
17 Evans This is not a civil lawsuit where you find for one
18 side or the other and award money This is a criminal case
19 This is a case where The State of South Carolina is accusing
20 this man of a heinous crime A crime that can take away his
21 life Make them prove it Make them provide it by the
22 evidence, by the evidence beyond a reasonable doubt That is
23 what separates us from every other people on this earth as
24 long as you will do it The evidence in this case does not
25 substantiate the story that you have been told Look at the

CLOSING ARGUMENTS BY MR LAWSON

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1 physical evidence Find evidence of traumatic repeated rape
2 It's not there It's not there And I submit to you there
3 is reason for this story, there is a very good one It's age
4 old as time Your duty is to find the truth Somewhere in
5 this evidence --- somewhere in this evidence I ask you to
6 judge it by the evidence beyond a reasonable doubt And
7 there is two kinds of evidence, direct and circumstantial,
8 testimony, direct Circumstantial evidence that indicates
9 the facts The circumstantial evidence that I am talking
10 about is evidence that would lean one way or the other as to
11 whether or not this was traumatic or not A traumatic event
12 An event involving mean, anger, crying, makeup, tears,
13 trauma If everybody goes to the extent to say oh, no, not
14 women Doctor, that is not exactly true is it, no it's not
15 There are cases where you have trauma, because some want it
16 and there is a difference A hysterectomy, in this case
17 makes a difference Makes a difference Look at all the
18 evidence Look at all the evidence and judge it by the
19 evidence beyond a reasonable doubt I think that you will
20 conclude that in this case The State has failed has failed to
21 prove him guilty of any of these charges beyond a reasonable
22 doubt Thank you

23 THE COURT All right, jurors, we're going to take a
24 little break Don't talk about the case quite yet Almost in
25 your hands Step out

CHARGE ON THE LAW

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1 (Whereupon, a recess was taken from 2 32 p m until 2 45
2 p m)

3 **THE COURT** All right, everybody ready to roll

4 **MR LAWSON** Defense is ready, Your Honor

5 **MS PARR** The State is ready, Your Honor

CHARGE ON THE LAW

6
7 **THE COURT** Okay Jurors, we are coming into the final
8 phase of the trial I am going to instruct you on the law
9 and then y'all are going to go back and reach verdicts on the
10 four counts of this indictment

11 Now, jurors, I am not fact specific about any of this I
12 am giving you the law in the abstract I am going to have to
13 tell you who the parties are, you know that is basically all
14 I'm going to tell you When I instruct the jury on something
15 like kidnaping, you know, it's the same law it changes just a
16 little bit if somebody hits somebody in the head, put them in
17 a croaker sack and throws them over their shoulder and goes
18 but, you know, it's basically the same law in the abstract
19 I am not going to, for instance, indicate that kidnaping
20 occurs or that criminal sexual conduct in the first degree
21 occurred, once, twice or three times, I am just going to
22 instruct you on the law on criminal sexual conduct, first
23 degree, and kidnaping And then you jurors are going to take
24 the facts as you find them to be and decide whether The State
25 meets its burden of proof beyond a reasonable doubt on those

CHARGE ON THE LAW

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1 elements that constitute crimes that Mr Evans is charged
2 with

3 Now while you deliberate you will have with a copy of
4 the indictment, the first page There is some stuff on the
5 back, I just didn't send that down They had witnesses'
6 names and things like that, investigating officers, but this
7 copy just has the body of the indictment, and the bottom is
8 The State has to convince you twelve jurors unanimously
9 beyond a reasonable doubt actually to every word contained in
10 the indictment Indictment, again, has charges of crimes very
11 brief It just sets out the basic elements of the crime

12 Now the fact that an indictment issued against Stacey
13 Lee Evans creates no inference of guilt of against him at
14 all You know, they have to come out with an indictment
15 before somebody is arrested Mr Evans came into Court
16 presumed innocent, he's still presumed innocent, and that
17 presumption stays with him unless after full deliberation all
18 twelve jurors decide beyond a reasonable doubt that The State
19 has convinced them that he committed one or more of the
20 crimes alleged in this indictment

21 We got two alternates When I conclude these remarks, I
22 am going to just ask you to stay in the courtroom while the
23 main jurors go out I can't dismiss you at this point Sure
24 as I did somebody would come running in and say child sick at
25 school or what have you, so when I conclude these remarks and

CHARGE ON THE LAW

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1 we ask the jury to step out, if the original twelve are still
2 here, if the two alternates would just remain in the
3 courtroom

4 Now, Mr Foreman, I know you had a tough day but you
5 hung in there pretty good Here's the situation, you just
6 have to preside over deliberations, and you act as spoke
7 person for the jury If questions occur during the
8 deliberations I can't have any meaningful conversation with
9 you, but you just have to write it down, be specific about
10 it, and I will confer with the attorneys and see if I can
11 answer questions As I explained to you though I am giving
12 you the law in the abstract If you need further
13 instruction, for instance, when I conclude those kidnaping,
14 I mean I can expand the charge on kidnaping, but whether
15 kidnaping occurred is what you all are going to have to
16 decide So, many times jurors just want a Judge to say a
17 person guilty or not guilty, not guilty, guilty, but that's
18 not by function I can just explain the law to you I can
19 tell you, Mr Foreman, that we can't add anything to the
20 case If you jurors would like to have another question
21 asked of a witness, forget it, they've all testified If you
22 would like to have heard from another witness, no more
23 witnesses will testify If you would like to get a book on
24 criminal elements, forget it, want come back

25 Now I know that you all probably want a microscope back

CHARGE ON THE LAW

405

1 there, and some gloves so you can practice doing CSI and all
2 that stuff, but no, I can't give you anything like that
3 either

4 In addition, if you saw something during the trial or
5 heard something there was no objection to it, you can
6 consider it But all documents that have been marked into
7 evidence will come back while you deliberated Some things
8 will not come back so there is no need to send out a question
9 saying we would like to see it Such as various reports that
10 SLED agents testified to You heard what they testified to
11 The reports themselves will not come back

12 There was some screen up there You all are not going
13 to have that back there in the jury room, but you will have
14 the underlying photos that were blown up for you If, you
15 know, you really need to see those again they can set it back
16 up, and we'd have to bring you back out here, but we can't
17 send that back One, you all don't know how to operate it,
18 okay And two, no telling what kind of photographs you all
19 would be throwing on the screen back there So, I'm not
20 keeping that from you, that was not introduced into evidence
21 The underlying photographs were, and you will have them They
22 are smaller than the big screen, but you will have those back
23 there So, all that has been marked into evidence, will back
24 there, if it is not back there it was not officially
25 introduced into evidence And the attorneys went over all

CHARGE ON THE LAW

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1 that outside our presence, and they are agreed on what has
2 formally been introduced into evidence

3 This indictment, again, it just contains allegations
4 Mr Evans does not have to prove he is not guilty The State
5 has to convince twelve jurors beyond a reasonable doubt that
6 he committed each of the elements that constitutes a crime
7 with which he is charged before he can be convicted

8 Reasonable doubt simply stated is kind of doubt that
9 causes an ordinary person to hesitate to act No need to
10 send back something wanting to hear that again, that is just
11 what the law is I mean I can say that for you Some people
12 say it causes a reasonable person hesitates to act, well that
13 contains the word that is the definition, so I don't ever use
14 that Just an ordinary person that hesitates to act That
15 is a reasonable doubt

16 Since Mr Evans does not have to prove that he is not
17 guilty, he did not have to put a defense of anything The
18 fact that he did not testify shouldn't even be consider by
19 you on the issue of whether he committed any of these crimes
20 or not That is just --- In the case you've got to decide
21 the case based upon what was presented

22 Now, the indictment alleges four specific crimes They
23 all involve, of course, Gloria Williamson All involve the
24 date of February 23, 2008 And all were perpetrated
25 allegedly by Stacey Lee Evans

CHARGE ON THE LAW

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1 On the indictment they've got count one as kidnaping,
2 that just basically alleges that Mr Evans kidnaped Ms
3 Williamson on that day He is presumed innocent of that
4 charge The State has the burden of proof beyond a
5 reasonable doubt

6 Counts one, two and three all allege criminal sexual
7 conduct in the first degree It is spelled out in here The
8 first count talks about vaginal intercourse The second
9 talks about oral sex, and the third talks about additional
10 vaginal penetration I am going to explain the law to you,
11 but you can read it here That is just set out for you to
12 know what is alleged to have occurred, whether it occurred,
13 up to you jurors to decide And if it did occur whether it is
14 constitutes as crimes is another matter

15 Now, you jurors pass upon the credibility of everybody
16 that testified What I am giving you is a couple of
17 guidelines that you, can use to weight credibility I am not
18 directing them to any particular to any witness They apply
19 to everybody that testified Here are the things that you
20 would take into account The appearance of a witness
21 Whether a witness's testimony is consistent or inconsistent
22 Whether the testimony given by a witness become stronger or
23 is made weaker by other testimony or other evidences in the
24 case Whether a witness is hesitant or forthright in
25 answering questions Obviously, the opportunity that a

CHARGE ON THE LAW

408

1 witness had to see, hear or observe what the witness
2 testified to, another fact that you can consider And
3 interest or bias that a witness has in the outcome of the
4 proceedings can be taken into account

5 Jurors, we don't count witnesses You are not bound to
6 accept the testimony of any particular witness In fact, you
7 are permitted to pick and chose portions of testimony that
8 you feel are believable After you have done that the,
9 relative weight that you contribute to believable testimony
10 is entirely up to you jurors

11 And jurors, maybe that would be a better procedure, but
12 during the trial I was called upon, really no contest to
13 qualify various people as experts Without going through it
14 every time all that is required of an expert is to show that
15 through education, training, or a combination of those
16 factors an individual has acquired more knowledge in a
17 particular field than you or I have, and after that is done
18 they are entitled to testify and give opinions Before you
19 accept any opinions given by an expert they have to be given
20 to reasonable degree of certainty within the field in which
21 the witness was qualified as an expert It might be better
22 if we just call them professional, and they testify within
23 their specific profession But, when you are judging the
24 credibility of expert witnesses you do consider their
25 education, training and background, and the other factors

CHARGE ON THE LAW

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1 like consistency or inconsistency And when they give
2 opinions, just like opinions from anybody, the underlying
3 facts of which an opinion is based should be considered by
4 you Now I mentioned it, I don't vouch for experts, I am not
5 saying you shouldn't consider what they testified to either
6 To reiterate, all that has to be shown to me is that they
7 have more knowledge than you or I have in that field A lay
8 person, that is someone who is not an expert, is only
9 entitled to give opinions on very limited matters in
10 litigation either civil or criminal For instance, just in
11 it's simplest form, in a case involving electricity, I might
12 qualify an electrician If it got into the theory of
13 electricity, you know, it might take an electrical engineer
14 Although the electrician might have taken enough courses to
15 be able to talk about that So, I am going to have to listen
16 to that

17 An opinion, you can say if you are in a car wreck, your
18 arm is smashed, you feel the arm separated, you can say my
19 arm is broken, that is a pretty logical assumption there
20 However, if your arm just hurts you can say I believe is my
21 arm is --- a bone in my arm is broken It takes an x-ray
22 and a radiologist to see, to go further, and the radiologist
23 would be qualified as an expert

24 Now, jurors, two types of evidence, direct and indirect
25 evidence Both stand on the same footing

CHARGE ON THE LAW

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1 Direct evidence is where an individual testifies to
2 something that he or she has observed through the senses
3 They might not be level with you, but that is direct
4 testimony Just like I can't see out right now, but if
5 somebody came in and said it's raining outside, that is
6 direct evidence It might not be raining Somebody could
7 come walking in, let down an umbrella, shake it, take off a
8 raincoat, shake it, water comes off of both of them, you can
9 assume it's raining outside It may not have been, they
10 might have just gone in the shower down there for some
11 reason But, anyway you can make logical connections between
12 proving facts and further existence of other facts when you
13 get in the area of circumstantial evidence There has to be
14 a logical connection You just can't take point A, you know,
15 and say, you know, the Judge has probably been married forty-
16 six years because he's Lutheran, hell, they stay married to
17 the same women forever, you know That is true in my case,
18 but that is not necessarily so across the board So there
19 you go

20 Now, in addition to the testimony in the case jurors,
21 various documents have been introduced, clothing, pictures,
22 whatever You weigh all the evidence in the case You put
23 it together You can draw inferences from the totality of
24 the evidence So anything that has been introduced into
25 evidence will be with you while you deliberate You weight

CHARGE ON THE LAW

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1 it, study it, give it such weight as you feel it is entitled
2 to

3 Jurors, four crimes have been charged Again, and I
4 intend no emphasis on this, it is just you get in trouble if
5 you don't say it every time Mr Evans is presumed innocent
6 of all charges He does not have to prove he is not guilty
7 at all It is simply because of the order in which they are
8 listed on the indictment

9 The first charge is kidnaping, and you will have a copy
10 of the indictment back there and you can read what it says
11 And it alleges that Mr Evans kidnaped Ms Williamson on
12 February 23, 2008 Kidnaping by statute, jurors, is where an
13 individual unlawfully seizes, confines, inveigle, decoys,
14 abducts, or carries away any other person by any means
15 whatsoever without authority of law

16 Jurors, in its simplest sense, kidnaping occurred when
17 one person unlawfully carries away any other person by any
18 means without authority of law

19 Kidnaping is a continuing offense from the time a person
20 is unlawfully detained until the detention ends, kidnaping
21 would continue

22 The essence of the offense of kidnaping is unlawful
23 holding or an imprisonment of a person, and moving them from
24 point A to point B against their will without authority of
25 law

CHARGE ON THE LAW

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1 There are various other scenarios that I won't go into
2 Decoy means, entice, tempting and so forth and things like
3 that

4 Kidnaping involves intent There has be an intent to
5 commit the crime There has to be an intent to unlawfully
6 compel a person to be detained against his or her will For
7 instance, if children in the neighborhood were playing hide-
8 and-seek and one of them, a small child, crawled in the back
9 of your car, and you came out and drove off and the child
10 didn't say anything that's not kidnaping You have to know
11 you are doing that If you grab the child, threw him in the
12 car, and said get in kid I am taking you to Timbuktu, that's
13 kidnaping That is against the will and so forth So it has
14 to be knowledgeable, and it has to be unlawful, it has to be
15 non-consensual The State has the burden of proving those
16 elements beyond a reasonable doubt

17 Now, there are three counts of criminal sexual conduct
18 alleged Mr Evans is entitled to a deliberation as his
19 estate on each of the four counts For instance, I am not
20 suggesting that you do, but if you found him not guilty of
21 kidnaping, you would have to go on and pass on whether he was
22 guilty of criminal sexual conduct on each of those three
23 counts in addition The same thing if you found that he was
24 guilty of kidnaping, that would not necessarily mean he was
25 guilty of criminal sexual conduct on any of those other three

CHARGE ON THE LAW

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1 counts The State has burden of proof beyond a reasonable
2 doubt on each of the four counts

3 Now, jurors, in its simplest form, criminal sexual
4 conduct used to be called rape, but they've broken it down
5 now into criminal sexual conduct in various degrees, but all
6 you're concerned with is criminal sexual conduct in the first
7 degree That is what The State alleges occurred The State
8 has the burden of proof beyond a reasonable doubt on those
9 counts

10 In order for criminal sexual conduct to occur, first
11 there must be a sexual battery A sexual battery is sexual
12 intercourse, oral sex, or any intrusion however slight of any
13 part of person's body or often object into the genital or
14 anal openings of another person's body except where such is
15 accomplished for medical recognized treatment or diagnostic
16 purposes by a physician authorized to perform such tests If
17 you find, that The State has not shown beyond a reasonable
18 doubt that a sexual battery has occurred on any of the four
19 counts you would find the Defendant not guilty If you
20 should find, however, that a sexual battery has occurred then
21 you would pass on the issues of whether The State has met its
22 burden of proof by convincing you beyond a reasonable doubt
23 - --- I am talking about twelve jurors unanimously, that
24 criminal sexual conduct in the first degree occurred

25 There are two scenarios in which The State can prove

CHARGE ON THE LAW

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1 that a sexual battery occurred and the criminal sexual
2 conduct occurred in the first degree The State does not
3 have to prove that both of these scenarios existed They can
4 prove that, but they have to prove at least one of them
5 occurred before you could find the Defendant guilty of counts
6 two, three --- either count two, count three or count four
7 of the indictment

8 A person is guilty of criminal sexual conduct in the
9 first degree if that person engages in sexual battery with
10 the victim, and if The State proves beyond a reasonable doubt
11 any one or more of the following circumstances

12 First, that the person charged with the crime used
13 aggravated force to accomplish the sexual battery

14 Aggravated force is defined to mean that the Defendant
15 used physical force or physical violence of high and
16 aggravated nature to overcome the victim This definition
17 also includes both the use of a deadly weapon, or the threat
18 use of a deadly weapon

19 Second The State could obtain a conviction for
20 criminal sexual conduct in the first degree, if The State
21 convinces twelve jurors unanimously that the sexual battery
22 occurred, and if you find that a victim submitted to sexual
23 battery while the victim was also the victim of either force
24 able confinement, kidnaping, robbery, extortion, burglary or
25 any other similar act or offense So you need only find that

CHARGE ON THE LAW

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1 one of those elements was present in order to convict the
2 Defendant of criminal sexual conduct in the first degree
3 You don't have to prove that they were all present By
4 saying that I am not suggesting any of them are present

5 Again, sexual battery, criminal sexual conduct is
6 unlawful sexual conduct The State must prove any sexual
7 battery that occurred was non consensual intercourse, and
8 must prove the Defendant knew what he was doing, acknowledges
9 is an essential part, intent is an essential part of the
10 elements that The State must prove beyond a reasonable doubt

11 Now, jurors, I can't tell you whether the Defendant
12 committed the crimes or not, that is what you all have to
13 decide You understand that It takes an unanimous decision
14 of you twelve jurors reach a verdict

15 You will have with you while you deliberate everything
16 that has been introduced into evidence You will have copy
17 of the indictment and you will have Verdict Form The
18 Verdict Form just says, count one, kidnaping, guilty or not
19 guilty, not guilty or guilty Same follows for counts two,
20 three and four of criminal sexual conduct first degree, not
21 guilty or guilty The order in which they are typed on the
22 Verdict Form has no bearing You can only say not guilty or
23 guilty, guilty or not guilty I intend no emphasis in the
24 order in which it is typed here The secretary just typed it
25 one in front of the other

CHARGE ON THE LAW

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1 Twelve jurors do have to agree, but I do not need twelve
2 signatures on the Verdict Form I only need the foreperson's
3 signature If you find the Defendant, for instance, not
4 guilty you either check by that and either underline or
5 circle not guilty so we will know Don't put a check mark in
6 between Just check one to re-emphasize Circle whatever you
7 find not guilty or guilty on each of the four counts You
8 must which verdicts on all four counts, embraced within the
9 indictment

10 Beyond that jurors, I think we've covered it Opening
11 statements, you all understand are not evidence Summation,
12 not evidence You need to think about what the attorneys
13 presented to you, but they were just suggesting what
14 conclusions you should draw from the evidence that was
15 presented, but you are not bound by anything the attorney
16 said You understand they were not witnesses They were not
17 there They are just advocates for their side

18 So testimony was given by witnesses who were sworn in
19 and testified Consider all that and all the other evidence
20 in the case Decide whether The State meets its burden
21 beyond a reasonable doubt on each of the four counts, bearing
22 in mind the Defendant is presumed innocent of all charges and
23 does not have to prove he is not guilty of anything

24 So don't start deliberating quite yet but if you would
25 just step out

THE STATE V STACY LEE EVANS

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1 (Whereupon, the jury exits the courtroom at 1 20 p m)

2 THE COURT Alternate jurors, the Deputy Clerk and I
3 made an executive decision They are going to pick another
4 jury downstairs at 3 30 If you all would rather not fool
5 with that --- so you are free to go home You don't have to
6 call in That's it Friday I am going to do probation
7 revocation I think they have about thirty of them here, so
8 we're not going to have jury trial on that Judge Nettles is
9 going to do a trial downstairs He is just going to start at
10 3 30 It will take him through tomorrow and I will probably
11 do guilty pleas We kind of swapped that off He's been
12 doing guilty pleas and I have been doing the trial and so
13 forth What about that hard earned money?

14 CLERK OF COURT Check's in the mail

15 ALTERNATE JUROR Are we free to go?

16 THE COURT Check's in the mail If you need a
17 statement saying you've been here, you can get it right here
18 All right, Ms Parr, you need anything else?

19 MS PARR The State does not need anything else

20 MR LAWSON Nothing from the Defense, Your Honor

21 THE COURT Okay Mr Price, here is a copy of the
22 indictment That is the verdict Show the foreperson where
23 to sign

24 MR PRICE All right, sir

25 (Whereupon, a bench conference was held)

THE STATE V STACY LEE EVANS

418

1 **THE COURT** Just bring the foreperson back out

2 **MR FOREMAN** Yes, sir

3 **THE COURT** Here is the thing We have to preserve
4 evidence, so we are sending back all this evidence in the
5 bag You can take it out of the bag, but you are responsible
6 for making sure --- and they can pass it around, but it goes
7 back in the same bag They actually have some rubber gloves,
8 because you are going to see they have biological warnings in
9 there saying --

10 **MR FOREMAN** The doctor and everything

11 **THE COURT** -- Yeah, you might die after you touch
12 this Mr Lawson didn't use any gloves but --

13 **MR FOREMAN** First aid problems, Hepatitis, and such
14 --

15 **THE COURT** The easiest way is to just look at one bag
16 at a time if you want to look at them Okay, you can go back
17 I was just making sure

18 **MR FOREMAN** Yes, sir I understand

19 (Whereupon, The Court stands down awaiting a verdict
20 from the jury at 3 20 p m)

21 **THE COURT** Okay, I understand the jury has reached a
22 verdict The State ready to receive the verdict?

23 **MS PARR** Yes

24 **THE COURT** Defense?

25 **MR LAWSON** Defense is ready, Your Honor

THE STATE V STACY LEE EVANS

419

1 (Whereupon, the jury enters the courtroom at 5 32 p m)

2 THE COURT Mr Foreman, has they jury reached a
3 verdict

4 MR FOREMAN Yes, Your Honor, we have

5 THE COURT If you would just hand it --

6 CLERK OF COURT I'll get it

7 THE COURT Okay

8 VERDICT

9 CLERK OF COURT The State versus Stacey Lee Evans
10 Indictment 2008-GS-21-1827 We the jury find by unanimous
11 agreement find the Defendant, Stacey Lee Evans, count one,
12 kidnaping, guilty

13 Count Two Criminal sexual conduct, guilty

14 Count Three Criminal sexual conduct first degree, not
15 guilty

16 Count four Criminal sexual conduct first degree, not
17 guilty

18 Signed, Charles Byrd Dated December 10, 2008

19 CLERK OF COURT Members of the jury, if this your
20 verdict, please raise your right hand

21 THE COURT Okay, jurors --- anything else required of
22 the jurors from The State? -

23 MS PARR No, Your Honor

24 MR LAWSON Nothing, Your Honor

25 THE COURT We were just before ordering those lobsters

THE STATE V STACY LEE EVANS

420

1 and steaks

2 MR FOREMAN We'll wait awhile

3 THE COURT You all are through for the week Here's
4 the deal Next thing is I sentence Mr Evans You can hang
5 around if you like but it's like life or so, it's not even an
6 option it's just like life If you want to hang around you
7 can, if not you don't have to call back in You are through
8 for the week I believe Ms O'Hara has your statement saying
9 where you have been, and the check will be in the mail You
10 are through for the week

11 MR FOREMAN Check is in the mail

12 THE COURT Will be in the mail, not in the mail yet
13 If you all would like to go now is the time

14 Okay We need Ms O'Hara to come then we can do it

15 (Whereupon, the jury was dismissed at 5 35 p m on
16 December 18, 2008)

17 THE COURT We need for Ms O'Hara to come back in,
18 and we can do it

19 MOTIONS

20 MR LAWSON May it, please The Court The Defense
21 would renew our Motion made at the end of The State's case

22 Also, I would submit the verdict that Defense would be
23 entitled to a verdict not --- judgment notwithstanding
24 verdict Basis, it appears that it is a compromise verdict
25 Based on the evidence, the Defense sees it that it was all or

THE STATE V STACY LEE EVANS

421

1 nothing And apparently that is not the way it turned out

2 I would also reserve our right to file any additional
3 Motions within ten days of the verdict

4 **THE COURT** Yeah, certainly you can do that Ms Parr,
5 you agree with his Motion? She does not

6 **MR LAWSON** I didn't think she would, Judge

7 **THE COURT** So I deny your Motion The jury could of
8 easily found as they found, based upon the evidence There is
9 no oral sex occurring The State didn't prove the second
10 vaginal alleged penetration beyond a reasonable doubt, but
11 did the first one

12 **MR LAWSON** Your Honor, additionally, I understand The
13 State originally filed a Notice of Life Without Parole

14 **MS PARR** Yes

15 **MR LAWSON** That filing was done under an indictment
16 that has now been non prossed, and no new filing was done I
17 would submit that the filing is not appropriately before The
18 Court in relation to that issue for sentencing purposes

19 **MS PARR** Your Honor, that was a --- I just noticed
20 --- I did not refile it again that Motion It was filed
21 under the older indictment

22 But, it is our position that Defense knew and had notice
23 that I had an affidavit of service were they were served
24 They know that he had had a prior conviction for voluntarily
25 manslaughter as well And that according to the statute,

THE STATE V STACY LEE EVANS

422

1 this was --- So, it is our position that they had sufficient
2 --

3 **THE COURT** -- I don't know You will have to do a
4 little research on that, didn't she Just bring it back
5 in the morning I don't know that off the top of my head
6 or not Once you serve him with Notice of Life Without
7 Parole --

8 **MS PARR** -- For these same charges

9 **THE COURT** I understand, but it's different
10 indictments, his position So --

11 **MR LAWSON** Your Honor, I must raise it

12 **THE COURT** Anyway, let's just look it up rather than
13 use make a clear mistake here, because we're got time

14 Just bring him back Friday morning 9 30 That is plenty
15 of time to have that We may not be right on it whatever we
16 do Friday morning, but that will be it If it's not that,
17 what is it, up to thirty something like that?

18 **MS PARR** Up to thirty on both, Your Honor

19 **THE COURT** What he's looking at is a maximum of thirty
20 and thirty is sixty, if I gave him the max, which I don't
21 know

22 **MR LAWSON** Yes, sir

23 **THE COURT** If he was not served LWOP under this
24 particular indictment

25 **MR LAWSON** Correct, Your Honor

THE STATE V STACY LEE EVANS

423

1 **THE COURT** But he's in jail so he's not going anyway
2 You can bring him back Friday morning

3 **MR LAWSON** Yes, sir

4 **THE COURT** Bring him back Friday morning, 9 30 That
5 is the proper time Look up some law on that He may have
6 you on that and it maybe he just gets thirty years, you know,
7 which is no small time anyway at his age It's an 85%'er

8 **MR LAWSON** Correct, Your Honor

9 **THE COURT** But it's a little hope

10 **MR LAWSON** That is correct

11 **MS PARR** Thank you, Your Honor

12 **MR LAWSON** Thank you

13 **THE COURT** All right

14 **MS PARR** You want me to pull up his record on the
15 record on or do you want me to wait?

16 **THE COURT** You might as well just wait

17 **MS PARR** Okay

18 **THE COURT** Jurors, just for your edification They
19 had served him with something called Life Without Parole on
20 that old indictment that they handed me to start with, that I
21 read Well, they threw that one out and handed another one
22 He represents they didn't serve him with Life Without Parole,
23 if he didn't it's just thirty, not life, which I don't know
24 off the top of my head, so we will do it Monday but it's
25 going to be the thirty or sixty or life, so there you go

CERTIFICATE OF REPORTER

424

1 **THE COURT** Okay, be back in the morning for whatever
2 you all got

3 **MR LAWSON** Thank you, Your Honor

4 **THE COURT** All right

5 (Whereupon, this trial was concluded at 5 40 p m on
6 Wednesday, December 10, 2008)

7 -- END OF TRANSCRIPT --

CERTIFICATE OF REPORTER

425

I, the undersigned, Pamela Ozment-Cartee, official court reporter for the Fourth Judicial Circuit of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in of General Sessions, Florence County, South Carolina, on the 8th, 9th, and 10th day of December 2008

I do further certify that am neither, of kin, counsel, nor interest of any party hereto

July 28, 2009

Pamela Ozment-Cartee
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE)

STATE OF SOUTH CAROLINA)

STATE)

v)

STACY LEE EVANS)

DEFENDANT)

TRANSCRIPT OF RECORD
 08-GS-21-1827
 December 12, 2008
 Florence South Carolina

B E F O R E

THE HONORABLE J ERNEST KINARD, JR JUDGE

A P P E A R A N C E S

PATRICIA SINGLETON PARR, ASSISTANT SOLICITOR
 Attorney for the State

JACK W LAWSON JR , PUBLIC DEFENDER
 Attorney for the Defendant

FRANCES BAKIS-RAY RPR
 Circuit Court Reporter

THE COURT Okay, I listened to the case, what would the State further like to say?

MRS PARR Your Honor, the State would further like to say that based upon State versus Washington the defendant -- the State is just required to give the defendant actual notice, service of the defendant prior to the reindictment serves as actual notice This particular case is right on point and indicates that the defendant does not have to be served a second notice This case was also cited in Willie James versus the State of South Carolina which also reaffirms that Your Honor, the defendant and his attorney were both served with notice of life without parole The date of that service is as follows Mr Evans was served personally on October 15th, 2008 and Mr Lawson's office was served on October 13th of 2008 In terms of a prior record the defendant has a prior conviction for voluntary manslaughter The date of that conviction is June 21st, 1988 The defendant also has prior convictions for other sexual offenses September 24th, 1985 he had a conviction for house breaking and criminal sexual conduct third degree September 8th, 2002 he has a conviction for spousal sexual battery He received a sentence of ten years He -- when this incident had occurred he had just been released from jail that November of 2007

MR LAWSON At some point dissenting opinions do become majority opinion ---

THE COURT They do

MR LAWSON ---in law so Your Honor, you tried the case, you heard the evidence, but as State v Washington controls an actual notice was given and there is no alternative in the sentencing situation

THE COURT Mr Evans, that's the cruel reality, if once a jury convicts you of a second violent crime like that and the State serves you with notice if they're seeking life without parole if in fact you get convicted it's not like I can give you anything less than that And you've discussed that with Mr Lawson but you do have -- while I must give you life on both of those counts

(Defendant nods)

THE COURT Some people say consecutive, that never made any sense to me I mean life is life, right, so two counts of life is what I sentence you to but you are free to say anything if you like

THE DEFENDANT Can I say something?

THE COURT You're free to say anything if you like I mean, what I have to give you is a life sentence but you're free to state whatever you'd like

(Attorney and defendant confer)

Honor

THE COURT Yeah, I just do sentence then you
can appeal on any grounds you can think of but my sentence
is life/life There you go

MRS PARR Thank you, Your Honor

THE DEFENDANT Thank you

* * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

J Ernest Kinard Jr , Circuit Court Judge

THE STATE

RESPONDENT,

V

STACY L EVANS

APPELLANT

INITIAL ANDERS BRIEF OF APPELLANT

JANELLE CANIFFY DURANT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia S C 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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TABLE OF AUTHORITIES

Cases

<u>James v. State</u> , 372 S C 287 641 S E 2d 899 (2007)	7
<u>State v. Johnson</u> , 347 S C 67 552 S F 2d 339 (Ct App 2001)	6 7
<u>State v. Washington</u> , 338 S C 392 526 S F 2d 709 (2000)	6 7

Statutes

S C Code Section 17-25-45(G)	7

STATEMENT OF ISSUE ON APPEAL

Did the trial court err in sentencing appellant to life without parole (LWOP) when the state had *nol prossed* the original indictment on which written notice that the state was seeking LWOP was provided to appellant and the state had not served notice of LWOP on the second indictment which was the indictment upon which he was found guilty?

STATEMENT OF THE CASE

On November 20 2008 the Grand Jury of Florence County indicted Stacy Lee Evans on the charges of kidnapping, and three counts of criminal sexual conduct first degree (CSC) On December 8 2008 Evans proceeded to trial before the Honorable J Ernest Kinard Jr and a jury The jury returned a verdict of guilty on the kidnapping and one count of CSC and a not guilty verdict on the other two counts of CSC Judge Kinard sentenced Evans to LWOP as required by law because the state had allegedly served a notice to seek LWOP based on two most serious strikes Evans' attorney filed a notice of appeal This appeal follows

ARGUMENT

The trial court erred in sentencing appellant to life without parole (LWOP) when the state had *not* proessed the original indictment on which written notice that the state was seeking LWOP was provided to appellant and the state had not served notice of LWOP on the second indictment which was the indictment where he was found guilty

On February 22 2008 the alleged victim, who was separated from her husband, went to a local bar called the Wooden Nickel to meet a co-worker, Legrand Poston, for a drink. She testified that Stacy Evans was in the bar and came over to them and began talking with them. Tr 51 ll 1 – 25, Tr 52, ll 1 – 25 Tr 53 ll 1 – 24, Tr 55 ll 1 – 25 Tr 56, ll 1 – 25 Tr 57 ll 1 – 25

Her testimony was that she did not know Evans but thought Legrand did. Later that night, Legrand left and she told him she was leaving in a few minutes. Tr 59, ll 20 – 25. About 1:00 A.M., she left the bar and went to her car. Evans appeared at her car as she was getting in and shoved her aside and started driving. He allegedly took her to a vacant field where she said he forced her to have intercourse three different times and forced her to perform oral sex on him once. He then drove her to a local convenience store where he left her with her car. Tr 66, ll 1 – 25, Tr 67 ll 1 – 25, Tr 68, ll 1 – 25 Tr 69, ll 1 – 25, Tr 72, ll 1 – 25, Tr 73 ll 1 – 25, Tr 74, ll 1 – 25, Tr 75, ll 1 – 25, Tr 76, ll 1 – 25, Tr 77 ll 1 – 25 Tr 78 ll 1 – 25, Tr 79, ll 1 – 25, Tr 80, ll 1 – 25 Tr 81, ll 1 – 10. The next day she went to the hospital and called the police. Tr 85 ll 1 – 24

Allegedly Evans told her he did want to leave any DNA inside her so he withdrew before completing the sex act. Tr 73 ll 13 – 17. However, Katie Coy, the forensic DNA

analyst with SLFD testified that semen was found on the victim's jeans with a DNA match to Evans Tr 345 ll 1 – 22

After the verdict defense counsel argued to the court that the state filed a notice of life without parole on an indictment that was not proessed. No new filing was filed on the new indictment on which he went to trial. Therefore he argued, the filing of the notice was 'not appropriately before the court for sentencing" Tr 421, ll 12 – 18

The state admitted that they did not refile the notice and that it was filed under the old indictment. However the state argued that the defense had notice because they had been served once. The judge told both parties to research the issue and they would continue it on the following Friday. The judge said that if he did not sentence Evans to LWOP that he was looking at a possible sentence of sixty years anyway Tr 421, ll 19 – 25, Tr 422, ll 1 – 25, Tr 423 ll 1 – 25

On December 12, 2008 a hearing was held before the Honorable Ernest Kinard, Jr on the matter of sentencing. The state argued that the case of State v. Washington, 338 S C 392 526 S F 2d 709 (2000) held that the defendant did not have to be served with a second notice because the state was only required to give actual notice which was done prior to the re-indictment. The solicitor reported that Evans was served with the notice on October 15, 2008 and defense counsel's office was served on October 13, 2008 Tr December 12, 2008, p 3 ll 1 – 25

Defense counsel argued the case of State v. Johnson, 347 S C 67 552 S E 2d 339 (Ct App 2001) Tr December 12 2008 p 4 ll 1 – 25. The judge sentenced Evans to LWOP Tr December 12 2008 p 4 ll 1 – 25 p 5 ll 1 – 25

At the beginning of the trial when the judge began to read the indictment, the solicitor approached and gave him a new indictment. The judge told the jury that they had handed him the wrong indictment. The judge said it was a 'typo or something' in the first indictment. The solicitor stated that a charge was inadvertently changed. Tr 9 ll 4 – 25, tr 10, ll 1 – 18.

In State v Washington, *supra* the defendant was convicted of burglary first degree and sentenced to LWOP under the repeat offender statute. The state sent the defendant written notice that it was seeking LWOP. Due to errors in the original indictment, the state later re-indicted the defendant and did not send a second notice of intent of LWOP. The Supreme Court ruled that the defendant had actual notice with the original indictment. Therefore a second notice following re-indictment was not necessary.

In State v Johnson, *supra* the Court of Appeals ruled that although the defendant had actual notice of the state's intention to seek life without parole (LWOP), that was not sufficient because the statute S.C. Code Section 17-25-45(G), required the solicitor to provide written notice to the defendant and his counsel not less than ten days before the trial. The defendant Johnson was provided written notice and notice was filed with the clerk of court's office and defense counsel had actual notice. However, there was no evidence that the solicitor had served defense counsel with written notice.

However the Supreme Court overruled State v Johnson, *supra* with the case of James v State, 372 S.C. 287, 641 S.F.2d 899 (2007) where the Court held that actual notice was sufficient.

The *James* case is distinguished from State v Washington, *supra* because the state said a charge was inadvertently changed in the first indictment. A charge is substantive and could

affect the outcome of the trial. A second notice would be needed if the charges were different in the second indictment.

* *

CONCLUSION

Based on the above reasons the convictions and sentences should be reversed and the case remanded

Respectfully submitted


Laphelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

This 2nd day of December, 2009

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

J Ernest Kinard Jr Circuit Court Judge

THE STATE,

RESPONDENT

V

STACY L EVANS,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Stacy Lee Evans states

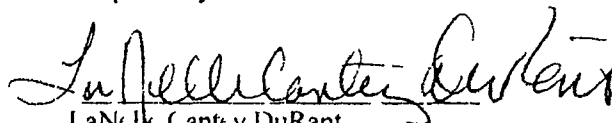
1 She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant

2 She has reviewed the record of appellant's trial before Judge J Ernest Kinard Jr which was held on December 12 2008 and in her opinion the appeal is without legal merit sufficient to warrant a new trial

3 She has pursuant to Anders v California, 386 U S 738, 87 S Ct 1396 (1967) briefed an arguable legal issue which arose during the course of the trial

WHEREFORE, she asks the Court to relieve her as counsel for Stacy Lee Evans

Respectfully submitted


LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

This 2nd day of December 2009

10

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

J Ernest Kinard Jr Circuit Court Judge

THE STATE,

RESPONDENT,

V

STACY L EVANS,

APPELLANT

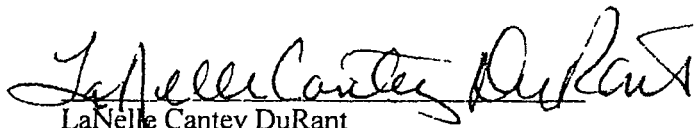
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal

- (1) True- billed indictment(s)
- (2) Entire Trial Transcript December 8, 2008
- (3) Entire Transcript December 12, 2008

I certify that this designation contains no matter which is irrelevant to this appeal

December 2nd 2009


LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia S C 29211-1589
(803) 734-1343

Attorney for Appellant

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

J Ernest Kinard Jr Circuit Court Judge

THE STATE,

RESPONDENT,

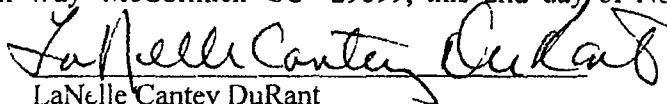
V

STACY L EVANS,

APPELLANT

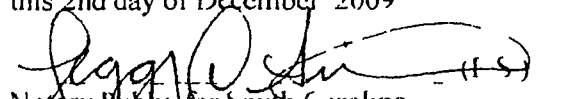
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley Elliott, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street Columbia SC 29201, and on Stacy Lee Evans, #152040 McCormick Correctional Institution 386 Redemption Way McCormick SC 29899, this 2nd day of November, 2009


LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 2nd day of December 2009


Notary Public for South Carolina
My Commission Expires December 4 2017

443
file

The South Carolina Court of Appeals

RECEIVED

The State

Respondent

MAR 15 2010

State - Lee Evans

Appellant

ATTORNEY GENERALS
OFFICE

The Honorable J. Ernest Kinard
- Florence County
Trial Court Case No. 2008-GS-27-01827

ORDER of DISMISSAL

The above captioned case is pending on appeal in this Court. It appears that Appellant, with full understanding of all possible consequences of this action and with agreement of counsel wishes to withdraw the appeal and moves the Court for an Order dismissing the appeal.

IT IS ORDERED that the above captioned appeal is dismissed. The remittitur will be sent to the Clerk of Court for Florence County as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Cleve Allen, Deputy Clerk
CLERK

Columbia, South Carolina

3/12/2010

cc Appellate Defender Larelle C. Durant
Assistant Deputy Attorney General Sailey W. Elmore

The South Carolina Court of Appeals

The State,

Respondent,

v

Stacy Lee Evans,

Appellant

The Honorable J Ernest Kinard, Jr
 Florence County
 Trial Court Case No 2008-GS-21-01827

REMITTITUR

No Petition for Reinstatement having been filed in the above matter since issuance of this Court's Order dated March 12, 2010,

IT IS SO ORDERED that the above appeal be and hereby is remitted

JOHN CANNON FEW, CHIEF JUDGE

BY V. Claude Allen, Deputy
 Clerk

Columbia, South Carolina
 3/30/2010

Original to The Honorable Connie R Bell

cc Appellate Defender Lanelle C Durant
 Assistant Deputy Attorney General Salley W Elliott
 Edgar Lewis Clements, III, Esquire

2010 MAR 31 AM 11 41
 JUDGE SHEKIN
 JUDGE CCF & GS
 FLORENCE COUNTY, SC
 ILEL

FORM 5

STATE OF SOUTH CAROLINA)

County of FLORENCE)

IN THE COURT OF COMMON PLEAS

2010-CP-21-1258

STACY L EVANS #152040)

Full name and prison number (if any) of Applicant)

v)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

- 1 Place of detention McCORMICK C I, F-1-A
386 REDEMPTION WAY, McCORMICK S.C. 29859
- 2 Name and location of Court which imposed sentence FLORENCE COUNTY COURT
OF 6-11-71 SESSION
- 3 Name(s) of co-defendant(s) (if any) N/A
- 4 The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed
(a) 2008-65 21-1827 KIDNAPING

CERTIFIED A TRUE COPY
 L. Davis, Jr. Special
 CLERK OF COURT D.P. & G.S.
 FLORENCE COUNTY, S.C.

(b)

1st - 1st Dec 2009

(c)

5 The date upon which sentence was imposed and the terms of the sentence

(a)

D1 & D2 12, 2009

(b)

LIFE

(c)

LIFE

6 Check whether a finding of guilty was made

(a)

after a plea of guilty

(b)

after a plea of not guilty

(c)

after a plea of nolo contendere

7 Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8 If you answered Ayes@ to (7), list

(a)

the name of each Court to which you appealed

i

SC - COURT OF APPEALS

ii

DEC. 2ND, 2009

iii

(b)

the result in each such Court to which you appealed

i

ii

VOLUNTARY DISMISSAL

iii

(c)

the date of each such result

i

ii

iii

(d)

if known, citations of any written opinion or orders entered pursuant to such results

i

ii

iii

9 If you answered Ano@ to (7), state your reasons for not so appealing

(a)

N/A

- (b) _____
- (c) _____
- 10 State concisely the grounds on which you base your allegation that you are being held in custody unlawfully ^{FAILURE TO SUBPOENA WITNESS} (CONFLICT OF INTEREST) (IMPROPER INDULGENCE)
- (a) 1) INEFFECTIVENESS OF COUNSEL 2) PROSECUTORIAL MISCONDUCT
- (b) CLERICAL ERROR OF COURT - BY COURTS MISADVERSE OF RULE 609(B)
- (c) STATE FAILED TO PROVE EVERY ELEMENT OF OFFENSE BEYOND REASONABLE DOUBT, LACK OF SUBJECT MATTER JURISDICTION, MULTIPLE COUNTS
- 11 State concisely and in the same order the facts which support each of the grounds set out in (10) INJURY
- (a) SEE ATTACHMENTS
- (b) _____
- (c) _____
- 12 Prior to this application have you filed with respect to this conviction
- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? YES
- (d) any other petitions, motions or applications in this or any other Court? NO
- 13 If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application
- (a) the specific nature thereof
- i DIRECT APPEAL
- ii _____
- iii _____
- iv _____
- (b) the name and location of the Court in which each was filed
- i SC COURT OF APPEALS
- ii COUNCIL OF
- iii _____

- IV _____
- (c) the disposition thereof
- I Voluntary Dismissal
- II _____
- III _____
- IV _____
- (d) the date of each such disposition
- I 4-21-10
- II _____
- III _____
- IV _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition
- I _____
- II _____
- III _____
- IV _____

- 14 Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

- 15 If you answered "yes" to (14) identify

- (a) which grounds have been presented

- I _____
- II N/A
- III _____

- (b) the proceedings in which each ground was raised

- I _____
- II N/A
- III _____

- 16 If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented

(a) GROUND) FOR PCR, INEFFECTIVE ASSISTANCE OF TRIAL
 (b) COUNSEL FOR FAILING TO OBJECT TO PRESERVE ISSUES
 (c) FOR APPELLATE REVIEW.

- 17 Were you represented by an attorney at any time during the course of

(a) your arraignment and plea? YES
 (b) your trial, if any? YES
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
YES
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

- 18 If you answered Ayes@ to one or more parts of (17), list

(a) the name and address of each attorney who represented you

i JACK W LAWSON
PUBLIC DEFENDER
 ii FLORENCE COUNTY
 iii LANELLE CANTY DURANT
APPELLATE DEFENSE

(b) the proceedings at which each such attorney represented you

i TRIAL
 ii
 iii DIRECT APPEAL

19 State clearly the relief you seek in filing this application

A NEW TRIAL AND DISMISSAL OF CHARGES

20 Are you now under sentence from any other court that you have not challenged?

NO.

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of MCCORMICK)

VERIFICATION

I, STACY L EVANS, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application, that I know the contents thereof, that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application, and that the matters and allegations therein set forth are true

SE
Stacy Evans

SWORN to and subscribed before me this 26th
day of April, 2010

Therese Marshall
Notary Public

(LS)

My Commission Expires April 11, 2011

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, STACY L. EVANS, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true

- (1) I am the applicant in this action and I believe I am entitled to redress
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof

Stacy Evans
Applicant

SWORN or affirmed to and subscribed before me this

26th day of April, 2010

Stephane Marshall
Notary Public

My Commission Expires April 11, 2011



HENRY McMASTIR
ATTORNEY GENERAL

April 2, 2010

2010 APR -5 AM 10:45
JULIE E. SHEARIN
CLCP & GS
FLORENCE COUNTY, SC

The Honorable E. L. Clements, III
Solicitor, Twelfth Judicial Circuit
City-County Complex
180 N. Irby Street
Florence, South Carolina 29501

RE State v. Evans, Stacy Lee #152040
2008-GS-21-01827

Dear Solicitor Clements

In its Order of Dismissal, filed March 12, 2010, the South Carolina Court of Appeals granted the appellant's motion to withdraw and dismissed the above appeal. The Remittitur has been sent to the Florence County Clerk of Court. Therefore, with this letter, we are closing our direct appeal file in this matter.

This Office has verified through the South Carolina Department of Corrections' computer that Mr. Evans is presently incarcerated. Please ensure that the conviction and sentence have been carried out.

Sincerely,

Salley W. Elliott
Assistant Deputy Attorney General

SWE/bd
Enclosure

cc The Honorable Connie Reel-Shearin
David M. Tatarsky, Esquire
Ms. Trisha Allen, Victim Services

Гибкость конструкции

Appellant (intended) that the State Attorney's evidence of another
witness to use his evidence against him for the purpose of (sic)
him) manipulating state's exhibits 5 A and 5 B were entered
into evidence. No objection was made during trial. Appellant
asked counsel to object to the pictures on the ground that they
were taken on 1-19-65. Counsel stated don't worry about it
it's an photograph. Appellant stated to his attorney to object
to this evidence based on the fact no chain of custody was
submitted to him for review. See pgs 261, lines 7-10, 13-17
19-23. This evidence was supposed to be suppressed because of
the conflicting dates on the photos with no chain of custody,
Appellant's due process rights were violated by the prosecu-
tion admitted evidence of pictures from another date
that showed injuries that contradict the medical reports
and show it happened on a completely different day and
year. These pictures were used to influence the jury
and to bolster the state's case. Defendant can establish
prejudice by the prosecution admitting the falsified
evidence to conform to their case. See Kyles v. Whitley,
115 S Ct 1555, 1575 (1995), also see Martin v. Parker, 11 F.3d
613, 616 (6th Cir. 1993), Bossett v. Walker, 41 F.3d 825, 829-
30 (2nd Cir. 1994)

1) DID NOT CONSIDER THAT COUNSEL (67) INTERFERED FROM HIS
 CONFLICT OF INTEREST WITH HIS CLIENT, SULLIVAN V. WAASH,
111 F.2d 466, 468, 642 (1941). RIGHT TO EFFECTIVE ASSISTANCE
 OF COUNSEL INDICATES WHEN DEFENSE COUNSEL OPPOSES UNDER CONFLICT
 OF INTEREST, BECAUSE "COUNSEL BREACHES THE DUTY OF LOYALTY,
 WHICH IS THE MOST BASIC OF COUNSEL'S DUTIES."

IN CYLER V. SULLIVAN, 446 U.S. 335 (1980), THE SUPREME COURT
 RULED THAT A DEFENDANT CAN DEMONSTRATE A 6TH AMENDMENT
 VIOLATION BY SHOWING: 1) THAT DEFENSE COUNSEL WAS ACTIVELY
 REPRESENTING CONFLICTING INTERESTS, SEE LOPEZ V. SCULLY, 58
 F.3d 38, 41 (2d CIR. 1995), AND 2) THAT THE CONFLICT HAD AN
 ADVERSE EFFECT ON SPECIFIC INSTANCES OF COUNSEL'S PERFORMANCE.
CYLER, 446 U.S. AT 348, SEE STOIA V. U.S., 22 F.3d 766, 769
 (7TH CIR. 1994), CONFLICT OF INTEREST DEVELOPED WHEN COUNSEL
 PRESENTED QUESTIONABLE DEFENSE STRATEGY, FAILED TO FILE
 MOTIONS, AND FAILED TO APPEAR AT TRIAL.

APPRIASANT CONTENTS HE CAN SHOW A CONFLICT OF INTEREST
 BY ALL OF COUNSEL'S INACTIONS AT TRIAL AND FAILURE TO
 PROPERLY OBJECT, SUBPOENA WITNESSES, SUPPRESS EVIDENCE,
 AND PROPERLY INVESTIGATE PAST HISTORIES OF THE STATES
 WITNESSES, P... DID NOT INVESTIGATE PICTURES ADMITTED
 INTO EVIDENCE THAT HAD 1-19-05, SEE TAYLOR V. STARNES,
 650 F.2d 38 (1TH CIR 1980)

Claim for relief

Applicant contended the court did not fully explain that his prior record could only be used 10 years from the present date. The court only stated his whole record could be used. See trial transcript pgs 310 lines 1-7.

Counsel was ineffective for failing to advise the applicant that only the prior 10 years could be used for impeachment purposes (and applicant knew this he would have testified in his own defense to show the sexual consensual see U.S. v. BILMAN, 906 F.2d 392 (9th Cir. 1990) defense

Counsel's failure to apprise defendant of intent element of second degree murder, constitutes ineffective assistance of counsel.

Counsel was ineffective for failing to advise the applicant of a defense of consent and to call a eye witness the bar owner James Robinson that the applicant and victim left the bar together side by side after the other witnesses left the bar. Failure to subpoena witnesses in support of applicant's defense constitutes ineffective assistance of counsel. Had counsel called these witnesses then the court had contradicted the state witnesses and shown that nothing was wrong, applicant could have defended himself with these witnesses. See MICHANOW v. STATE, 355 S.E.2d 57 (Ga. App. 1986) Counsel's failure to talk to all witnesses, and object to illegal evidence constitutes ineffective assistance of counsel. Also see HARRINGTON v. HARRINGTON,

GOV. F. R. McLELLAN (C. 1. 21) TRIAL (UNDER) FATHER
 INTERVIEWED WITNESSES, ... ACCORDINGLY (UNDER) DEFENDANT
 AT ELEMENTS OF THE OFFENSE, POTENTIAL DEFENSES CAN
 RELUCTANTLY PLEASE NEGOTIATIONS CONTRIBUTE IN EFFECTIVE
 ASSISTANCE AT COUNSEL (UNDER) STATE, 4503 - 4538 (1995)

APPLICANT WAS TOLD BY COUNSEL HE DID NOT NEED TO
 CALL ANY WITNESSES THAT THE STATE'S WITNESSES WOULD
 HELP HIM AND HELP HIS CASE. APPLICANT TOLD COUNSEL
 HE HAD WITNESSES TO SUPPORT HIS VERSION OF FACTS AND
 COUNSEL SAID HE DIDN'T NEED THEM IF COUNSEL WOULD
 HAVE SURPRISINGLY JAMES LANGTON HE COULD HAVE TESTI-
 FIED THAT THE APPLICANT AND VICTIM HAD COME BACK
 INTO THE BAR AFTER LEONARD LEFT AND STAYED AND
 PLAYED POOL AND LEFT TOGETHER HIS TESTIMONY WOULD
 HAVE CONTRADICTED DENA SEIGLER AND WOULD HAVE
 SHOWN THAT THE VICTIM AND DEFENDANT WAS ACTUALLY
 TOGETHER IN THE BAR AND THEY LEFT TOGETHER SHOWING
 REASONABLE DOUBT TO THE KIDNAPPING. SEE TRIAL TRAN-
 SCRIPT OF DENA SEIGLER, PG'S 166-189. COUNSEL COULD HAVE
 IMPERISHED HER TESTIMONY BUT FAILED TO CALL A WITNESS
 TO SUPPORT APPLICANT

COUNSEL FAILED TO OBJECT TO THE LEADING OF THE WITNESS
 OBJECTIVE WITNESSING (UNDER) WITNESS WHAT THE APPLICANT WAS
 DOING AND WHAT HE WAS HEARD TO DO. PG 78 TRIAL TRANSCRIPT
 (21-25) 1-15 ALSO COUNSEL 22-25 COUNSEL DOES NOT
 OBJECT TO LEADING THE WITNESS (UNDER) FAILED TO SUPPORT
 THE WITNESS AND HER HUSBANDS RECORDS TO DISCLOSE IF ANY
 VIOLENCE HAD BEEN DONE, WITNESS WITNESSED THAT THE APPLICANT
 (UNDER) HE DID NOT HEAR THE WITNESS AND THE RECORDS

SHOW THAT, NO ONE BUT A PERSON WHO RECEIVED A CUT-
 OVER HER EYE, WOULD NOT CONTEST THAT THE PERSON HAD
 A DATE OF 65 ON + 11/11/11 (NOT WRITTEN) IT AND
 (COUNSEL) HAD IT AND AMERICK, HAD IT NOT (COUNSEL) WOULD
 TO PULL HER OUT AND HIS HANDS NEAR TO SEE IF THE
 PERSON WAS ACTUALLY TAKEN AWAY FROM A DOMESTIC
 VIOLENCE FROM THAT YEAR. COUNSEL REFUSED, SEE
BUMMEL V ESTELLE, 498 F.2d 793 (W.D. TEX. 1974), 72 AFTR2d
 COUNSEL'S FAILURE TO INVESTIGATE THE FACTS OF THE OFFENSE
 AND PUNISH DEFENSE, (CONSTITUTED) INEFFECTUOUSNESS OF COUNSEL
 ON DIRECT EXAMINATION PEGGY TOMLINSON RN TESTIFIED
 THAT SHE HAD SCRATCHES ON BOTH WRISTS FROM IRON CABLES
 AND SHE STATED THE VICTIM HAD BEEN BOUND AROUND HER
 WRISTS. SHE ALSO HAD BELT LASHES ON HER RIGHT LOWER LEG, BUT
 NO REPORT OF AN EYE INJURY WHATSOEVER, ALSO VICTIM'S STATE-
 MENT SAY NOTHING ABOUT BEING BOUND. COUNSEL SHOULD
 HAVE OBJECTED TO THIS HEARSAY. PG 228 TRIAL TRANSCRIPT
 LINES 15-17 AGAIN ON PG. 239 FROM THE FORM THE VICTIM
 FILLED OUT THE WITNESS STATES THE VICTIM STATES BEWING
 (SHE) USED LINE 12 AND ON LINES 21, NURSE TOMLINSON
 EXPLAINS TO THE JURY THE VICTIM'S INJURIES, NO EYE INJURY
 IS MENTIONED. ALSO THERE WAS NO SIGN OF TRAUMA IN THE VICTIM'S
 MOUTH. PG 241 LINES 22-24 SPECIFICALLY ON PG 244-245
 THE NURSE WAS ASKED SPECIFIC QUESTIONS REGARDING THE
 VICTIM'S FACE (LINE 24. Q.) OHAY. (AND) THE SCRATCHES
 INDICATED --- DID YOU NOTICE ANYTHING ON HER FACE?
 A) I DID NOT SEE LINE 8. A) I DID NOT MAKE ANY
 NOISE (SHE) IN HER FACE (ON HER), SO USUALLY, I DID NOT
 SEE ANY TRAUMA AT THAT TIME ALSO IT WAS NOTED THAT

245) , I saw the victim's head in the back of the car
the victim was lying down and Dr. Funder had been told by
247. stated, "I mean I did - we checked her
head (line 19 Q.) and did you find anything?" (line 20
no significant injuries I note further, the victim
did not tell Dr. Funder that she was forced to perform
oral sex." 253, Lines 15-22

COUNSEL FAILED TO FULLY INVESTIGATE THESE CLAIMS THAT SOMEONE ELSE ASSAULTED HER FROM 4:00 AM UNTIL 10:30 AM OR IN BETWEEN HER EX-HUSBAND COULD HAVE PRODUCED THESE INJURIES WHEN OFFICER SUMMERS DID ARRIVE NO PICTURES WERE TAKEN TO SHOW INJURIES OF HER FACE THERE WAS NO INJURIES AT THE HOSPITAL HOW COULD THESE INJURIES CUTTEN ON HER FACE? COUNSEL FAILED TO FIND OUT WHO THE VICTIM(S) WERE WITH ON FEB 17TH. COUNSEL FAILED TO SUBPOENA THE M-1000 (12) OF THE DETECTIVE TO PROVE THAT THE PICTURES OF THE FILE COULD HAVE COME FROM SOMEWHERE ELSE IN LOS ANGELES COUNTY 2012 10, THE YOUNG MOTHER, YIP, THAT IN HER OWN TESTIMONY ADMITS TO BEING WITH HER HUSBAND THE NIGHT OF THE ASSAULT THAT SHE DID NOT SEE THE PICTURES TO VERIFY THE ACTUAL DATE

(Census-1971) and the following are the results of the
 the 1971 Census of India. The results of the 1971 Census of India
 are as follows:

ON THE STANDEE TRAIL TAHOE, 15) (C.G. 30)
 PAGES LINES 6-17 STATING THE OFFICER (A/LE) 911
 AT A QUARTER TILL 4 IN THE MORNING AND IN ACTUALITY
 A (A/LE) NOT RECEIVED UNTIL 1.20 PM NUMEROUS
 INCONSISTENCIES OCCURRED DURING THE TRIAL IF COUNSEL
 WOULD HAVE PULLED (LEB) PASTORS AS HE WOULD HAVE
 IMPERHE) THIS WITNESSES (C.G. 30) AND SHOWED
 THAT NUMEROUS INCONSISTENT STATEMENTS WERE MADE BY
 THIS WITNESS. COUNSEL FAILED TO IMPERH THE VICTIM'S
 TESTIMONY BY TRYING TO INVESTIGATE IF SHE HAD ANY
 PRIOR ARRESTS FOR CRIMINAL DOMESTIC VIOLENCE WITH
 HER EX-HUSBAND OR WHEN WAS THE LAST TIME SHE SPoke
 TO HIM COUNSEL'S FAILURE TO DO THIS WAS INEFFECTIVE -
 WOULD AND PREJUDICED HIS CASE. APPLICANT WOULD HAVE
 TESTIFIED IN HIS OWN DEFENSE HAD IT NOT BEEN FOR COUNSEL'S
 ERRORS AND MISADVISE. COUNSEL TOLD APPLICANT IF YOU
 TESTIFY THEY WOULD USE YOUR RECORD AGAINST YOU AND YOU
 WILL GET LIFE. COUNSEL FAILED TO TELL APPLICANT THEY COULD
 ONLY GO BACK 10 YEARS FOR IMPEACHMENT PURPOSES BOTH
 COUNSEL AND THE COURT FAILED TO INFORM THE APPLICANT
 PRIOR TO HIS DECISION WHETHER TO TESTIFY HAD THE
 APPLICANT KNOWN THIS HE WOULD HAVE TESTIFIED ON HIS BEHALF
 TO IMPERH THE STATE WITNESSES AND HAD COUNSEL SUGGESTED
 HIS WITNESS TO TESTIFY ON HIS BEHALF, APPLICANT COULD HAVE
 PRESENTED A DIFFERENT PICTURE AS TO WHAT ACTUALLY HAPPENED
 THAT NIGHT. APPLICANT HAD DENIED A FURTHER TRIAL
 BY COUNSEL'S MISREPRESENTATION. APPLICANT (INTERVIEW)
 THAT "COUNSEL'S CONDUCT UNDERMINED THE PROPER FUNCTIONING
 OF THE JUDICIAL PROCESS" THAT THE TRIAL (COURT) WAS
 "UNFAIR AND UNJUST" AND "INJUSTICE" IN THE COURT'S
 (16)

WADSWORTH, 104 S.C. 202 (1944), BUTLER, 334 S.C. 248
 APPLICANT CONCLUDES COUNSEL'S PERFORMANCE WAS "DEFICIENT
 AND THAT COUNSEL UNDER PROFESSIONAL OATHS," CHERRY, 386
 S.C. 2d 625, CITING STRICKLAND AND COUNSEL'S DEFICIENT
 PERFORMANCE PREJUDICED THE APPLICANT SUCH THAT "THERE
 IS A REASONABLE PROBABILITY THAT, BUT FOR COUNSEL'S UN-
 PROFESSIONAL ERRORS, THE RESULT OF THE PROCEEDING WOULD
 HAVE BEEN DIFFERENT," CHERRY, 386 S.C. 2d 625. AS SHOWN
 THE JURY FOUND APPLICANT NOT GUILTY ON TWO OF THE FOUR
 CHARGES ALLEGED. HAD APPLICANT TESTIFIED AND PRODUCED HIS
 WITNESSES A DIFFERENT RESULT WOULD HAVE IN ALL PROBABILITY
 OCCURRED WITH IMPRISONMENT OF THE STATE WITNESSES AND
 THE VICTIM APPLICANT WAS DEPRIVED THE RIGHT TO IMPAIR
 THE CREDIBILITY OF THE WITNESSES BECAUSE COUNSEL FAILED
 TO FULLY INVESTIGATE AND FIND HIS WITNESSES. APPLICANT
 WANTED TO TESTIFY IN HIS OWN DEFENSE TO STATE THAT
 THE SEX WAS CONSENSUAL AND THE RECORDS WOULD SUPPORT
 THAT BECAUSE THERE WAS SEMI TRUTH BOTH PARTIES
 WHICH COULD HAVE BEEN CORROBORATED BY APPLICANT'S TE-
 TIMONY, PG. 346 (LINE) 4-6, HAD APPLICANT TESTIFIED THIS
 EVIDENCE COULD HAVE BEEN EXPLAINED. SEE TESTIMONY OF
 KATEE COY, APPLICANT CONTENDS THAT ALL THIS EVIDENCE
 SHOULD RAISE REASONABLE DOUBT AND HE WAS DENIED DUE PROCESS
 OF LAW BECAUSE HIS COUNSEL'S INEFFECTUALNESS.

APPLICANT SHOULD BE GRANTED A NEW TRIAL
 APPLICANT CONTENDS COUNSEL'S ACTIONS OF NOT SUBPENA'ING
 HIS WITNESSES VIOLATED HIS RIGHTS UNDER THE CONSTITU-
 TIONALLY PROTECTED (FOURTH LINE) THE SIXTH AMENDMENT.

I, besides that with criminal prosecution, the accused shall enjoy the right, to have compulsory process for witnesses in his favor," U.S. Constitution Amend VI. This right was held applicable to the states through the Fourteenth Amendment in Washington v Texas, 388 U.S. 14, 19 (1967). In order to exercise the compulsory process right, a defendant must show that the witnesses testimony would be favorable to defendant, material and not merely cumulative see U.S. v. Shannon, 992 F.2d 1224, 1230 (D.C. Cir 1993) Compulsory process violated when court refused to aid defendant in securing witness who allegedly would have provided exculpatory testimony. Here counsel's refusal to subpoena his witness to show conclusively that the applicant left voluntarily with victim together would have impeached the victim's testimony and her witnesses mind would have shown reasonable doubt to the alleged kidnapping charge.

REASONABLE DOUBT

THE DUE PROCESS CLAUSE REQUIRES THE GOVERNMENT TO PROVE BEYOND A REASONABLE DOUBT EVERY ELEMENT OF THE CRIME WITH WHICH A DEFENDANT IS CHARGED. In re Winans, 397 U.S. 358, 364 (1970); Shallu v. Louisiana, 508 U.S. 275, 278 (1993). If (counsel would) have subpoenaed applicant's witnesses, had him testify in his own defense, and had they could only be that, it would be in the best interest of applicant.

(counsel) He (could) have produced the jury with a decision
 doubt as to the allegations that were against him
 by not testifying the jury was left to its own
 conclusions of what happened in between. (1/4) Counsel
 produced his witnesses it would have shown that the
 applicant left with victim voluntarily and no kid-
 napping occurred. (1/5) If defendant testified he
 (could) have told the jury what happened in between
 from the time they left the bar until about 4:00 AM.
 (1/6) Counsel told defendant the defense of consent
 and pulled victims records along with her husbands
 and (c) and he (could) have impeached their testimony.
 (1/7) Counsel properly objected and produced other docu-
 ments it would have put a new light on the chain of
 events. Applicant would have been entitled to a
 directed verdict of insufficient evidence that
 a kidnapping occurred. Then the jury could have
 actually decided the facts based on the applicants
 witnesses. Defendant was denied his due process rights
 to testify with his witnesses because of counsel's mis-
 information. The prosecution would have failed to
 prove beyond a reasonable doubt what actually happened
 See U.S. v. Delbert, 94 F.2d 1134, 1148 (9th Cir. 1996) p. 361
 (c) 10-11. I have one possible witness, and I don't know
 if it is usual to call him or not, judge should (counsel know)
 of this witness to produce exculpatory evidence to
 support the defendant but fails to call him, with this
 witness the court will or should have granted the
 motion for a directed verdict. (1/5) 360, (c) 17-18

14D. BUT (IN THE 11/11/11 HEARING) THE COURT, BECAUSE THE LAW
WAS NOT THE SAME (THE COURT WAS NOT A JUDGE) AND THE 11/11/11 HEARING
WAS NOT BECAUSE SUSPENDED THE 11/11/11 HEARING WOULD HAVE
COULD HAVE SHOWN REASONABLE DOUBT, AS SHOWN IN THE
CLOSE PROSECUTIONS AND EVIDENCE HAD THIS TESTIMONY
BEEN GIVEN THE JURY WOULD HAVE TO DECIDE THE FACTS
FROM THE NEW TESTIMONY AND EVIDENCE IF COUNSEL
WOULD HAVE INVESTIGATED AND PROVIDED THE DOCUMENT-
ATION TO IMPROVE THE STATES WITNESSES. COUNSEL'S
ERRORS DEPRIVED APPLICANT OF A FAIR TRIAL. SEE UNDERWOOD
V STATE, 425 S E 2d 20 (1992), BUT FOR COUNSEL'S ERRORS, THERE
WAS A REASONABLE PROBABILITY THE RESULT OF THE TRIAL WOULD HAVE
BEEN DIFFERENT HAVING PUT FORTH THE FACTS THE APPLICANT NOW
MOVES THAT COURT FOR AN EVIDENTIARY HEARING AND TO SUB-
PENA ALL WITNESSES ORIGINALLY IN TRIAL AND THE ONE
NOT (11/11) BY DEFENSE.

RESPECTFULLY SUBMITTED,
STACY EVANS
STACY L. EVANS #152040
M^cCOMBIE C.I F-1-A
396 MEDICAL WARD
M^cCOMBIE SC
29099

INSUFFICIENT INDICTMENT AND INEFFECTIVE COUNSEL

APPLICANT CONTENDS THAT THE COURT WAS ~~IN~~ ERROR FOR FAILING TO DISMISS THE SUBSEQUENT INDICTMENT IN VIOLATION OF § 17-19-10 FOR ALLOWING HIM TO BE PROSECUTED UNDER AN INVALID INDICTMENT. APPLICANT CONTENDS PROSECUTORIAL MISCONDUCT AND DENIAL OF DUE PROCESS OF LAW UNDER THE 14TH AMENDMENT, AND COURT LACKED SUBJECT MATTER JURISDICTION

FACTS

APPLICANT WAS INDICTED ON A 4-COUNT INDICTMENT ALLEGING KIDNAPPING AND CRIMINAL SEXUAL CONDUCT (FIRST) 3 COUNTS (CSC) UNDER CAP NO 2008-65-21-01283, WARRANT NO K-272996, K-272997, K-272998 AND K-272999 WHICH WAS TRUE BILLED BY THE GRAND JURY ON SEPT TERM 2008. APPLICANT WAS NOTIFIED OF THE STATE'S INTENTION TO SEEK LIFE WITHOUT PAROLE PG. 421 THAT THE FILING WAS DONE UNDER AND INDICTMENT THAT HAS NOW BEEN NON-PROSECUTED, AND NO NEW FILING WAS DONE. MR. LAWSON SUBMITS THE NEW FILING IS NOT APPROPRIATELY BEFORE THE COURT IN RELATION TO THAT ISSUE FOR SENTENCING PURPOSES. THE STATE SUBMITTED IT WAS UNDER THE OLDER INDICTMENT. AFTER ORAL ARGUMENT THE COURT RULED AGAINST THE DEFENDANT CONCERNING THE NOTICE OF LIFE WITHOUT PAROLE, NO DISCUSSION WAS MADE CONCERNING WHEN THE STATE REINDICTED THE DEFENDANT AND WHEN HE GOT INITIAL NOTICE OF BEING REINDICTED WITH THE NEW INDICTMENT. THE DEFENDANT CLAIMS PROSECUTORIAL MISCONDUCT ON THE GROUNDS THE STATE SUBMITTED TO THE GRAND JURY THE SAME CHARGES UNDER NEW WARRANT NUMBERS AND ACTUALLY CHANGED THE NATURE OF THE OFFENSE ON COUNT 3 OF THE CRIMINAL CHARGES. THE PROSECUTOR HAD PREVIOUSLY HAD ONE INDICTMENT WHICH WAS STILL VALID AT THE TRIAL.

THE DEFENDANT HAD ONLY BEEN SERVED WITH THE ORIGINAL INDICTMENT.

AS SHOWN IN THE TRANSCRIPT PG 7, THE COURT STATED, I HANDED ME THE WRONG INDICTMENT INEFFICIENTLY, WILL BE RE-ITERATED (LINE) - 14-15 ON PG. 10 (LINE) 6-17

6 THE COURT: ALL RIGHT THIS IS THE INDICTMENT THAT WAS JUST
7 HANDED TO ME THAT WE ARE GOING TO PROCEED ON.

8 MS. PARR: THAT IS INDICTMENT 08-65-21-1827

9 THE COURT: THE SOLICITOR AND DEFENSE COUNSEL ASKED THAT I
10 TELL YOU THAT HE HAS JUST INDICTMENT FOR ONE CHARGE,
11. THEY ARE NOT TWO DIFFERENT CHARGES, THERE ARE JUST SOME
TYPPOS OR SOMETHING IN THE FIRST INDICTMENT?

13 MR. LAWSON: A CHARGE WAS CHANGED, YOUR HONOR

14. MS. PARR: INADVERTENTLY BUT, IT ALL ARISES OUT OF THE
ALLEGED SAME TRANSACTION THAT OCCURRED OR DIDN'T OCCUR
ON FEB 23, 2008. IS THAT CORRECT?

18. MR. LAWSON: THAT IS CORRECT.

19. THE COURT: SO THIS INDICTMENT ALLEGED THE SAME THING

(COUNSEL FAILED TO CHECK THE INDICTMENT AND RELIED ON
THIS TESTIMONY AND DID NOT CHALLENGE THE SUFFICIENCY
OF THIS NEW INDICTMENT. AFTER DEFENDANT WAS SENTENCED
HE DISCOVERED THAT HIS CHARGES ON COUNT 3 WAS ALTERED
AND ADDED NEW ELEMENTS OF THE OFFENSE WHICH THE STATE
WOULD HAVE TO PROVE. FURTHER, IT WAS DISCOVERED THE PROSECUTION
SUBMITTING THESE CHARGES TO THE GRAND JURY BEFORE DISMISSING
THE ORIGINAL INDICTMENT, THE PROSECUTION SUBMITTED NEW
WARRANT ALLEGES AND CHANGED THE ELEMENTS ON COUNT 3 TO
OBTAIN A NEW 4-COUNT INDICTMENT, THIS INDICTMENT WAS
NEVER SERVED ON THE DEFENDANT OR HIS COUNSEL. PROSECUTION
SUBMITTED A NEW PROSECUTMENT OF THE SAME CHARGES -

2008 ACCORD TO THE TESTIMONY OF THE PROSECUTOR IT WAS
 ALLEGEDLY A TYPO. IN FACT MISCONDUCT WAS COMMITTED THE FIRST
 INDICTMENT WAS STILL VALID AND DEFENDANT WAS NOT PROPERLY
 NOTIFIED OF THE NEW INDICTMENT WITH THE CHARGED ELEMENTS
 ON COUNT 3-.

THE ORIGINAL INDICTMENT ON COUNT-3 STATED THAT THE
 DEFENDANT DID COMMIT, OR ATTEMPT TO COMMIT, A SEXUAL
 BATTERY IN AND UPON GLORIA WILLIAMSON, BY USING AGGRAVATED
 FORCE AND/OR COERCION UPON GLORIA WILLIAMSON, BY FORCING HER
 TO PERFORM ORAL SEX ON HIM THIS WAS THE ORIGINAL PRESENTMENT
 BASED ON THE EVENTS OF FEB 23, 2008.

THE SUBSEQUENT PRESENTMENT WAS MADE NOV 20, 2008 AND WHILE
 THE FIRST INDICTMENT WAS STILL VALID, THE PROSECUTION CHANGED
 THE ELEMENTS BY ADDING THE ELEMENTS OF "WHILE COMMITTING THE
 CRIME OF KIDNAPPING AND BY ASSAULTING HER AND THREATENING TO KILL
 HER WHILE POSSESSING A KNIFE?" THESE CHARGES ALTERED THE ELEMENTS
 BY ADDING NEW ELEMENTS HE WOULD HAVE TO DEFEND AT TRIAL. THIS
 WAS NOT SHOWN TO THE DEFENDANT, HE WAS NOT GIVEN ANY NOTICE

A DEFENDANT HAS A CONSTITUTIONAL AND STATUTORY RIGHT TO
 DEMAND THAT A PROPERLY CONSTITUTED GRAND JURY CONSIDER HIS
 CASE AND DECIDE TO WHETHER TO ISSUE A SUFFICIENT INDICTMENT.
STATE V. MEANS, 626 S.E.2D 348, 367 S.C. 374 (S.C. 2006)

DEFENDANT CONTENDS THAT HE WAS PREJUDICED BY THE SUBSE-
 QUENT INDICTMENT BASED ON THE FACT HE WAS PREPARED TO DEFEND
 ON THE FACTUAL BASIS OF THE FIRST INDICTMENT THE SUBSEQUENT
 INDICTMENT CHANGED WHAT THE DEFENDANT WAS PREPARED TO
 DEFEND WHAT WAS ALLEGED IN THE ORIGINAL INDICTMENT. DEFEN-
 DANT WAS NOT APPRAISED OF WHAT HE WOULD HAVE DEFENDED ON THIS
 SUBSEQUENT INDICTMENT WHICH WAS OBTAINED BEFORE THE FIRST
 INDICTMENT WAS REVOKED SEE STATE V. WRIGHT, 579 S.C. 21

538 (S.C. 2007) Further, the subsequent indictment violates the provisions of §17-19-100

Applicant contends the prosecutor committed misconduct by failing to nol pross the first indictment before obtaining a new indictment that was presented to the Grand Jury on Nov 20, 2008. Further, the subsequent indictment stated new facts alleging new elements which the defendant would have to prepare to defend. The prosecutor gave no notice to seek a subsequent indictment and presented false testimony to the actual reason why a new indictment was presented and how did they obtain it without nol prossing the original. These actions showed considerable prejudice together with failing to serve a second notice of (LWP) and denied due process of law under the 14th Amendment. Defendant was entitled to a mistrial because of the solicitors conduct counsel was ineffective for failing to fully object to this improper indictment because it changed the nature of the offense under §17-19-100.

The primary purpose of an indictment are to put the defendant on notice of what he is called upon to answer, i.e. to appraise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and enable the circuit court to know what judgment to pronounce if defendant is convicted. STATE V MEANS, 626 S.E.2d 348. A sufficient indictment is used to ensure defendant is tried for the crime for which he is indicted, U.S.C.A. Const. Amend. 5 also see §17-19-20, EDWARDS V STATE, 642 S.C. 2d 738. The right to be fully informed of the nature and force of the accusation is a personal right, and

Therefore, the defendant himself, as just his attorney, is
 be fully informed of the charges against him MAGAZINE
V STATE, 606 S.E.2d 761 (2004). Here, the prosecution
 claimed a typo which was materially untrue. The prose-
 cutor failed to disclose to the court, the defendant, and
 his attorney he presented a new indictment before
 'not pressing' the original and failed to disclose the
 facts that the original indictment were completely
 changed and added new elements in which the defendant was
 not apprised of. Further, the judge would have to properly
 order the prosecutor to reindict or obtain a waiver
 of presentment from defendant. Neither was done. The
 defendant was 'ambushed' and was not properly given
 notice of the new indictment. Applicant was denied
 due process of law under the 14th Amendment and the
 indictment was multiplicitous. See CUTNER V STATE,
 590 S.E.2d 120 (2003). Based on the foregoing facts of
 prosecutorial misconduct and ineffective trial counsel
 the charge should be dismissed and a new trial granted.
 The court did not have subject-matter jurisdiction of
 the subsequent indictment. Applicant requests an evid-
 encing hearing on all these allegations. See SHAWVER V.
STATE, 305 S.E.2d 247

(Prose) STACY EVANS
 STACY EVANS #152840
 MCCORMICK C.I. F1-A
 326 REDEMPTION WAY
 MCCORMICK SC 29885

COUNTY OF FLORENCE - County
 CLERK BEEL-SHERMAN
 City-County Complex
 100 N LEBY ST MSC-E
 FLORENCE SC 29501

CLERK,

WILL YOU PLEASE FILE MY PCR APPLICATION AND SEND ME
 STAMPED DATED COPY WHEN IT IS FILED ALSO I AM A
 INDIGENT AND WILL YOU PLEASE APPROVE ME PCR COUNSEL
 AS SOON AS POSSIBLE AND NOTIFY ME WHEN ONE IS MADE
 YOUR HELP WILL BE GREATLY APPRECIATED.

4-26-10
 DATE

Sincerely,

STACEY C EVANS #152040
 M^cCORMICK C I F-I-A
 386 REDEMPTION WAY
 M^cCORMICK S.C 29899

CERTIFIED A TRUE COPY
 Anne J. Spivey
 CLERK OF COURT C P & G S
 FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C A NO 10-CP-21-1258
COUNTY OF FLORENCE	)	
	)	
Stacy L Evans,	)	
S C D C No 152040,	)	
	)	
Applicant,	)	RETURN
	)	
VS	)	
	)	
State of South Carolina,	)	
	)	
Respondent	)	
_____	)	

In response to the post-conviction relief application filed April 29, 2010, and received by the Office of the Attorney General on June 10, 2010, the Respondent would show this Court

I

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the December, 2008 term of the Florence County Grand Jury for kidnapping and two counts of criminal sexual conduct in the first degree. Jack Lawson, Esquire, represented the Applicant. On December 8, 2008, Applicant was convicted of kidnapping and once count of criminal sexual conduct, and found not guilty of the other count. The Honorable Judge J. Ernest Kinard sentenced Applicant to a life sentence. Applicant appealed his conviction.

Applicant was represented on appeal by Lanelle C. Durant, Esquire, who perfected the appeal by filing an Anders brief. Applicant then voluntarily withdrew the appeal and the Court of Appeals dismissed by order dated March 12, 2010 with remittitur issued the same day.

For the purpose of this Return, the Respondent attaches and incorporates the Clerk of Court's records, the South Carolina Department of Corrections records and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

- 1 Ineffective assistance of counsel,
- 2 Conflict of interest,
- 3 Prosecutorial misconduct,
- 4 Clear court error

III

The State submits that the Applicant's allegation that he received ineffective assistance of counsel is without merit. For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996). In order to prove prejudice, an applicant must show that but for counsel's errors, there is a reasonable probability the result at trial would have been different. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Id. Where trial counsel articulates a valid reason for employing certain trial strategy, such

conduct should not be deemed ineffective assistance of counsel Roseboro v State, 317 S C 292, 454 S E 2d 312 (1995), Stokes v State, 308 S C 546, 419 S E 2d 778 (1992) The State submits that the Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that is expected of an attorney who practices criminal law in South Carolina State v Pendergrass, 270 S C 1, 239 S E 2d 750 (1977), Strickland, supra, Butler v State, 286 S C 441, 334 S E 2d 813 (1985)

Nevertheless, the allegation probably raises a question of fact which may not be conclusively refuted by the record and therefore requires that an evidentiary hearing be convened Sharper v State, 279 S C 264, 305 S E 2d 247 (1983)

IV

Applicant alleges a conflict of interest Respondent denies this allegation and demands strict proof From Applicant's pleadings, it is clear that he is alleging the "conflict" because of his counsel's mistakes Respondent construes this to be an allegation of ineffective assistance of counsel and again denies counsel's performance was deficient

V

Applicant alleges prosecutorial misconduct Respondent denies this allegation and demands strict proof Further, from the pleadings, it appears that this allegation is based on evidence that the State successfully moved into evidence at trial Accordingly, Respondent construes this allegation to be one of court error, which is an issue that should have been raised, if at all, on appeal Accordingly, the issue is not a proper matter for PCR Simmons v State, 264 S C 417, 215 S E 2d 883 (1975) Therefore, it should be summarily dismissed

VI

Lastly, Applicant makes various allegations of court error. These issues should have been raised, if at all, on appeal. They are not proper matters for PCR and should be summarily dismissed. Simmons, supra

VII

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VIII

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code §17-27-10 et seq, SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

IX

WHEREFORE, having made Return, the Respondent requests that this Court hold an evidentiary hearing.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W ELLIOTT
Assistant Deputy Attorney General

DAVID SPENCER
Assistant Attorney General

By 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P O Box 11549
Columbia, SC 29211
Telephone (803) 734-3727

September 3, 2010

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
STACY LEE EVANS, 152040

Applicant

STATE OF SOUTH CAROLINA

Respondent,

Amie Felt-Shearin
CERTIFIED A TRUE COPY
CLERK OF COURT
FLORENCE COUNTY, S.C.

IN THE COMMON PLEAS COURT

DOCKET NO 2010-CP-21-1258

MOTION TO FILE AMENDED
COMPLAINT AND AMENDEND
COMPLAINT

FILED
23 NOV -1 AM 10 32
CONNIE REEL-SHEARIN
CLERK OF COURT
FLORENCE COUNTY, SC

The Applicant, pursuant to S C R CIV P 15, the above applicant moves this court to file an amended complaint and in it a claim

SUBJECT MATTER JURISDICTION

Applicant contends the court lacked subject matter jurisdiction to impose two(2) life sentences under the Recidivist Statute §17-25-45-(A)(1)

According to Applicants prior records he has only one prior conviction for a "Serious" offense for voluntary manslaughter from June 21, 1988 Applicant has no other prior convictions warranting imposition of life without parole The Solicitor was without discretion to impose this statute depriving the court of subject matter jurisdiction The Solicitor has committed prosecutorial misconduct for improperly using the recidivist statute to impose two life sentences on applicant

§17-25-45, life sentence for person convicted three times for certain crimes, discretion of solicitor to invoke 1)(A) Notwithstanding any other provision of law, any person who has three prior convictions under the laws of this State, any other State, or the United States for crimes of voluntary manslaughter, criminal sexual conduct in the first degree, armed robbery, burglary(violent) 16-11-312(A), 311,

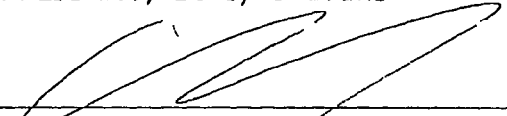
safecracking and assault and battery with intent to kill, shall upon such conviction (third) in this state, be sentenced to life in prison

A conviction shall be considered a third conviction only if the date of the commission of the third crime occurred subsequent to the imposition of the sentence for the second offense

Applicant only had one prior "serious" offense at the time of his trial, applicant had no "serious" or "most serious" offenses, the recidivist statute was improperly applied to his sentence

Applicant should be granted a new sentencing hearing and new trial

RESPECTFULLY SUBMITTED ON BEHALF OF
APPLICANT, Stacy L Evans



Charles T Brooks, III
Attorney for Applicant
309 Broad Street
Post office Box 3512
Sumter, South Carolina, 29150
(803) 418-5708

October 28, 2010

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	2010-CP-21-1258
	)	
	)	
	)	
Stacy Evans	)	)
	)	
vs	)	TRANSCRIPT OF RECORD
	)	
State of South Carolina	)	)
<u>DEFENDANT</u>	)	February 7, 2011
		Florence, South Carolina

B E F O R E

THE HONORABLE THOMAS A RUSSO, JUDGE

A P P E A R A N C E S

DAVID SPENCER, ASSISTANT ATTORNEY GENERAL
Attorney for the State

CHARLES T BROOKS, III, ESQ
Attorney for the Applicant

KESHIA REED
Official Court Reporter

I N D E XWITNESSDIRECTCROSSREDIRECTRECROSS

Stacy Evans

Mr Brooks 12

Mr Spencer 26

Jack Lawson

Mr Brooks 37 47

Mr Spencer 42

Certificate of Reporter 58

1 THE COURT You ready to proceed with Mr Evans'
2 case?

3 MR SPENCER That's correct, Your Honor I can
4 give some very quick background on that, Your Honor Your
5 Honor, this is 2010-CP-21-1258 Your Honor, this is Stacy
6 Evans vs South Carolina This is an application was
7 filed in April of 2010 Your Honor, Mr Evans was
8 indicted for kidnapping and two counts of criminal sexual
9 conduct in the first degree He was represented by
10 Mr Jack Lawson who's here today And he was found guilty
11 of kidnapping and one count of criminal sexual conduct and
12 found not guilty of the other count He was sentenced by
13 Judge Kinard to life without parole Mr Lawson brought
14 to my attention and I recall this too from -- it was
15 actually -- my application was somewhat incorrect There
16 were three counts of criminal sexual conduct not -- he was
17 convicted of one of the three counts He was convicted
18 also of the kidnapping He received life without parole
19 on this There was an Anders brief which the applicant
20 decided to withdraw and As I understand it from
21 Mr Brooks, they are going be moving for a continuance

22 THE COURT I'll be happy to hear from Mr
23 Brooks

24 MR BROOKS May it please the Court, Judge,
25 Mr Evans has asked me he wanted to at least address the

1 Court in response to our asking the Court for a
2 continuance And I told him I would bring that issue to
3 you

4 THE COURT All right, sir

5 Mr Evans

6 MR EVANS Your Honor, I apologize for this,
7 but I know this came too suddenly on me When I finally
8 got this man, I've asked him to pull some witnesses of
9 mine And I haven't got none of my witnesses up here
10 And I asked him to pull the medical files as well And I
11 also asked him for the NCIC sheets as well on these people
12 I've asked for because they testified against me in the
13 courtroom just like I asked Mr Jack Lawson to do, which
14 he didn't do none of that either I'm not -- I mean, if I
15 got no witnesses to prove, but I do have witnesses out
16 there I have one possible witness to prove I left the
17 bar room with this person and nobody tried to pull this
18 witness up there This is the second time this has
19 happened to me

20 THE COURT Well, now, let me just -- so that I
21 understand ---

22 MR BROOKS Can I shed some light on -- and I
23 talk with Mr Evans about the frustration What he wants
24 to do -- a lot of the witnesses are the same witnesses
25 that actually testified at trial And based on my

1 experience, I told him that the Court usually doesn't want
2 to subpoena all these people, you just don't get a chance
3 to try the case

4 THE COURT We're not here to retry the case

5 MR BROOKS In addition to that -- and
6 Mr Evans and I talk for a while -- we talked on the phone
7 when he was at the institution We talked today And I
8 was explaining to him the process in regards to PCR and
9 ineffective assistance of counsel which is what we are
10 here today And he talked about that there was another
11 witness that Mr Lawson was suppose to have found and
12 notice that he and the victim went to the bar together
13 This is a consensual sex issue CSC -- consensual sex was
14 the issue And I explain to him that part of my handicap
15 as Your Honor is well aware, we don't have any funds to
16 really get an investigator now on PCR side All the
17 judges have told me pretty much you don't -- PCR's I've
18 had investigators before, but because of the State's money
19 situation, you know, I relayed that to Mr Evans that I
20 know investigators that I would love to get But I don't
21 have the resources to get them, to perhaps track down this
22 person he was talking about, which is an unfortunate
23 handicap, but I don't -- Judge, we working with limited
24 resources, that's what we got And I understand his
25 plight and, I think, he's in a situation that he got a

1 life sentence because he had a prior conviction of things
2 that put him in the LWOK category That I think -- I
3 understand why he's frustrated with this And this is a
4 consensual sex issue He explain to me what the situation
5 was that he wanted Mr Lawson to do certain things, which
6 I said that's what we're here for for PCR But when he's
7 talking about the witnesses, he's talking about like the
8 doctors and the nurses and all those people who actually
9 already testified at trial He wanted the medical records
10 of the victim and I said, Well, typically, in a criminal
11 case when you talking CSC and that kind of thing, they're
12 not going to usually give you all this person's medical,
13 they will only give you, you know, the things from where
14 she reported it, the pertinent stuff I said I empathize
15 with you I wish they give you more, but they typically
16 want do that

17 THE COURT Let me ask, Mr Evans, you made
18 reference to all these witnesses not being brought up here
19 today What would be your purpose if these witnesses were
20 here today who testified during that -- during your trial
21 what would be your purpose of having them here for
22 purposes of a PCR?

23 MR EVANS Well, for one thing, Your Honor, I
24 got statements right here where they actually said on the
25 statements where each one of them contradict each others

1 statements But I can show you where they contradict each
2 other and I can show you where -- if that was the point
3 why didn't Mr Lawson impeach their statement

4 THE COURT You can do that because I got the
5 transcript of the trial here You can do that without
6 those witnesses actually being here in court

7 MR EVANS Well, I mean, that one witness I
8 want to show them -- there's someone saw me leave with
9 this woman There was no kidnapping involved, that's what
10 I'm trying to prove

11 THE COURT Well, see, there's the problem,
12 that's where we're not communicating

13 MR EVANS Okay

14 THE COURT We're not here to retry your case

15 MR EVANS I know that, Your Honor

16 THE COURT You don't need to prove to me that
17 you didn't kidnap anybody because it want do you any good
18 to prove it to me

19 MR EVANS Yes, sir, I understand that

20 THE COURT What I'm here for and what the
21 purpose of post-conviction is your claims or your
22 allegations are that your attorney in this case,
23 Mr Lawson, did not do certain things that in your opinion
24 should have been done and that fell below the standard of
25 being an effective lawyer

1 MR EVANS Yes, sir

2 THE COURT So those are your allegations and I
3 understand that I haven't seen your application, but I
4 understand that's the issue You can do that without
5 having those witnesses here in court You see what I'm
6 saying So your request for a continuance because those
7 witnesses aren't here -- and I don't know this for a fact
8 ---

9 MR EVANS I mean, don't have to be a witness,
10 I just want the medical files I got pictures right here
11 Your Honor says 2005 and they left eyes I been victed
12 (sic) by these people sentence

13 THE COURT Well, again, my point is this you're
14 still going back to trying to prove your case when all you
15 need to prove here is to convince the Court that your
16 attorney did not operate at the proper standard, that's
17 all you got to prove here You don't -- if -- when the
18 dust settles on this, if I agree with your complaints
19 versus your lawyer, then you'll get sent back and then
20 those issues will be important because then you'll go back
21 for a retrial, okay And that's when of all those issues
22 may be relevant But for purpose of your PCR, I mean, I'm
23 not understanding why you would need those medical records
24 or why you would need those witnesses for PCR purposes

25 MR EVANS Well, I'm just trying to prove my

1 lawyer -- my lawyer would have pulled the medical records
2 and find out why these 2005 pictures popped up in my case
3 Maybe, it would have been significant to the jury to see
4 these pictures not even mine This was posted between --
5 happen in 2008 That's all I'm saying I just want the
6 medical file

7 THE COURT You can question the witnesses about
8 that when they take the stand You can question them
9 about that or Mr Brooks can

10 MR EVANS All right

11 THE COURT So I'm going to move forward with
12 the case -- for the PCR case not your -- not the guilt or
13 innocence part, okay If your PCR is granted, you will be
14 granted a new trial and then all of those issues,
15 obviously, are relevant But for purpose of PCR to be
16 able to prove your allegations at least at this point, it
17 doesn't appear to the Court that a continuance is
18 necessary If as we go through this process if I find
19 that it is, you know, we will address it at that point

20 MR BROOKS Be that as it may, Judge, I would
21 like to go ahead and call my client, Stacy Evans, to the
22 stand so he can officially get his testimony on the
23 record

24 MR SPENCER Your Honor, just for the record, I
25 would like to have Mr Brooks state the allegations for

1 today for the record

2 THE COURT What are the allegations we're
3 proceeding on on this PCR application?

4 MR BROOKS Judge, you've heard some of those
5 already from Mr Evans in pretrial stuff we did He was
6 talking about getting medical records He was talking
7 about the NCIC's of certain people that testified He's
8 also talking about one particular person we didn't know
9 as a potential witness who saw him leave with the woman,
10 so there wasn't kidnapping, whether or not Mr Lawson did
11 a proper job investigating it, another thing he had talk
12 -- well, he talk to me about was his not testifying If
13 you look at the transcript, he didn't testify And he has
14 a story about, obviously, this being consensual sex, how
15 much him not testifying would have had a significant
16 impact on him in terms of the jury

17 THE COURT In other words, what you're saying
18 is that in the trial of the case Mr Evans exercise his
19 Constitutional Right to remain silent?

20 MR BROOKS That's correct

21 THE COURT And then there's an issue --
22 obviously, he's raised an issue regarding that?

23 MR BROOKS That's correct

24 MR EVANS Under Rule 609

25 THE COURT All right

1 MR BROOKS So some of the things he's already
2 actually -- he actually already put out there for you,
3 Judge And one of the things he's talked about these
4 pictures in the medicals This picture has a date of
5 2005, scratch on her neck, those things he's actually
6 talked about

7 THE COURT So you're ready to proceed with the
8 defense's case?

9 MR BROOKS Yes, sir

10 THE COURT All right And Mr Spencer any
11 issue with them proceeding then?

12 MR SPENCER No, Your Honor, I don't think so

13 THE COURT All right Mr Evans, if you come
14 around to be sworn and you can -- well, Mr Brooks will
15 bring you whatever you need there

16 THE CLERK Place your left hand on the Bible
17 and raise your right hand Do you swear the testimony you
18 give in this case will be the truth, the whole truth, and
19 nothing but the truth so help you God?

20 MR EVANS Yes, ma'am

21 THE CLERK Be seated and state your name for
22 the record

23 MR BROOKS You ready, Judge?

24 THE COURT Yes, sir

25 WHEREUPON,

1 Stacy Evans,
2 after first having been duly sworn, testified as follows

3 DIRECT EXAMINATION

4 BY MR BROOKS

5 Q Mr Evans, now, I'm going to start off you know
6 Mr Lawson was representing you through the public
7 defender's office, is that correct?

8 A Yes, sir

9 Q Now, you have talked to me briefly and we talked
10 several times One time on the phone A great deal of
11 time here You had talked about testifying at your trial
12 And in your trial, you did not testify?

13 A That is correct

14 Q Okay Why did you not testify?

15 A Well, I talked to Mr Lawson about that and he told
16 me if I took the stand, they was gone read my whole file
17 I told him I said, Mr Lawson, I said if I don't take the
18 stand, I say I'm looking at two life sentences He said
19 if you take the stand, they gone give you two life
20 sentences anyway He said your past record will show them
21 you committed this crime He said, why don't you sit back
22 and let me see if I can get you off and out of this I
23 say, Man, I don't know about it He said, well, you take
24 the time and you think about it I say all right So I
25 sit down and judge got back with us right after lunch He

1 said, Mr Evans, what you gone do? I looked at him I
2 said, Your Honor, I say I discussed it with my lawyer I
3 said I decided not to take the stand He said --
4 Mr Lawson got up said we would not like for you to bring
5 it to the juries attention why he wouldn't take the stand
6 for some reason I'm not correct what he exactly said,
7 but -- and I looked at him and I said what about this
8 witness He said if you get that witness on the stand,
9 Stacy, they catch him in a lie, that's one lie He said,
10 Man, it ain't gone mean nothing He said you need to sit
11 back and let me do this

12 THE COURT Hang on, I'm sorry I don't mean to
13 interrupt Let's stay focus cause it seems like we just
14 went down on another witness Let's focus right now --
15 let Mr Brooks just listen to his questions

16 MR EVANS I apologize, sir

17 THE COURT That's okay, that's all right

18 BY MR BROOKS

19 Q Now, so you said that's why you didn't testify?

20 A That is correct

21 Q Cause Mr Lawson told you about your prior record
22 coming in?

23 A That is correct

24 Q And you maintain that some of your prior record would
25 not have come in?

1 A That is correct

2 Q Because it was too old?

3 A That is correct

4 Q Okay Now, what is it that you have on your record,
5 Stacy?

6 A I have -- my whole record?

7 Q Yes, sir

8 A On my whole record from 1985, I got a criminal sexual
9 conduct in the third degree I got a manslaughter in
10 1988 I got three counts on my wife in 2001, spousal
11 sexual battery She kick me and I hit her

12 Q Now, what you found out is spousal battery situation
13 would have come in because that was in ---

14 A That is correct

15 Q But that the voluntary and the CSC with a minor back
16 in the '80's would not have come in?

17 A That is correct I found out earlier

18 Q Okay Now, had you testified, what would you have
19 said about this incident?

20 A It was consensual Me and this woman we went to this
21 place right after we left the Wooden Nickel's I explain
22 to her I said why you want me -- I mean, what you want me
23 to do? She said, what you mean? I said, well, you want
24 me to kill your husband I said what you want me to do
25 shoot him, you want me to stab him, what you want me to

1 do

2 Q Well, hold on a second, Stacy You saying this woman
3 was trying to solicit you to kill her husband?

4 A That is correct

5 Q Okay And you told Mr Lawson about this?

6 A Yes, I did I wrote a whole statement on it

7 Q Now, go ahead and continue

8 A Then I explain to her I said look it's gone cost you
9 She said, well, I ain't got no money Well, I said I
10 ain't gone do nothing free She said what you mean I
11 said I ain't gone do nothing for free I don't play games
12 with you I wasn't gone kill nobody anyway I can't kill
13 nobody I got one manslaughter on my record, I don't
14 think I can kill anybody But anyway when we got to the
15 point, we had sex And then we turn around, we had oral
16 sex I gave her oral sex, she gave it to me, I ain't gone
17 lie But when it was over with, we stood up in the front
18 seat right after oral sex and I told her I said look here,
19 Mrs Gloria, I ain't gone kill your husband for you four
20 weeks before your divorce I said it's gone make you a
21 suspect I said I'm not going back to prison for you or
22 no damn body else I said if I find out, I'll kill you,
23 and that's the exact words I told her

24 Q Okay And you relayed all this to Mr Lawson?

25 A Yes, I did I did

1 Q And what you're saying now is you wanted to get up on
2 the stand and tell that to the jury?

3 A I would have told the story to the jury if he would
4 have told me they couldn't read my whole record Yes, I
5 would

6 Q Now, knowing that the spousal battery would have --
7 the jury would have heard that if you had taken the stand?

8 A I would have told them, I don't care

9 Q Okay And now, if you had said -- if you had gotten
10 into how she ---

11 A Came on to me

12 Q Came on to you ---

13 A It was between me and Legrand Poston I was up there
14 shooting pool with a man name Nick and Nick was shooting
15 pool with a man with a ballhead But the man -- Marla
16 Branch was my girlfriend, she wanted to get on the
17 Karaoke And she told Nick and Nick got off the pool
18 table and started playing with the Karaoke Me and the
19 bald head dude we were shooting pool, shooting for beer
20 and money for \$20 a hit So I explain to him I said look
21 I said hold up for a minute I said I'll be back in a few
22 minutes I said my girlfriend wants some drinks, so I
23 went back there to get her a drink I said Legrand Poston
24 grab me And he pointed at his elbow and said, Man, tell
25 this woman what this means Tell the brother what this

1 mean I didn't know what it mean I told him what black
2 widow He said, no, Man, that brotherhood Tell her what
3 that mean I said I don't know nothing about no damn
4 brotherhood So he was starting to disrespect the woman
5 like man ain't no bitch gone get between me and him And
6 I was just thinking like what does he mean He said Evans
7 hold up a minute, I'll be back in a minute, which you only
8 knew me from the prior day I was there So when he went
9 to the bathroom, me and the woman was sitting there
10 talking I said look don't pay no attention to him he
11 drunk I said don't pay no attention to him And she
12 kind of looked at me, laughed at me So when Legrand came
13 back, I went back to carry my girlfriend the drink and I
14 started to go walk back out the door to go smoke a
15 cigarette, so he grabbed me again He said, Man, you want
16 a drink, Man So we bought a shot We all three took a
17 shot After the shot was done with, he got up and he said
18 hold up I'll be back in a minute, I'm gone go use the
19 restroom I said, damn So he went and he use the
20 restroom a second time I asked the woman looked her
21 straight in the eye and said can I kiss you girl And she
22 said sure So I kissed her on the lips After I kissed
23 her on the lips, Legrand Poston came back me and him and
24 was talking And all he was doing was disrespecting her
25 talking about his tattoos and stuff Well, a few minutes

1 later I bought all three of us a drink And after the
2 drinks was over with, Marla came up to me, that was my
3 girlfriend She said if you ain't coming back over here,
4 I'm going home You ain't bought me but one drink, it's
5 been a couple of hours I said, well, if you want to go
6 home, go home I said don't let me stop you Cause she
7 really wasn't my girlfriend She was just a friend I was
8 living with That's what a girlfriend is, I guess, what
9 they call it But anyway I was living with her But when
10 she left, a lady name JoAnn -- I don't know if her name
11 JoAnn Matthews, but anyway she came and carried Marla
12 home While Marla was be at home, me and Legrand was
13 sitting there talking He said, Man, tell her what a
14 woman wrote me we met I said what you mean Tell the
15 woman we met in prison Before I could even get it out of
16 my mouth, I wasn't gone tell him where we met cause I
17 didn't even know this cat And I want to know how he knew
18 he met me in prison I said, well, damn this guy know
19 more about me than I do I said, well -- I sat there for
20 a few minutes, she said you been to prison And before I
21 could get it out of my mouth, yeah Legrand already told
22 the woman I went there for manslaughter So he know me
23 from somewhere I didn't know where he know me from I
24 ain't never seen that man before in my life, but only in
25 that barroom that night

1 Q Let me ask you this then, you told Mr Lawson all
2 this about this is what happened that night?

3 A Yes, sir, I even wrote it on a piece of paper and
4 gave it to him

5 Q And you indicated that there was some other people
6 that did not testify that were at the bar that night that
7 saw you leave with this woman?

8 A That is correct

9 Q And saw you leave voluntarily and she left
10 voluntarily?

11 A That is correct

12 Q And that's what you had talked Mr Lawson about being
13 able to go get those witnesses and have that witness or
14 witnesses be there to testify, is that correct?

15 A That is correct

16 Q Okay And that didn't happen, is that correct?

17 A No, sir, that did not

18 Q That's one of your allegations, isn't that correct?

19 A That is correct

20 Q One of your other allegations deals with medical
21 records of the victim?

22 A I got it right here

23 Q And can you tell the judge specifically what you mean
24 by not having medical records of the victim?

25 A Well, Your Honor, it's like this right here, the

1 medical records they claimed from Officer Summerset, he
2 said he took a picture of her right eye And she kept
3 pointing at her right eye when she was on the stand He
4 hit me in my right eye He hit me in my right eye But
5 the whole entire time we was in trial, we had pictures of
6 her left eye But the left eye picture they was showing
7 was a square picture They did not show no right eye
8 picture, they showed a left eye picture Mr Lawson
9 caught her in a lie She said, well, this is a right eye
10 picture No, this a left eye, see He hold it up to her
11 face I got these pictures in my Rule 5 and it says 2005
12 I ask Mr Lawson about this I said, Mr Lawson, can you
13 tell me what this is? Oh, that's just the top, don't
14 worry about that I'm thinking why I say don't worry
15 about it I say these pictures don't even add up I
16 don't know who these are If she saying right eye picture
17 and Officer Summerset he took a picture of her right eye
18 And these are the left eye, then whose are they This
19 ain't mine

20 THE COURT Now, you're saying that these
21 pictures you have right here that those pictures ---

22 MR EVANS Are the ones that are in my Rule 5,
23 my motion discovery

24 THE COURT All right And those are not
25 pictures of the girl in question?

1 MR EVANS No, sir I mean, it might be her,
2 but I tell you one thing, it's not

3 THE COURT Were those pictures used in the
4 trial?

5 MR EVANS Yes, sir, the left eye picture was
6 used in the trial

7 THE COURT But those pictures you have right
8 there?

9 MR EVANS Yeah, these right here wasn't used
10 Not these type of pictures, but the square pictures was
11 And it was the picture of the lady I had a couple of
12 other pictures

13 THE COURT I'm trying to stay up with you here,
14 okay There were pictures used in the trial that were
15 pictures she testified that you hit her in the right eye?

16 MR EVANS Yes, sir

17 THE COURT But the pictures that they -- State
18 used in the trial are of the left eye?

19 MR EVANS Yes, sir

20 THE COURT And Mr Lawson used that basically
21 to discredit her?

22 MR EVANS Yes, sir

23 THE COURT That you're saying right eye, but
24 these are left eye, right?

25 MR EVANS That is correct

1 THE COURT Okay These pictures right here
2 that you have today that were in your packet of Rule 5
3 material?

4 MR EVANS That is correct

5 THE COURT But these pictures were not used in
6 the trial?

7 MR EVANS No, they wasn't used at trial

8 THE COURT What are you saying these pictures
9 show?

10 MR EVANS This picture show this is the left
11 eye and here are the bruises to that -- as soon as I can
12 get the rest of it, just give me one second right here,
13 I'll show you what I'm talking about See here, that's
14 the left eye picture there and the reason why I wanted to
15 bring this up because if you see the bra right there, it's
16 got a name on it And I want to see the court evidence
17 they had against me of her bra and see if it matches up
18 with the name on it Because I know the lady, but these
19 ain't my pictures

20 THE COURT Well, what I'm asking is this,
21 you're saying those pictures weren't used in the trial?

22 MR EVANS Not these things right here was, but
23 the square picture was

24 THE COURT The square picture And that
25 actually ended up being in your favor because Mr Lawson

1 was able to use that to show that she was lying

2 MR EVANS That is correct I'm not holding
3 that against her

4 THE COURT All right So what are you saying
5 about these pictures?

6 MR EVANS These pictures here I keep asking
7 where did these pictures come in at and he said don't
8 worry about it He said that's a typo

9 THE COURT But these are pictures that also
10 show left eye damage not right eye?

11 MR EVANS Exactly And I'm trying to figure
12 out if Officer Summerset took statements -- I mean, took
13 pictures of her right eye Then where did I get these
14 pictures from 2005 on them they say left eye I mean, if
15 that picture -- I mean, if Mr Lawson had was a left eye
16 and it come back from 2005, that mean somebody else must
17 have hit her I didn't hit her That's all I'm trying to
18 prove I mean, I know I didn't put my hands on this
19 woman, no kind of violent way

20 THE COURT But here's what you need to do I
21 know it's hard, okay

22 MR EVANS Okay

23 THE COURT You got to -- we're not retrying
24 your case here

25 MR EVANS I respect that I just wondered why