

VOLUME ONE OF THREE

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Georgetown County

George C. James, Jr., Circuit Court Judge

NICHOLAS PARKER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001154

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF GEORGETOWN) 06-GS-22-268, 269

The State,)
))
Plaintiff,) Transcript of Record
))
versus) January 29, 2007
) through
Nicholas Lee Parker,) February 2, 2007
))
Defendant.)
_____)

B E F O R E :

Honorable John C. Hayes, III
Georgetown County Courthouse
Georgetown, South Carolina

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

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Attorney for Defendants

Grace L. Hurley, CVR-CM
Circuit Court Reporter

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Georgetown County Circuit Court

RANDOM STRIKE SHEET

JUDGE NAME : J. Mark Hayes, II

TRIAL TYPE : Criminal

PANEL ID : STATE VS PARKER

COURTROOM CTR

Sorted by: Random Nbr

Trial

DESCRIPTION : STATE VS PARKER

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Gregg, Benjamin H JR	92	B	M	(X)	()	()	
2 Sports, Young Darlene M	157	W	F	(✓)	(X)	()	
3 Cameron, Hazel L	175	W	F	(✓)	(X)	()	
4 Hankins, Michael J	95	W	M	(✓)	(✓)	()	
5 Resendes, Joseph H	138	W	M	(✓)	(✓)	()	
6 Pace, Robert S	130	W	M	(✓)	(✓)	()	
7 Brown, K'sona L	50	B	F	(✓)	(✓)	()	
8 Owens, Michael T	129	W	M	(✓)	(✓)	()	
9 Price, Robert K	28	W	M	(✓)	(✓)	()	
10 Fegain, Clara B	76	W	F	(X)	()	()	
11 Snider, Carolyn J	23	W	F	(✓)	(✓)	()	
12 Doiley, Benjamin	67	B	M	(X)	()	()	
13 Duvall, Lance A	70	W	M	(✓)	(✓)	()	Imperson
14 Pope, Duanne H	133	W	M	(X)	()	()	
15 Lambert, Jody R	188	W	M	(✓)	(X)	()	
16 Frasier, Priscilla	79	B	F	(✓)	(✓)	()	
17 Player, Samuel D	132	W	M	(✓)	(✓)	()	
18 Mccray, Willie	189	B	M	(✓)	(✓)	()	
19 Shackelford, Debra C	145	B	F	(✓)	(✓)	()	
20 Young, Frannie N	27	B	F	(✓)	(X)	()	
21 Vernon, Margie M	197	B	F	(✓)	(X)	()	
22 Ehalt, Thomas E	72	W	M	(✓)	(✓)	()	
23 Medvidovich, John C	13	W	M	()	()	()	

Georgetown County Circuit Court RANDOM STRIKE SHEET

JUDGE NAME : J. Mark Hayes, II
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DESCRIPTION : STATE VS PARKER

Sorted by: Random Nbr
 Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
24 Smith, L Jane H	155	W	F	()	()	()	
25 Smith, Beverly B	154	B	F	()	()	()	
26 Larrimore, Kenneth L	113	W	M	()	()	()	
27 Fry, Marilyn A	177	W	F	()	()	()	
28 Brown, Kenyth H JR	4	W	M	()	()	()	
29 Mention, Lottie A	121	B	F	()	()	()	
30 Shubrick, Loletha R	149	B	F	()	()	()	
31 Mccray, Doris M	120	B	F	()	()	()	
32 Flowers, Josephine	77	B	F	()	()	()	
33 Carr, Temetrius A	55	B	F	()	()	()	
34 Shoulette, Glenda D	148	W	F	()	()	()	
35 Hart, Trudy A	99	W	F	()	()	()	
36 Gibson, Wesley K	85	B	M	()	()	()	
37 Gardner, Jerry L JR	81	B	M	()	()	()	
38 Benton, Marion H	1	W	M	()	()	()	
39 Grate, Ella R	89	B	F	()	()	()	

Total Number of Jurors:

39

** END OF REPORT **

State v. Parker

1

1 (On the record, Monday, January 29, 2007.)

2 MR. MODICA: Your Honor, may we get on the record on
3 something?

4 THE COURT: Yes, all right, let's come back to order,
5 please. All right, yes, sir, Mr. Modica.

6 MR. MODICA: Your Honor, on the case of Nicholas Lee
7 Parker, who's not in the courtroom, however, his attorney is
8 in the courtroom, Mr. Goude, on the indictment for burglary in
9 the first degree under indictment 2006-GS-22-268, on the back
10 of the indictment it has burglary first. It has 16-11-311(A),
11 which is the correct section for burglary first. In the face
12 of it, on the front, it has 16-11-312(A). I'm asking to move
13 to amend it to read 16-11-311(A).

14 THE COURT: Counsel?

15 MR. GOUDE: Let me just look at that one second,
16 Judge, please.

17 THE COURT: Certainly.

18 MR. MODICA: I should also point out that in the
19 indictment it says on the front page it says burglary first
20 degree.

21 MR. GOUDE: I have no objection, Your Honor.

22 THE COURT: All right, we'll amend it.

23 MR. MODICA: Thank you, Your Honor.

24 ***** OFF THE RECORD *****

25 (On the record.)

1 THE COURT: All right, Mr. Solicitor, you ready to
2 call your next case?

3 MR. MODICA: Yes, sir. Your Honor, at this time the
4 State would call the State versus Nicholas Lee Parker, charged
5 with indictment 2006-GS-22-268, a charge of burglary in the
6 first degree, and 2006-GS-22-269, kidnapping.

7 THE COURT: All right, Mr. Goude, you represent Mr.
8 Parker?

9 MR. GOUDE: I do, Your Honor.

10 THE COURT: All right, you ready to proceed?

11 MR. GOUDE: Yes, Your Honor.

12 THE COURT: All right, members of the jury panel -- I
13 don't have the indictments. I was going to ---

14 MR. MODICA: Nicholas Parker.

15 THE COURT: Mr. Parker, would you please stand and
16 let the jury see who this is. Turn around. [Complies with
17 request.] This is Mr. Nicholas Parker and he's charged with
18 burglary in the first degree and kidnapping. You may be
19 seated. [Complies with request.]

20 It's alleged that this occurred on or about January 29th
21 of 2006. It's alleged that he committed the crime of
22 burglary by entering Belinda Darlene Mitchum's dwelling at a
23 trailer park, Lot 14, BB Smith trailer park here in
24 Georgetown. He entered without consent according to the
25 indictment and with the intent to commit a crime, and it's

Voir Dire

3

1 alleged that on that same day that he did kidnap, unlawfully
2 seize, confine, kidnap, abduct or carry away Belinda Darlene
3 Mitchum. He has entered pleas of not guilty to these charges,
4 and these pleas of not guilty place on the State the burden of
5 proving his guilt beyond a reasonable doubt. The State is
6 represented by Mr. Modica.

7 MR. MODICA: With the assistance of Dori Biagianti.

8 THE COURT: They'll be the solicitors.

9 First, are any of you related by blood or marriage to any
10 of the four individuals that you've just been introduced to?
11 If so, please stand.

12 (No response.)

13 THE COURT: No one stands.

14 Have any of you been represented by any of those three --
15 any of the three attorneys at any time? If so, please stand.

16 (No response.)

17 THE COURT: No one stands.

18 Are any of you related by blood or marriage to Mr.
19 Nicholas Parker? If so or are you a close personal friend of
20 Mr. Parker? If so, please stand.

21 (No response.)

22 THE COURT: No one stands.

23 Any of you know anything about this case, heard about it
24 from any source whatsoever or have any of you formed or
25 expressed an opinion about any matter or issue which would be

1 involved in this case? If so, please stand.

2 (No response.)

3 THE COURT: No one stands.

4 Are any of you aware of any reason why you could not be
5 fair and impartial in the trial of Mr. Parker for these two
6 charges? If so, please stand.

7 (No response.)

8 THE COURT: No one stands.

9 Are any of you members of or contributors to
10 organizations such as Students Against Drunk Drivers, Mothers
11 Against Drunk Drivers, Citizens against Violence or
12 organizations such as the Sheriff's Association, the Troopers'
13 Association or Fraternal Order of Police? Any of you members
14 of or contributors to any of those organizations? If so,
15 please stand.

16 No one stands. Okay, yes, sir. Your name and number?

17 MR. DUVALL: I'm Number 70, Lance Duvall. I've made
18 contributions to Mothers Against Drunk Drivers.

19 THE COURT: Would that effect your ability to be fair
20 and impartial in this trial?

21 MR. DUVALL: I don't believe so.

22 THE COURT: Okay, thank you. You may be seated.

23 Are any of you or a member of your family involved in law
24 enforcement or in the prosecution of criminal cases? If so,
25 please stand.

Voir Dire

5

1 (No response.)

2 THE COURT: No one stands.

3 The following are possible witnesses in this case, I
4 don't know that all of them will testify, but if any of you
5 know these individuals or are related by blood or marriage
6 please stand: Roland Ward; Sherry Ward Parker; Shirley Ward;
7 Leonard Long; Dustin Morris, an investigator with the
8 Georgetown County Sheriff. The next two are also, the next
9 three are also with the Georgetown County Sheriff: Lieutenant
10 Bill Pierce; Deputy Joyce Phillips and Investigator Michael
11 Thacker; additional witnesses from the State Law Enforcement
12 Division: Ila Simmons; Ben Vanadore; Jeff Parrott;
13 Jennifer Clayton; from Home Telephone, Julie Ford; the alleged
14 victim, Belinda Mitchum; from Georgetown Hospital, Dr. Scott
15 Coradi, C-O-R-A-D-I; and then also Paul Glover, Kevin O'Neal
16 Johnson, a Deborah Elliott. Any of you related by blood or
17 marriage or close personal friend or acquaintance with any of
18 those individuals, if so, please stand.

19 (No response.)

20 THE COURT: No one stands.

21 Have any of you or a member of your -- let me preface
22 this by saying I'm not going to ask you to get up and blurt
23 out to me. If you have to stand up, just stand up because the
24 next question has some sensitivity to it. That is if any of
25 you or a member of your family either been thought to have

Voir Dire

6

1 been the victim of an alleged burglary or kidnapping or been
2 charged with such an offense, either offense, if so, please
3 stand.

4 (No response.)

5 THE COURT: No one stands.

6 These names I don't think are witnesses, but I believe
7 there's one, one name, this name may come up, as I understand
8 it, in the trial. I think this is one person with possible
9 three different versions of their name, but if any of you are
10 related to or friend of this particular person please stand.
11 They have her listed as Debbie Dangerfield, Debbie Dangerfield
12 Driggers or Debbie Dangerfield Elliott. Anybody know that
13 lady if so or related, if so, please stand.

14 No one stands. Oh, okay, yes, ma'am. Your ---

15 MS. SHOULETTE: Your Honor, our house was burglarized, I
16 just remembered, in 1993.

17 THE COURT: All right.

18 MS. SHOULETTE: So long I had forgotten.

19 THE COURT: All right, would that effect your ability
20 to be fair and impartial in the trial of this case?

21 MS. SHOULETTE: No, I'm Juror Number 148.

22 THE COURT: Okay, you've got to say yes or no. You
23 shook your head no.

24 MS. SHOULETTE: Oh, I'm sorry. No, it would not effect,
25 me.

Voir Dire

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1 THE COURT: Okay, thank you.

2 98, I believe was her number. Is that right?

3 MR. GOUDE: 148.

4 MS. SHOULETTE: 148 is my number.

5 THE COURT: I wasn't even close.

6 All right, do any of you have any -- I told you what the
7 charge is, do any of you have any sociological, theological,
8 any kind of a reason why you feel like you should not sit on
9 this particular case, religious feelings or anything that
10 would prevent you from serving as a fair and impartial juror
11 in the trial of this type of case? If so, please stand.

12 (No response.)

13 THE COURT: No one stands. Anything further from the
14 State?

15 MR. MODICA: No, Your Honor, thank you.

16 THE COURT: Anything from the Defense?

17 MR. GOUDE: No, Your Honor.

18 THE COURT: All right, thank you. Finally, do any of
19 you know of any reason whatsoever why you could not or should
20 not serve as a fair and impartial juror in the trial of this
21 particular case? If so, please stand.

22 (No response.)

23 THE COURT: No one stands.

24 Now, the way we draw juries in this case and in all cases
25 in General Sessions Court is a little different from the way

1 we drew the ones this morning. We will print out a list, and
2 as I understand it, both counsel will be given the list. We
3 will go down that list. Your name will be called or if your
4 name is called please come forward through that break in the
5 rail there and you'll come forward and you'll stand in front
6 of the -- I believe you all still do it this way, okay, we're
7 changing things as we go along in the State. Come forward and
8 stand right in front of this microphone, turn around and face
9 the table where the Solicitor is seated. One of the
10 Solicitors will either say present the juror or excuse the
11 juror. If they say excuse the juror simply return to
12 your seat. If they say present the juror please turn and face
13 the table where Mr. Parker and his attorney are seated. His
14 counsel will say either excuse the juror, which again means
15 you may return to your seat, or he will say swear the juror
16 which means you will take a seat in the jury box. The
17 bailiffs will show you if you are drawn where to sit. So, if
18 you hear your name called, please come forward and bring with
19 you any personal belongings such as a jacket or a coat or a
20 book or pocketbooks so you won't have to go back and get them
21 if you are seated. The strikes are five and five; is that
22 correct?

23 MR. MODICA: No, Your Honor, ten for the Defense, five
24 for the State.

25 THE COURT: That's right. Burglary, they're five and

Jury Selection

9

1 ten, okay. The State will have five strikes and Mr. Parker
2 will have ten strikes. Thank you.

3 THE CLERK: We having an alternate, Judge? We having
4 an alternate?

5 THE COURT: And we'll do an alternate, yes.

6 All right, if you hear your name called please come
7 forward like I asked you to a moment ago.

8 THE CLERK: Juror Number 92, Benjamin Greggs, Jr.
9 What says the State?

10 MR. MODICA: Please excuse Mr. Greggs.

11 THE CLERK: Juror Number 157, Darlene Sports Young.
12 What says the State?

13 MR. MODICA: Please present Mrs. Sports Young.

14 THE CLERK: What says the Defense?

15 MR. GOUDE: Excuse the juror.

16 THE CLERK: You may return to your seat.
17 Juror Number 175, Hazel Cameron.

18 What says the State?

19 MR. MODICA: One moment, please.

20 Please present Mrs. Cameron.

21 THE CLERK: What says the Defense?

22 MR. GOUDE: Excuse the juror.

23 THE CLERK: You may return to your seat.
24 Juror Number 95, Michael Hankins.

25 What says the State?

Jury Selection

10

1 MR. MODICA: Please present Mr. Hankins.
2 THE CLERK: What says the Defense?
3 MR. GOUDE: Swear the juror.
4 THE CLERK: Have a seat in the jury box.
5 Juror Number 138, Joseph Resendes.
6 What says the State?
7 MR. MODICA: Please present Mr. Resendes.
8 THE CLERK: What says the Defense?
9 MR. GOUDE: Swear the juror.
10 THE CLERK: Juror Number 130, Robert Pace.
11 MR. GOUDE: What was that number?
12 THE CLERK: 130.
13 What says the State?
14 MR. MODICA: Please present Mr. Pace.
15 THE CLERK: What says the Defense?
16 MR. GOUDE: Swear the juror.
17 THE CLERK: Have a seat in the jury box.
18 Juror Number 50, K'sona Brown.
19 What says the State?
20 MR. MODICA: Please present Ms. Brown.
21 THE CLERK: What says the Defense?
22 MR. GOUDE: Swear the juror.
23 THE CLERK: Juror Number 129, Michael Owens.
24 What says the State?
25 MR. MODICA: Please present Mr. Owens.

Jury Selection

11

1 THE CLERK: What says the Defense?
2 MR. GOUDE: Swear the juror.
3 THE CLERK: Juror Number 28, Robert Price.
4 What says the State?
5 MR. MODICA: Please present Mr. Price.
6 THE CLERK: What says the Defense?
7 MR. GOUDE: Swear the juror.
8 THE CLERK: Juror Number 76, Clara Fegain.
9 What says the State?
10 MR. MODICA: Please excuse Ms. Fegain.
11 THE CLERK: You may return to your seat.
12 Juror Number 23, Carolyn Snider.
13 What says the State?
14 MR. MODICA: Please present Ms. Snider.
15 THE CLERK: What says the Defense?
16 MR. GOUDE: Swear the juror.
17 THE CLERK: Juror Number 67, Benjamin Doiley.
18 What says the State?
19 MR. MODICA: Please excuse Mr. Doiley.
20 THE CLERK: Juror Number 70, Lance Duvall.
21 What says the State?
22 MR. MODICA: Please present Dr. Duvall.
23 THE CLERK: What says the Defense?
24 MR. GOUDE: Swear the juror.
25 THE CLERK: Juror Number 133, Duanne Pope.

Jury Selection

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1 What says the State?

2 MR. MODICA: Please present Mr. Pope.

3 THE CLERK: What says the Defense?

4 MR. MODICA: May we approach, Your Honor?

5 THE COURT: Certainly.

6 (Whereupon, a Bench conference was held in the presence,

7 but out of the hearing, of the jury venire.)

8 THE CLERK: What says the State?

9 MR. MODICA: On second thought, please excuse Mr. Pope.

10 THE CLERK: Juror Number 188, Jody Lambert.

11 What says the State?

12 MR. MODICA: Your Honor, may I approach?

13 THE COURT: Yes, sir.

14 (Whereupon, a Bench conference was held in the presence,

15 but out of the hearing, of the jury venire.)

16 MR. MODICA: Please present Mr. Lambert.

17 THE CLERK: What says the Defense?

18 MR. GOUDE: Excuse the juror.

19 THE CLERK: Juror Number 79, Priscilla Frasier.

20 What says the State?

21 MR. MODICA: Please present Ms. Frasier.

22 THE CLERK: What says the Defense?

23 MR. GOUDE: Swear the juror.

24 THE CLERK: Juror Number 132, Samuel Player.

25 What says the State?

Jury Selection

13

1 MR. MODICA: Please present Mr. Player.
2 THE CLERK: What says the Defense?
3 MR. GOUDE: Swear the juror.
4 THE CLERK: Juror Number 189, Willie McCray.
5 What says the State?
6 MR. MODICA: Please present Mr. McCray.
7 THE CLERK: What says the Defense?
8 MR. GOUDE: Swear the juror.
9 THE CLERK: Juror Number 145, Debra Shackelford.
10 What says the State?
11 MR. MODICA: Please present Ms. Shackelford.
12 THE CLERK: What says the Defense?
13 MR. GOUDE: Swear the juror.
14 THE COURT: All right, we'll draw one alternate. The
15 strikes will be one and two.
16 THE CLERK: Juror Number 27, Frannie Young.
17 What says the State?
18 MR. MODICA: Please present Ms. Young.
19 THE CLERK: What says the Defense?
20 MR. GOUDE: Excuse the juror.
21 THE CLERK: Juror Number 197, Margie Vernon.
22 What says the State?
23 MR. MODICA: Please present Ms. Vernon.
24 THE CLERK: What says the Defense?
25 MR. GOUDE: Excuse this juror.

Jury Selection

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1 THE CLERK: Juror Number 72, Thomas Ehalt.

2 What says the State?

3 MR. MODICA: Please present Mr. Ehalt.

4 THE CLERK: What says the Defense?

5 MR. GOUDE: Swear the juror.

6 THE COURT: All right, anything from the State
7 involving the striking of the panel?

8 MR. MODICA: No, Your Honor.

9 THE COURT: Anything from the Defense?

10 MR. GOUDE: No, Your Honor.

11 THE COURT: All right, we want them back Wednesday;
12 is that right?

13 MR. MODICA: Yes, sir, Your Honor.

14 THE COURT: All right, members of the jury panel
15 we're going to start this trial Wednesday at 9:30. Now, I'm
16 not going to administer the oath to you now. We'll do that
17 when we come back. However, you are on this jury panel. So,
18 do not discuss this case with anyone. Don't let anyone
19 discuss this case with you. You have to base your verdict in
20 this case on the law and the evidence that you hear here in
21 the courtroom. If anyone tries to discuss this case with you,
22 tell them you cannot, that you're serving as a juror.
23 If they persist in trying to talk to you again remind them
24 that you cannot talk about the case and report them back to me
25 if anyone tries to talk to you about this case, hopefully

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1 giving me that person's identity so I could deal with someone
2 who has tried to talk to a seated juror. I'm not -- not being
3 from down here I don't know what the press covers. Do not let
4 yourself be exposed to any news coverage if there is any in
5 this case. Don't read about it, watch anything about it or
6 listen to anything about it. If anything catches your eye or
7 ear that could remotely deal with this trial, please don't let
8 yourselves be exposed to it.

9 Mr. Ehalt, you will always sit in that seat as you are
10 the alternate. You'll have assigned seating and the foreman
11 and I'm going to -- you don't have to move now, but Dr.
12 Duvall, I'm going to ask you to be the foreman. You will take
13 this first seat here. The rest of you there's no assigned
14 seating. So, you're on the jury. You haven't been sworn but
15 you must follow my instructions, and I'm going to ask you now
16 unless there's anything else the State wants me to cover at
17 this time.

18 MR. MODICA: No, sir, Your Honor, thank you.

19 THE COURT: Defense?

20 MR. GOUDE: No, sir.

21 THE COURT: I'm going to ask you to follow the
22 bailiff and they will show you because when you report at 9:30
23 don't report, when you report Wednesday at 9:30 don't report
24 to the courtroom, report to this jury room where they're going
25 to show you. We may be in here doing some work, but anyway,

1 we need to get all 13 of you in there before we bring you in
2 here. So, be here at 9:30. Now, I didn't mean to sound harsh
3 this morning when I said if you didn't show up I'd send the
4 sheriff. I need to follow that up. People do have
5 emergencies and I'm talking to everybody now. If you don't
6 show up, I have to have the sheriff find you. However, if you
7 have a problem, a legitimate problem let us know. We can deal
8 with that. If you become ill, I hope nobody does, if your car
9 breaks down, I hope that doesn't happen, if there's something
10 that legitimately is going to detain you, call the Clerk's
11 office and let us know. We can deal with that. Again, if you
12 just don't show up we can deal with that, too, in a lot
13 different way, but I'm going to allow you to leave at this
14 time and we'll see you 13 back at 9:30 on Wednesday. Thank
15 you.

16 Everyone else remain seated.

17 (Whereupon, the following takes place outside the
18 presence of the jury.)

19 ***** OFF THE RECORD *****

20 (On the record, Tuesday, January 30, 2007.)

21 THE COURT: All right.

22 MR. MODICA: Yes, Your Honor, we're here on the matter
23 of The State versus Nicholas Parker in which a jury was
24 selected yesterday and the charges are burglary in the first
25 degree under indictment 2006-GS-22-268 and kidnapping under

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1 2006-GS-22-269. Your Honor, we're here for purposes of
2 motions in that we are going to start with the trial tomorrow
3 morning.

4 THE COURT: All right.

5 MR. MODICA: With that, Your Honor, I'll turn it over
6 to Mr. Goude for any potential motions.

7 THE COURT: All right, you may proceed. What motions
8 do we have?

9 MR. GOUDE: Judge, the first motion would be a motion
10 to produce any prosecution witness statements.

11 THE COURT: Well, I believe the rule doesn't require
12 that until after they've testified. Let's see what the rule
13 says, and they may be willing to give it to you anyway, but
14 ---

15 MR. MODICA: Your Honor, Your Honor, I believe I have
16 already given those. Don't you have copies of those?

17 MR. GOUDE: If there's anything you have not given me
18 that's what my motion is for.

19 MR. MODICA: But you, you have some copies; correct?

20 MR. GOUDE: I have some copies, correct.

21 MR. MODICA: Yes. So, I don't, I don't have any other
22 ones.

23 THE COURT: Okay, all right, next.

24 MR. GOUDE: The next one, Judge, is a motion to
25 sequester the witnesses in the case. Well, the Court -- this

1 is a burglary first which carries 15 years to life and a
2 kidnapping which carries 30 years. All of them are no parole
3 offenses, very serious case. We wish to sequester the
4 witnesses so that they don't sit on the -- in the auditorium
5 and hear what the preceding witness has said about what was
6 done and when calls were made and what was said on the
7 calls and where stuff was found and what was found and all
8 this sort of stuff. So, we make a motion to sequester the
9 witnesses. Naturally, that would apply to the Defense
10 witnesses, also.

11 THE COURT: All right, I'll sequester the witnesses,
12 both sides.

13 MR. MODICA: Your Honor, may I be heard briefly on
14 that?

15 THE COURT: Well, the victim, of course, gets to stay
16 in and the case -- the main case officer.

17 MR. MODICA: Yes, and I was going to ask for one other
18 person and it's possible that Mr. Goude won't have a problem.
19 That would be Joyce Phillips. Joyce Phillips is the evidence
20 technician that receives the evidence and then carries it up
21 to SLED, picks it up at SLED and carries it back.

22 MR. GOUDE: I would object to that on the ---

23 THE COURT: All right, it won't hurt to have her out.
24 All right, what's your next motion?

25 MR. MODICA: Thank you, Your Honor.

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1 MR. GOUDE: The next motion is to produce criminal
2 records of all of the prosecution witnesses. I will note they
3 have given me the records today of the prosecutrix if there
4 can be one in a burglary, the alleged victim in the case, a
5 Belinda Mitchum. They've given me hers and they've given me a
6 guy named Kevin Johnson and one on Debbie Elliott, who is the
7 mamma of the alleged victim, Judge.

8 MR. MODICA: Your Honor, if I may be heard on ---

9 THE COURT: All right, looks like just about all the
10 rest of them are police officers, except for Julie Ford from
11 Home Telephone, Paul Glover and Dr. Scott Coradi.

12 MR. MODICA: Paul Glover is an ex-police officer. He
13 left within the last six months. So, I didn't run a rap sheet
14 on him. I didn't run a rap sheet on the doctor and I spoke to
15 counsel about the fact that I didn't run a rap sheet on Julie
16 Ford, who is a business records person, and I believe he
17 doesn't have any objection to that.

18 MR. GOUDE: I don't need a record of the active
19 police officers, Judge, nor the doctor, nor the telephone
20 company person. If one of the witnesses, Mr. Glover, has left
21 the Police Department, I would request a rap sheet on him.

22 THE COURT: Paul Glover, okay. We'll get that for
23 you.

24 MR. GOUDE: Thank you, Your Honor.

25 Next motion, Judge, is a motion to suppress any

1 confession or statement or admission by my client. The
2 Solicitor has advised me that the officer, Mr. Glover, who
3 took the statement, the confession is unavailable until
4 Thursday morning and the Solicitor requests to do the
5 suppression motion at that time on that issue and that he
6 would not mention the confession or admission or statement
7 against interest any time in trial before then.

8 THE COURT: Okay.

9 MR. GOUDE: That's fine with me on that motion.

10 MR. MODICA: Your Honor, if I may on that, two things,
11 first of all, let me back up if I might because I think it'll
12 make it easier. In regard to the witnesses and their criminal
13 histories, we have agreed in regard to Kevin Johnson to a
14 possession of cocaine in 2003 and the fact that he has a
15 pending case from an arrest from January of 2007 for malicious
16 injury to telephone, telegraph, electric utility system, and
17 of course, there's no conviction in that, but he can ask, you
18 know, "Have you, you know, have you been given any
19 consideration?"

20 As it relates to Belinda Mitchum, we have agreed that
21 there is nothing in her criminal record that he can ask and he
22 already put on the record in regard to Deborah Elliott, the
23 victim's mother, that there's nothing that he can ask.

24 As far as the statement goes, if I might, the statement
25 runs, although there was some dead time in which Paul Glover

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1 is on the phone because he's the on-call person taking an on-
2 call call when he's actually interviewing the Defendant, I've
3 taken the liberty of burning you a copy of the confession, and
4 with consent of counsel, I'll give you a copy so that between
5 now and the time that he testifies, if you choose, to view
6 that so that, you know, you'd be ready to go on Thursday. Of
7 course, he already has a copy of it and if he agrees I'll mark
8 it as a Court's Exhibit One or A.

9 MR. GOUDE: I have no objection to that, Judge.

10 THE COURT: All right, is it a DVD or a CD, that is
11 it ---

12 MR. MODICA: It would be DVD. It's audio and visual.

13 (Court's Exhibit Number One [DVD of Confession]
14 appropriately marked.)

15 MR. MODICA: Go ahead, Mr. Goude. Thank you.

16 MR. GOUDE: I'll note that on Kevin Johnson's rap
17 sheet, Judge, he has a -- which I intended to ask him or
18 intend, I-N-T-E-N-D, intend to ask him about. He has two
19 pointing a firearm charges dated June the 28th '05, the
20 offense and they were dismissed on August the 18th, 2006.
21 They were both Georgetown County charges. He made a statement
22 in this case on February '06 between the arrest date and
23 dismissal date. So, I'm going to ask him about that.

24 MR. MODICA: Your Honor, I can represent as an officer
25 of the Court and it was actually Ms. Biagianti who have these

1 cases, there was no consideration given to him relative to the
2 charges whatsoever.

3 THE COURT: Well, why don't we do this so we can have
4 a record, before we go into it, before you go into it, we'll
5 excuse the jury and have an in-camera hearing and let you ask
6 those questions and see what response you get.

7 MR. GOUDE: Okay, yes, sir.

8 Our next motion, Judge, is a motion to suppress any
9 search and seizure, especially any hair or tape found in a
10 truck belonging to my client's grandparents that the alleged
11 kidnapping, transportation occurred in. Supposedly the police
12 found pieces of duct tape in the truck and supposedly they
13 found pieces of duct tape in the outbuilding at my client's
14 house where he lived, the outbuilding in the yard and they're
15 saying that that duct tape is part of the duct tape that the
16 girl was taped in during the kidnapping. So, we're moving
17 to suppress those on the grounds of unlawful searches and
18 seizures in the pickup truck and in the outbuilding at my
19 client's house.

20 THE COURT: A couple of question real quick. Whose
21 -- it was his grandma's truck?

22 MR. GOUDE: His grandparents owned the tuck. He
23 lived in the house with them and rode in the truck with his
24 grandmamma from this house where he lived with his grandma and
25 grand-daddy to the -- from Summerville to the trailer in

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1 Georgetown County where the girl lived and supposedly he and
2 his grandma kidnapped the girl and took her to Summerville to
3 their house where my client and his grandmamma lived and the
4 police later searched their truck that my client's grandma and
5 grand-daddy own that he lives with and the outbuilding at the
6 house where my client lives.

7 THE COURT: Yeah, I got that, but I'm trying to
8 figure out what's the grounds for the, for the -- why was the
9 search bad? Was it done with a search warrant?

10 MR. GOUDE: I don't think it was done with a search
11 warrant. I think it was invalid without consent and without
12 having a search warrant.

13 THE COURT: All right, Mr. Modica, you want to
14 present a ---

15 MR. MODICA: Your Honor, there was -- there were,
16 there's a couple of things I would say. To begin with, I
17 don't think that he's developed an issue because he hasn't
18 indicated to this Court standing. It was not his vehicle. He
19 doesn't have standing, number one.

20 Number two, he hasn't even established a basis for the
21 contention that any illegal activity was done by the police,
22 and even if he did, I would submit he needs to present some
23 evidence to that fact. He can't just state it, and third, to
24 clarify for the Court, there was not a search warrant.
25 Consent was given, first requested of Shirley Ward, the

1 grandmother, and Shirley Ward said, "Well, it's the, you know,
2 the truck is my husband's truck," which is the Defendant's
3 grandfather, James Ward. So, they all went and spoke to James
4 Ward and he gave consent. So, I would indicate that he hasn't
5 established sufficient nexus to even have a hearing in regard
6 to these issues.

7 THE COURT: All right, what expectations of privacy
8 did your client have regarding the outbuilding first?

9 MR. GOUDE: It's on the premises where he lives and
10 is able to keep private property that belongs to him. It's
11 used as a storage building at the dwelling house that he lived
12 in for years that's owned by his family that he lives with.
13 His mother lives there. He lives there. His grand-daddy and
14 grandmamma live there. His brother lives there and that would
15 give him the expectation of privacy and also the vehicle is a
16 family vehicle that's owned by the family that he lives with
17 just like if I was a ---

18 THE COURT: Well, automobiles aren't usually owned by
19 families. They're owned by individuals, and he said, and so
20 far, I mean, nothing is in evidence because we don't have a
21 record, but the indication was that it was owned by grand-dad
22 not either grandma or this young man. So, what expectation of
23 privacy would he have in that?

24 MR. GOUDE: I've stated all ---

25 THE COURT: You haven't even represented that he was

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1 driving it. Your representation was the grandma was driving.

2 MR. GOUDE: That's correct, Your Honor.

3 I've made all the motion on that motion I want to make,
4 Judge.

5 THE COURT: All right, well, I don't -- I find that
6 the -- that he does not have standing to contest the search of
7 somebody else's vehicle. Perhaps if he was driving it at the
8 time and was in it alone or was driving it at the time it
9 might be different but simply because this truck belonging to
10 family member does not give him standing. On the outbuilding,
11 I probably need to take a little testimony on that because a
12 guest under some circumstances does have an expectation to
13 privacy. Whether it extends to an outbuilding, I'm not real
14 sure. Do you have any cases one way or the other on that
15 about right of privacy of a guest extending to outbuildings?

16 MR. MODICA: I can't find anything on point, but I
17 would submit that there's an indication that this is an
18 outhouse. It is a converted garage. The Defendant was
19 residing inside the residence. So, he might have standing to
20 contest a search of even a portion of the residence where he
21 was living, despite the fact that he is of major age and not a
22 minor, and in addition they've also not established a nexus
23 that he has some expectation of privacy in the grandparents'
24 home to this outhouse, this house that has been converted from
25 a garage.

1 THE COURT: All right, well, what -- and -- but you,
2 you indicate that it's the State's position it was a
3 consensual search anyway?

4 MR. MODICA: Yes, sir.

5 THE COURT: Well, why don't you let's just hear from
6 those witnesses and just to be on the safe side.

7 MR. MODICA: Yes, sir.

8 THE COURT: And then whether he's got standing or not
9 if someone else was standing, if the owner of the property
10 consented, I -- that I think then that would be sufficient.

11 MR. MODICA: Yes, sir.

12 And with that, Your Honor, at this time I would call
13 Investigator Dustin Morris.

14 THE COURT: All right, and you might go ahead and
15 make a proffer on grandma's truck or grandpa's truck, too, if
16 he knows.

17 MR. MODICA: Yes, sir.

18 AT THIS TIME DUSTIN MORRIS WAS CALLED TO THE STAND, DULY SWORN
19 BY THE CLERK AND TESTIFIED AS FOLLOWS:

20 THE CLERK: Thank you. Please be seated. State your
21 name for the record, please.

22 MR. MORRIS: My name is Dustin Morris.

23 EXAMINATION

24 BY MR. MODICA:

25 Q Can you tell us where you're employed, the length of time

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1 you've been employed and in what capacity?

2 A I'm employed with the Georgetown County Sheriff's Office.

3 I've been with the Sheriff's Office approximately two years.

4 I'm a criminal investigator with the Sheriff's Office.

5 Q Tell our Court about your prior police experience.

6 A I served ten years at the Georgetown Police Department,
7 seven of which I was a criminal investigator.

8 Q And did you also reach the rank of sergeant while you
9 were there?

10 A No, corporal.

11 Q Corporal, on January 30th of 2006, did you become
12 involved with an investigation of an alleged kidnapping and
13 burglary that occurred on January 29th of 2006?

14 A Yes, I did.

15 Q From your investigation, did it lead you to a home in
16 Summerville?

17 A Yes, it did.

18 Q And was that based upon the victim telling you that she
19 was kidnapped or abducted from here in Georgetown and taken to
20 a known address in Summerville?

21 A Yes.

22 Q And what was that known address?

23 A If I could refer to my notes briefly.

24 Q Certainly.

25 A That was at [REDACTED] Lane, Summerville.

1 Q Did there come a time that you went there?

2 A Yes.

3 Q Did you go there with any other police agency?

4 A Yes, myself, Investigator Michael Thacker with the
5 Sheriff's Office and three deputies from Berkeley County
6 Sheriff Office went to that location.

7 Q And while there, did you have occasion to see a vehicle
8 that fit the description that the victim was abducted in?

9 A Yes.

10 Q And for the record what was the victim's name? Was it
11 Belinda Mitchum?

12 A That's correct.

13 Q Okay, and after you had seen the vehicle, did you have
14 occasion to have a conversation with a person that you knew to
15 be Shirley Ward?

16 A Yes.

17 Q And was Shirley Ward a suspect in this case as well?

18 A At that point she was a suspect, but there was no formal
19 charges against her.

20 Q Okay, were there formal charges against Nicholas Parker?

21 A Yes, there were.

22 Q Okay, now, did you have a conversation with her as to the
23 vehicle?

24 A Ms. Ward?

25 Q Yes.

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1 A Yes.

2 Q On this property, can you, without going into great
3 detail, explain the layout of the property in terms of the
4 house and any other buildings associated close to the house.

5 A If you're looking directly at the front of the residence
6 to the right there is a little outhouse, if you will, kind of
7 a converted garage. The truck was actually located at the
8 rear of the residence.

9 Q And was there another building other than the residence?

10 A I don't recall, oh, yes, sir, the outhouse.

11 Q Right.

12 A Yeah.

13 Q Did you -- I'm sorry. I zoned for a second. Did you
14 describe the outhouse?

15 A It was a small makeshift type garage apartment is the way
16 I can describe it.

17 Q Separate and apart from the other house.

18 A Yes.

19 Q All right, now, from being there and speaking to the
20 people there, did you come to learn where the Defendant
21 resided within either of those structures?

22 A It was made apparent to me that he resided inside the
23 residence, the dwelling itself.

24 Q Who made that apparent to you?

25 A Mrs. Ward.

1 Q Shirley Ward.

2 A Shirley Ward.

3 Q And what was the relationship between Shirley Ward and
4 the Defendant?

5 A She was his grandmother.

6 Q All right, now, tell the Judge, please, if you would,
7 about the conversation you had with Shirley Ward relative to
8 consent to search the vehicle.

9 A When I first arrived at the location I had already spoke
10 to Mrs. Ward earlier in the day by telephone about the
11 incident. She was clear as to why I was wanting to speak to
12 her. When I arrived at the location I again told her I wanted
13 to speak to her about the incident.

14 Q What incident? Did you describe the incident?

15 A Yes, I advised her that her son was wanted for kidnapping
16 and we were there looking for him.

17 Q I'm sorry, son or ---

18 A I mean, grandson, I'm sorry.

19 Q Okay.

20 A He was there -- he was wanted for kidnapping.

21 Q And you told her about that earlier in the day.

22 A Yes.

23 Q Okay.

24 A And also again when I arrived at the house.

25 Q Right.

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1 A I ---

2 Q Did you reference the vehicle?

3 A Yes, I did.

4 Q Tell us, tell the Court how you referenced the vehicle.

5 A I indicated to Mrs. Ward that there was a burgundy Dodge
6 truck that was supposedly used in the kidnapping, similar to
7 the one I observed in the back yard that I saw upon my
8 arrival. I asked Mrs. Ward if I could search the vehicle for
9 any evidence or belongings that would be Belinda's. She
10 initially said yes, and then I asked her if the truck belonged
11 to her, if it was registered to her and she said no, it was in
12 her husband's name James. At that point I told her I needed
13 to get his consent to search the vehicle.

14 At that point he -- she went and made contact with Mr.
15 Ward and explained ---

16 Q In your presence?

17 A Investigator Thacker, it was in my presence.

18 Q No, did she make contact with him in your presence?

19 A Yes.

20 Q Okay.

21 A Yes.

22 Q Tell the, tell the Court about that.

23 A He was in a bedroom inside the residence. I followed her
24 into the room and she explained to Mr. Ward why we were there.
25 He became agitated for us being there.

1 Q What did she say to him?

2 A She explained to him that we were there because in her
3 words that we're saying that Nicholas kidnapped Belinda.

4 Q Okay.

5 A And at that point I asked Mr. Ward if I could search the
6 vehicle, and he first said no. Then I explained to Mr. Ward
7 that the vehicle was used in a crime and I could get a search
8 warrant, tow the vehicle and search the vehicle. At that
9 point he granted consent to search the vehicle. I then asked
10 him if he would ---

11 Q Let me interrupt you for a moment. Had he not consented
12 would you have done that?

13 A Yes.

14 Q In your opinion did you have probable cause to have
15 searched that vehicle?

16 A Yes.

17 Q And it was based on the description of the victim of the
18 vehicle and where she had gone to and the fact that it was
19 there ---

20 A That's right.

21 Q --- among other things.

22 A That's correct.

23 Q Okay, I'm sorry, I cut you off.

24 A I asked Mr. Ward if he would sign a consent to search
25 form, a standard form that we use at the Sheriff's Office. He

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1 said he wasn't going to sign anything, but he would let us
2 search the vehicle.

3 Q How did you get access to the vehicle?

4 A Mrs. Ward provided me with a key.

5 Q Mr. Ward did?

6 A Mrs. Ward.

7 Q Okay, was that in the presence of Mr. Ward?

8 A I'm not sure if it was in his presence or not.

9 Q But he knew that was going to take place.

10 A Yes.

11 Q Now, could you tell our Court a little bit about the
12 situation where, for lack of a better expression, you got to
13 search the outhouse?

14 A After conducting a search of the truck, I spoke with Mrs.
15 Ward and explained to her that there was an outbuilding or
16 outhouse on the property where the victim had advised us she
17 had been held, and then I asked her if she would allow us to
18 search the little apartment. At that point, she said yes and
19 pulled out a key and unlocked the door for me.

20 Q Did you find evidence in this case or relative to this
21 case in the vehicle and in the outhouse?

22 A Yes, I did.

23 Q And did it include, but not limited to, silver duct tape,
24 hair, silver duct tape and hair?

25 A Yes.

1 Q And a comforter.

2 A No.

3 Q I'm sorry. Never mind, sorry. I withdraw that.

4 MR. MODICA: May I have a moment, Your Honor?

5 THE COURT: Yes.

6 MR. MODICA: Thank you. I have no further questions.

7 THE COURT: All right, Mr. Goudé.

8 MR. GOUDE: Thank you, Judge.

9 EXAMINATION

10 BY MR. GOUDE:

11 Q What did you find in the truck?

12 A In the truck I located a piece of silver duct tape,
13 several hairs, reddish in color consistent with the color of
14 the victim's hair and an Arby's receipt.

15 Q Where was the piece of duct tape?

16 A The piece of duct tape was located at the base of the
17 front passenger seat on the floorboard on -- at the rear.

18 Q Was that truck, was that bucket seats or full bench seat
19 in the front?

20 A I believe there were bucket seats.

21 Q So, the piece of duct tape was that in the rear
22 floorboard?

23 A The rear floorboard.

24 MR. MODICA: Your Honor, I'm going to object, the
25 reason being is it's not important where he found it. What's

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1 important is whether he had -- was permitted to go in there.

2 THE COURT: Well, I understand that, and generally
3 these are not opportunities for discovery, but I'm going to
4 allow him some broad cross.

5 Q And the reddish brown hairs where were those found?

6 A Those were on the floorboard.

7 Q Which floorboard?

8 A On the rear floorboard.

9 Q Do you remember approximately how many hairs there were?

10 A There were several. They had to be collected with tape.

11 Q How many is several, like two or three or ---

12 MR. MODICA: Objection.

13 A No, a lot.

14 Q A dozen or 50?

15 THE COURT: I overrule the objection.

16 A I couldn't tell you how many. It was a clump of hair, one
17 section was a clump of hair and several were collected using
18 tape by patting the tape down on the carpet.

19 Q Approximately how long were the longest hairs?

20 A I didn't measure them. A lot longer than mine I can tell
21 you that.

22 Q That wouldn't take long to be longer than yours.

23 A No, they were approximately ten, 12 inches in length.

24 Q All right, and you said an Arby's receipt?

25 A Yes.

- 1 Q What did you find in the garage apartment?
- 2 A A piece of silver duct tape.
- 3 Q And where was that located?
- 4 A It was on the -- there's a little room inside the garage
- 5 that contains a couch. It was located on the floor in that
- 6 room.
- 7 Q And what room is that in regards to the entrance to the
- 8 garage apartment, in regards to the door?
- 9 A If you enter the apartment there was a lot of
- 10 construction materials you had to step over. If you go down a
- 11 short hallway it would be the room to the right rear of the
- 12 apartment.
- 13 Q Is that one piece or more than one piece?
- 14 A Just one piece.
- 15 Q Prior to -- all right, as far as I understand it when you
- 16 went over there that day, this day of the search was what was
- 17 the date?
- 18 A May I look at my notes, please?
- 19 Q Yes.
- 20 A On January 31st, '06.
- 21 Q As I understand, the alleged incident occurred on Sunday,
- 22 January the 29th of '06.
- 23 A That's correct.
- 24 Q And the prosecution witness, Ms. Mitchum, she came to you
- 25 all on Monday, January the 30th of '06.

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1 A Yes, sir.

2 Q So, the search would have taken place the following day
3 Tuesday, January the 31st.

4 A Yes, sir.

5 Q And on January the 30th, '06, when the prosecution
6 witness came to you, did she tell you all that my client, Mr.
7 Parker, and his grandmamma, Shirley Ward, had come from their
8 house in Summerville, he had put her in the truck, Mrs. Ward
9 had driven the truck back to Summerville and that they had
10 kidnapped her?

11 A Yes, sir.

12 Q And Mrs. Ward is presently today charged with kidnapping
13 and burglary in the first degree; correct?

14 A That's correct.

15 Q Before you talked with her on the phone that day and
16 before you talked to her at her house that day, asked her all
17 this stuff about consent and everything, did you advise her of
18 her rights to remain silent under the Fifth Amendment?

19 MR. MODICA: Objection, Your Honor.

20 THE COURT: Well, I'm going to let him ask it. I
21 don't know ---

22 MR. MODICA: I'm sorry, sir?

23 THE COURT: I'm going to overrule the objection.

24 MR. MODICA: Just so you know, my objection is based
25 upon he can't allege the rights of a party he doesn't

1 represent.

2 THE COURT: There's no question about that. I'm just
3 letting him make a record.

4 MR. MODICA: Yes, sir.

5 A Would you repeat the question, please?

6 Q Before you talked to Mrs. Ward that day on the telephone
7 and at her house in person did you give her her rights under
8 the Fifth Amendment?

9 A No, I did not, but I also say that we had no warrants for
10 her arrest. I did not advise her that she was a suspect. At
11 that time she was just a witness for the prosecution.

12 MR. GOUDE: Judge, I have no other questions.

13 MR. MODICA: I have nothing further.

14 THE COURT: All right, you can step down.

15 MR. MODICA: The people or the State would rest in
16 regard to the issues.

17 THE COURT: You want to call any witnesses, Mr.
18 Goude?

19 MR. GOUDE: No, Your Honor, I don't have any other
20 witnesses to call. I would just restate my motion to suppress
21 the evidence found, which would be the piece of duct tape from
22 the garage apartment, the hair, and the piece of duct tape
23 from the truck and the Arby's receipt from the truck on the
24 grounds I've already stated.

25 THE COURT: All right, motion is denied. The burden

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1 is on Mr. Parker first to establish a legitimate expectation
2 of privacy. He has not done that as to either of these
3 places, either the truck or the outbuilding. So, I find that
4 he has not demonstrated any expectation of privacy in either.
5 Regardless of whether he had an expectation to privacy, there
6 is consent by the owner for the search of the vehicle. The
7 only evidence is that Mr. Ward was the owner, and while he was
8 reluctant at first and would not sign, the only evidence is
9 that he did, in fact, consent, and also as to the outbuilding,
10 there was consent by Mrs. Ward, who obviously had an
11 unfettered, had unfettered access to the outbuilding because
12 she was in possession of a key that was used to access the
13 building and there's no, absolutely no evidence of ownership
14 in either the truck or the outbuilding by the Defendant, no
15 evidence he had any ownership in either. So, I find first
16 that he lacks standing to object, and alternatively, even if
17 he had standing, the other individuals who had clear rights to
18 expectation of privacy did consent to the search.

19 All right, what ---

20 MR. GOUDE: Judge, I have no other motions to make at
21 this time.

22 THE COURT: All right.

23 MR. MODICA: Your Honor, if I may. I have a couple of
24 motions. One of which is I've spoken with counsel about it
25 but I just wanted to put it on the record. Obviously it

1 appears that he is going to be calling some witnesses. I
2 don't have their dates of birth, their Social Security numbers
3 to run criminal histories. Mr. Goude assures me tomorrow when
4 they're here that he'll provide me with that information. If
5 that should not be the case I will bring it to the Court's
6 attention.

7 The next thing is phone records. I had asked Mr. Goude
8 prior to commencing this hearing whether he would consent to
9 the phone records. I indicated that the person would have to
10 travel all the way from Berkeley County to come here just to
11 testify about the phone records from that residence and calls
12 from that residence, and Mr. Goude was going to give it some
13 consideration. I don't know if you've made a decision yet,
14 but I'd like to ask him for the record.

15 THE COURT: You going to consent to the introduction
16 of the records absent the custodian or you want him to bring
17 the custodian?

18 MR. GOUDE: Up until now I hadn't had a chance to
19 think about it because I've been doing this stuff here. I'll
20 try to think about it sometime between now and the rest of the
21 afternoon and tell the Solicitors before knock-off time.

22 THE COURT: Yeah, tell him before five because he'll
23 have to -- they'll have to, but I mean Berkeley isn't that far
24 but still he'll probably need to make arrangements to have
25 that person since we're starting at 9:30 in the morning.

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1 MR. MODICA: And lastly, Your Honor, I'm aware from
2 having prepared this case that there is a lot of conversation
3 coming from the Defense side about drug use, drug use in the
4 relationship, drug use during the course of this incident.
5 That comes from Shirley Ward. I certainly believe that he's
6 entitled to ask the victim, you know, "Did you use drugs the
7 night before, did you use drugs the morning of, did you use
8 drugs during the course of the kidnapping," and of course, I
9 don't have any objection to that, but I object to any
10 reference by the defense counsel through the Defendant or any
11 other witness about some prior drug use because that would not
12 fall within the rules because it's not a conviction and I
13 would submit that it doesn't fall under 403 because it's not
14 relevant and it's not probative of anything. Past drug use is
15 not probative of anything; and so, I'm asking for a motion in
16 limine as far as that is concerned.

17 THE COURT: All right, Mr. Goude.

18 MR. GOUDE: Well, this is not a kidnapping, Judge,
19 where the nun that works for the Catholic church is walking
20 down the sidewalk and my client being a serial kidnapper from
21 Oregon or somewhere drives by the sidewalk, sees her, grabs
22 her in the car with pistols, drags her off, hauls her
23 somewhere, rapes her, steals her money and throws her out by
24 the side of the road. This is a kidnapping where my client
25 and the girl have lived together for two or three years in his

1 grandparents' home at an apartment and in the trailer the girl
2 lived in that she was supposedly kidnapped from this day.
3 They have smoked. They have used cocaine. They've been
4 drunk. They've had sex countless times, all of it, used drugs
5 countless times, been drunk together countless times,
6 passed out together countless times in all of the places
7 they've lived. So, he has got -- and we have got to be able
8 to on the Defense for the jury to look to the motives of the
9 witnesses and the credibility of the witnesses to present a
10 fair, true, accurate picture of their relationship, which goes
11 to his intent that morning, whether she is a strange person
12 that he's never seen and doesn't know anything about her, he's
13 kidnapping her or whether he's lived with the girl for two or
14 three years, knows how she acts, what they've done together,
15 what her attitude is, what her demeanor is, how she acts when
16 she's on cocaine because he knows because they've used it
17 for two or three years together, when she says she was on
18 cocaine that morning how would he know she's on cocaine if she
19 doesn't tell him, because he's lived with her and seen her on
20 it, knows how she acts. The grandmamma, who is a witness in
21 the case that drove them from Georgetown County to
22 Summerville, she has seen the girl on drugs numerous times and
23 knows that she acts drowsy or woozy or not coherent or passes
24 out. She's seen my client bring the girl into the house where
25 she lives, the grandmamma, passed out numerous times on drugs

1 and alcohol. The people have to be able to testify that to
2 get a fair trial for the jurists to know what kind of
3 witness, what kind of prosecution witness it is, not to say
4 that she is a bad girl, but so that the jury will know whether
5 the grandmamma thought when the girl acted drowsy coming out
6 of the, drowsy acting coming out of her trailer that morning
7 at seven o'clock that the grandma has seen her that way for
8 two or three years. So, she didn't think nothing unusual
9 about it.

10 When my client sees her that way and when the girl is
11 acting fool that day like they do when they're on cocaine, the
12 jury has to know he's seen her that way for the last two or
13 three years to give the jury his intent, whether he is
14 intending to -- the only one that's got anything to lose is
15 him. When the Court is done with it, the Court does not go to
16 jail. I don't go to jail, the prosecutor don't go to jail,
17 the prosecution witness don't go to jail, her mamma don't go
18 to jail. The only one that goes to jail is this guy
19 here who was crazy enough to go with the girl for two or three
20 years. So, for the jury to have a fair information as to what
21 his intent was that morning, they have to know what he knew
22 about her and know how he knew she acted under different
23 circumstances and how -- why he knew that so that they'll know
24 his intent based on his behavior that morning. If they don't
25 hear that evidence, if they just hear, "Well, I went there

1 and looked to me like she might have been using cocaine that
2 day. Of course, I wouldn't know. I've never seen her use
3 cocaine because I can't say that. So, she just acted kind of
4 funny," and the grandma can't say, "Well, she acted funny to
5 me, but I can't say why because I can't tell you I seen her
6 drunk and high on drugs for the last two years." That would
7 just be a totally unfair trial.

8 THE COURT: Well, I'll let you make a proffer before
9 I rule and before you go into that.

10 MR. GOUDE: Okay, thank you, yes, sir.

11 MR. MODICA: Your Honor, and I would like to touch on
12 another matter.

13 My -- I'm aware from having prepared this case that there
14 has been a significant degree of violence imposed upon the
15 victim by the Defendant. My intention was to ask her this one
16 question, "Was there violence in the relationship," get a
17 yes answer and, "Were you afraid of him," and then move on,
18 not talk about specific instances. I would submit that if
19 you're going to allow him to get into ---

20 THE COURT: But I didn't say I was yet, so.

21 MR. MODICA: I know, but I would submit that I didn't
22 intend to do it, but I would submit in terms of fairness
23 what's good for the goose is good for the gander. If he's
24 allowed to get into this stuff, then we should be allowed to
25 be able to get into all the instances of significant violence

Motions

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1 imposed by this Defendant against the victim in this case. I
2 hadn't intended to do so because I believe that the case
3 should be tried on the merits of the facts of this day, not,
4 not necessarily the whole history of their relationship. Of
5 course, I'm aware that some of it has to come out and I'm sure
6 that it can come out without arguably using drug use as
7 a way of besmirching the victim and her credibility because
8 that's not, that's not what the rules say. That's not how you
9 attack a person's credibility, and he specifically referenced
10 credibility. The rules are specific. It talks about 608 and
11 609 and that talks about how you can attack a person's
12 credibility and allegations of drug use at some prior time
13 period it doesn't go to that. Thank you, Your Honor.

14 MR. GOUDE: I have no objection to putting in the
15 prior violence between the parties. I think what the
16 Solicitor said is true, what's good for the goose is good for
17 the gander. For the jury to make a fair decision in this very
18 serious case they need to know the relationship between the
19 parties so they can give us a true verdict.

20 THE COURT: All right, well, I'm just going to have
21 to take it as we go because I haven't -- I don't know the
22 facts. I guess I'm getting a pretty good idea of an overview
23 of them, but depending on what the victim testifies to, these
24 things may or may not become relevant. I just kind of have to
25 see as the trial progresses, and again, if either of you,

1 counsel for the State or counsel for the Defense, see that
2 we're getting into one of the areas we've been discussing
3 let's stop and take care of it off the record.

4 MR. GOUDE: Yes, sir.

5 MR. MODICA: Of course, I'm anticipating the old axiom
6 once the cat's out of the bag.

7 THE COURT: Well, that's why I'm asking that he
8 before he asks that crucial question. Now, we all know that
9 witnesses sometimes "open door" on their own and maybe that's
10 why I'm hedging here is I don't know what may be blurted out
11 or come out through the victim in response, you know, I just
12 can't, I can't anticipate but I've been through a lot of these
13 trials and I know what can happen. So, I'm asking both sides
14 to not themselves go into those areas without making a
15 proffer, and if one side or the other believes that a witness
16 has "open the door" as to a certain issue probably ought to
17 take care of that off the record, too, but ---

18 MR. MODICA: Yes, sir.

19 THE COURT: Okay.

20 MR. MODICA: Thank you.

21 THE COURT: All right, well, we'll be ready ---

22 MR. MODICA: I have no further motions.

23 THE COURT: Anything else?

24 MR. GOUDE: No, sir.

25 THE COURT: We'll start at 9:30 in the morning then.

Motions

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1 MR. MODICA: Thank you, Your Honor.

2 THE COURT: All right.

3 ***** OFF THE RECORD *****

4 (On the record.)

5 (Whereupon, the following takes place outside the
6 presence of the jury.)

7 MS. BIAGIANTI: Judge, the only other thing I need to
8 -- you can -- Mr. Modica advised me on the Nicholas Parker
9 case, which will be tried tomorrow, that Mr. Goude has
10 consented, or excuse me, has stipulated to the introduction of
11 the telephone records. So, we have called the custodian of
12 the records and told her not to appear tomorrow. Is that
13 right, Mr. Goude?

14 THE COURT: All right, is that correct?

15 MR. GOUDE: Yes.

16 ***** OFF THE RECORD *****

17 (On the record, Wednesday, January 31, 2007.)

18 (Whereupon, the following takes place outside the
19 presence of the jury.)

20 THE COURT: Get Mr. Parker available, we'd be ready
21 to start.

22 Mr. Modica, Mr. Modica, you ready?

23 MR. MODICA: I think so, yes. Yes, sir, I'm ready.

24 THE COURT: All right, Mr. Goude.

25 MR. GOUDE: Yes, Your Honor.

Opening Instructions by Court

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1 THE COURT: You ready?

2 MR. GOUDE: Yes, sir.

3 THE COURT: All right, as far as any issue involving
4 the voluntariness of the statement we'll take that up whenever

5 ---

6 MR. MODICA: Tomorrow.

7 THE COURT: Okay, tomorrow, that's right because the
8 officers.

9 All right, let's bring in the jury.

10 (Whereupon, the following takes place in the presence of
11 the jury.)

12 THE COURT: Members of the jury panel now that you're
13 all comfortably seated, I'm going to ask you to stand and the
14 clerk will administer the oath.

15 (Whereupon, the jury was sworn by the Clerk.)

16 THE COURT: Thank you. You may be seated.

17 Again, I'm John Hayes from York County, assigned to
18 preside this week, and we drew this jury on Monday, and we're
19 getting ready to start the trial. I introduced the attorneys
20 to you and the Defendant on Monday. I will let the attorneys
21 when they make their opening statement reintroduce themselves,
22 if they wish.

23 This, of course, is a criminal trial. Mr. Parker is
24 charged with burglary and kidnapping. He has pled not guilty
25 to these charges and his plea of not guilty places on the

Opening Instructions by Court

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1 State the burden of proving his guilt beyond a reasonable
2 doubt. He does not, Mr. Parker, have to prove his innocence.
3 He is presumed innocent. Anyone charged with any offense in
4 our system is presumed innocent of that charge, and the burden
5 is on the State before he could be convicted or any Defendant
6 could be convicted to prove that individual's guilt beyond a
7 reasonable doubt to the 12 jurors' satisfaction.

8 Mr. Ehalt, you will, of course, as I said earlier sit
9 there. Dr. Duvall you will sit there. There is no assigned
10 seating for anyone else.

11 I have three primary jobs in a trial such as this. One
12 is I'm sort of the logistics person. Sometimes I call it the
13 wagon master. I make sure we take breaks and only one person
14 is talking at a time, that you can see and hear, the
15 mechanical part of the trial. I also rule on questions of
16 admissibility of evidence. If one side thinks certain
17 evidence should be admissible and come before you for
18 your consideration and the other thinks for some reason it
19 should not be allowed for your consideration, it is up to me
20 to make a determination as to whether that evidence can be
21 received.

22 If you hear evidence or see evidence and I then tell you
23 to disregard it, under your oath you must disregard it, and
24 once I have ruled on the question of evidence it is binding on
25 the lawyers and the witnesses.

1 My third job is that I am the sole judge of the law in
2 this case. You must take, accept and apply the law as I
3 charge it. This is true even if you think the law is
4 different from what I tell you it is or even if you think the
5 law should be different. Your oath requires that you take,
6 accept and apply the law as I charge it. I'm giving you a few
7 legal principles now, perhaps during the trial I may give you
8 some legal principles. At the end of the trial before
9 you deliberate I will give you a concise, comprehensive charge
10 on the law which you are to apply to the facts as you
11 determine the facts to be. You are the sole judges of the
12 facts in this case. You're not to infer from anything I say
13 or do at any time as being an indication of an opinion or
14 thoughts of mine on the facts. It's improper for the Judge to
15 formulate or express an opinion on the facts. That is solely
16 your job. As the jury and the triers of the fact in this case
17 it is solely up to you to examine the evidence, give to the
18 evidence the effect, the value, the weight and the
19 truth you believe it should have. Doing this you may believe
20 one witness as opposed to several, several witnesses as
21 opposed to one. You may believe all or part or none of a
22 witness's testimony. In assessing the evidence, use your
23 common sense, your sense of logic, your sense of reason, use
24 your experiences in life in analyzing the evidence. As judges
25 of the facts, you of necessity must judge the credibility, the

Opening Instructions by Court

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1 believability of the witnesses who testify..

2 In assessing credibility use those tools I've already
3 mentioned plus you can look at such things as a witness's
4 demeanor, that is how the witness acts on the stand, whether
5 they're hesitant or straightforward in responding to
6 questions. You can look at the opportunity a witness had to
7 actually know those things about which the witness testifies.
8 You can look to see if a witness has any bias or prejudice,
9 that is any reason to want to help or hurt one side or the
10 other and you can look at the hesitancy and
11 straightforwardness and the consistency and inconsistency of a
12 witness's testimony in determining what degree of
13 believability to give to that witness's testimony.

14 In just a moment the attorneys have the right, but no
15 obligation to come before you and make opening statements.
16 These opening statements are sometimes referred to as road
17 maps or blueprints. They're simply an outline of the trial.
18 What they tell you is not evidence. Evidence comes from
19 witnesses who will testify from this seat, from possible
20 exhibits, certain things that you will actually have in your
21 hand to take back into the jury room when you deliberate.

22 The -- again, the attorneys are not witnesses but they
23 are giving you an opening statement. They're not arguing
24 their case at this time. That is they're not trying to
25 persuade you that your verdict should be a certain verdict.

Opening Instructions by Court

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1 At the start of the trial they're simply outlining the case,
2 they know about it more than I, and so, they are telling you
3 more what the issues are to be in the trial and how they
4 perceive the trial will proceed.

5 I'm going to ask you -- you don't need to take notes.
6 Please pay close attention. If you can't see or you can't
7 hear let me know, cup your ear or give me a voice-raising
8 gesture, someone or something is blocking your view just give
9 me a nudging gesture and we'll correct that.

10 I told you yesterday, Monday, and I remind you that you
11 are not to discuss the case with anyone outside the courtroom,
12 do not let yourself be exposed to any news coverage if there
13 is any and you're not supposed to let anyone talk to you about
14 the case.

15 You are also not to discuss the case among yourselves to
16 try to make up your own mind until we reach the point where I
17 instruct you you are to deliberate and return a unanimous
18 verdict. Prior to that time you're not equipped with all the
19 tools you need to make a fair and reasonable decision. So, do
20 not discuss the case among yourselves, do not try to make up
21 your own mind until we've reached that point and I instruct
22 you to jointly deliberate and return a unanimous verdict.

23 This courthouse seems to be comfortable temperature wise.
24 Public buildings sometimes are hot one minute and cold the
25 next. Sometimes I tell jurors it's good to wear short sleeves

Opening Statement by State

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1 and bring a sweater because you can't ever know what the
2 temperature is going to be, but we'll try to keep it at a good
3 temperature. I've already told you if you can't hear let me
4 know.

5 Now, we take breaks about every hour and a half. I find
6 that that's a good comfort level. However, if anybody needs
7 to take a break at any time simply raise your right hand and
8 we will take a break with no questions asked. I assure you if
9 I feel like I need a break I'm going to take one and I'll give
10 you the same prerogative and I extend that to counsel and Mr.
11 Parker. We want to move the case along but we're not in such
12 a hurry that we want anyone to be in discomfort. So, if you
13 need a break just raise your hand and we'll take one, but
14 again, keep in mind we do -- I do try to break -- I try to do
15 it at opportune times, that is at stages in the trial but
16 every hour and a half.

17 I'm going to turn the case over to the attorneys now. I
18 ask that you give them your attention. Mr. Modica.

19 MR. MODICA: Obsession, object, control. Obsession,
20 object, control. Control means literally binding this
21 woman's, Belinda Mitchum's hands and feet with duct tape while
22 she slept on her own couch in her house, in her trailer here
23 in Georgetown, taped by that man over there, taken from her
24 home, thrown over his shoulder, thrown in the back of a pickup
25 truck, while, believe it or not, the Defendant's grandmother

1 is driving and takes them to Summerville, South Carolina,
2 where she has to endure hours of not knowing whether her life
3 will end that day. That's what this case is about. That's
4 what you will come to learn during the course of this trial.

5 Now, having said those things, you probably are trying to
6 start to fill in the blanks now, even though you should be
7 waiting, that's because it's human nature to do that, but the
8 blanks will be filled in from that witness chair with the
9 testimony of various witnesses and obviously including the
10 victim, Belinda, and she will tell you about their
11 relationship and when they met and how that relationship was
12 and how it ended and how she tried to keep it ended, but
13 obsession came back to haunt her, no matter what she
14 tried to do.

15 There are two charges in this case, burglary in the first
16 degree and kidnapping, and we most often think about
17 kidnapping where somebody is bound and gagged, thrown in the
18 back of a vehicle and there is a call for ransom. Well, that
19 would be the case here in South Carolina as it would be in
20 most states and our federal government, but in South Carolina
21 kidnapping can occur the moment that your freedom, your
22 ability to go and do what you want when you want to do it is
23 taken away from you and stays until your liberty is freed, and
24 in this case I've already told you that it was for a period of
25 time, but it doesn't need to be a period of time. It can be a

Opening Statement by State

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1 very short period of time. That's not the case here.
2 There's no need for ransom. All you need is that your liberty
3 to do what you want to do how you want to do it and when you
4 want to do it is taken away. The Judge will give you the
5 instructions but trust me it's really that simple.

6 Burglary, burglary in the first degree is the unlawful
7 entry into a building that's a residence by another person
8 with intent to commit a crime, and then in this case the
9 factor that you are to consider is that a person who is not a
10 participant in the crime is injured and the person not
11 participating in the crime is obviously Belinda. She is the
12 object of the kidnapping and obviously the crime intended is
13 to either harm and/or kidnap Belinda Mitchum.

14 Now, I don't have to prove serious physical injury. I
15 don't have to prove any other injury other than physical
16 injury, no matter how slight. The idea behind that, of
17 course, is that the law when it talks about burglary and the
18 sanctity of your home wants to make it clear that if you
19 injure a person who's not involved in the crime you should be
20 held accountable. It doesn't say that you have to be killed.
21 It doesn't say that you have to be maimed. It doesn't say
22 that you have to be permanently injured, and it doesn't
23 say that you have to be seriously injured. It only says
24 physical injury.

25 During the course of this trial you will see photographs

1 of the injuries of the victim. I think that it will be clear
2 to you that they are sufficient for purposes of this trial.
3 She'll describe the injuries that she sustained and she will
4 talk about how she felt as a result of what the Defendant did.
5 Now, having prepared this case I'm certain that the
6 Defendant is going to attempt to poo-poo this whole thing with
7 saying that it was blown out of proportion, that it was just a
8 misunderstanding between a boyfriend and a girlfriend, but I
9 tell you that it is a crime to force people to do things that
10 they don't want to do. It is no excuse nor should it be that
11 because a participant is still involved in their mind, in
12 their heart with another person, although that other person is
13 beyond them, that it's okay in this day and time here in
14 Georgetown County to force our will upon other people. Don't
15 let the Defense throw that at you. You are to use your common
16 sense in this case. You are the fact finders. You are
17 to interpret what you hear as if the events were occurring to
18 yourself to see whether they're credible, whether there's
19 physical injury, whether there's force, all those things you
20 are going to be called upon to do in this case, and if you do
21 that and you hear the testimony of the victim, you will see
22 that it was no walk in the park for her, that this was the day
23 that she thought she would never see her children again. I
24 can only imagine how that might feel.

25 THE COURT: Mr. Goude.

Opening Statement by Defense

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1 MR. GOUDE: My name is Goude, Reuben Goude. Some of
2 you may know me. Some of you may not. I live here in
3 Georgetown out in the country at Carvers Bay. I've been in my
4 office next door for 20 years. I represent the Defendant,
5 Nicholas Parker. Nicholas, if you would please stand up.

6 (Complies with request.)

7 MR. GOUDE: Thank you. Please sit down.

8 (Complies with request.)

9 MR. GOUDE: What I ask you to do is anything we say
10 now the important thing is what you're going to hear off of
11 the witness stand that's going to come in as evidence or the
12 exhibits that are going to be produced in evidence over the
13 next couple of days. When you hear all of that stuff and you
14 see all of the exhibits at the close of the case I will come
15 back up here at the end when we do our closing arguments and
16 go over the evidence with you. At that time I will ask you to
17 vote not guilty of both charges and I'll give you the reasons
18 why at that time.

19 Thank you.

20 THE COURT: Call your first witness.

21 MR. MODICA: Your Honor, if I might prior to calling
22 my first witness I would like to, I would like to show what's
23 been previously marked as State's Exhibit Number One to
24 counsel and I believe for the record he would stipulate to its
25 introduction.

Opening Statement by Defense

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1 MR. GOUDE: Have no objection, Your Honor.

2 THE COURT: All right, it'll be admitted into
3 evidence without objection.

4 (Whereupon, State's Exhibit Number One [Home Telephone
5 Records] introduced into evidence and appropriately marked.)

6 MR. MODICA: Your Honor, then for the record these are
7 the telephone records for a period of time from January 27th
8 of 2006 until January 30th of 2006, James Ward, located at
9 [REDACTED] in Summerville with a telephone number of [REDACTED],
10 area code [REDACTED] with an indication of incoming calls
11 being I and outgoing calls being 0 or O. Thank you, Your
12 Honor.

13 With that, Your Honor, the State would call Belinda
14 Mitchum.

15 THE COURT: All right, please come up and be sworn.
16 AT THIS TIME BELINDA MITCHUM WAS CALLED TO THE STAND, DULY
17 SWORN BY THE CLERK AND TESTIFIED AS FOLLOWS:

18 THE CLERK: Thank you. Please be seated and state
19 your name for the record, please.

20 MS. MITCHUM: Belinda Mitchum.

21 MR. MODICA: May I approach the witness with some
22 water, Your Honor?

23 THE COURT: Certainly.

24 MS. MITCHUM: Thank you.

25 MR. MODICA: You're welcome.

DIRECT EXAMINATION

1
2 BY MR. MODICA:

3 Q Good morning.

4 A Good morning.

5 Q You nervous?

6 A Yes.

7 Q Anytime you need a break, would you please let us
8 know?

9 A Yes, I will.

10 Q Were you recently ill?

11 A Yes.

12 Q What's your illness?

13 A I had pneumonia and bronchitis.

14 Q You recovering?

15 A Yes, sir.

16 Q Still feel a little ill?

17 A Yes, sir.

18 Q All right, could you tell our jury how old you
19 are?

20 A Thirty.

21 Q I'm sorry?

22 A Thirty years old.

23 Q Okay, and do you have any children?

24 A Yes, I have two.

25 Q And how old are they and what are their names?

- 1 A They're seven and nine, BM and MM
- 2 Q Okay, a girl and a boy?
- 3 A Yes.
- 4 Q BM being the girl.
- 5 A Yes.
- 6 Q Now, could you tell our jury what your mother's name
- 7 is?
- 8 A Debbie Elliott.
- 9 Q And you have some brothers and sisters?
- 10 A I have a brother named Chris Driggers.
- 11 Q Now, what I would like to do is go back in time and I
- 12 want you to tell the jury about your relationship with the
- 13 Defendant, Nicholas Parker, okay. Let's start off with how is
- 14 it that you and your family came to know members of the Parker
- 15 or the Defendant's family?
- 16 A Well, my father when he was alive he was very good
- 17 friends with Nicholas Parker's grandfather, which is James
- 18 Ward, and my mother and his mother went to school together and
- 19 his mother dates -- well, used to date a gentleman that lived
- 20 on my daddy's property.
- 21 Q What was that person's name?
- 22 A Dave Britton and Sherry would come over and then I
- 23 eventually met Nicholas, Matthias and Josh, which is his
- 24 brothers, Josh and Matthias are his brothers.
- 25 Q Nicholas's brothers.

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1 A Yes.

2 Q You mentioned the name Sherry. I'm sure you know who
3 that is but the jury, the jury may not know.

4 A Sherry Parker, which is Nicholas's mother.

5 Q And is James, obviously James Ward was married or is he
6 still married?

7 A James Ward is the grandfather, which is Ms. Shirley
8 Ward's husband.

9 Q Okay.

10 A My daddy was really good friends with Mr. Ward, which is
11 the grandfather of the -- of Nicholas.

12 Q Is it through them that you knew the Defendant?

13 A Well, he would come over to where his mother was at at
14 Dave Britton's house and that's my property. So, I mean, when
15 I was there, then one thing led to another and we met, we hung
16 out and we just started dating.

17 Q Okay, was that over in Summerville?

18 A Yes, sir.

19 Q When was it that you all started dating?

20 A It was the end of September.

21 Q Of what year?

22 A Of '04, no, just give me one second.

23 Q Let me see if I might help you out.

24 A Of '04.

25 Q How long did your relationship last?

1 A Fifteen months.
2 Q How many?
3 A Fifteen months.
4 Q Okay, so, would it make sense that it was September of
5 '05?
6 A '05 till January 17th of '06.
7 Q Okay, so, you agree that it was '05?
8 A Yes, yes..
9 Q All right, okay, apparently both of our maths were
10 off.
11 A It is '04 then.
12 Q It is '04.
13 A Okay.
14 Q You're right. I was wrong. It may not be the first or
15 last time. Did there come a time that you all moved in
16 together?
17 A Yes, sir.
18 Q When was that and where was that?
19 A That was at 1108 Lilac Lane which is his grandparents'
20 home and that was like maybe like a week after we, week or two
21 after we started dating because he ---
22 Q And -- I'm sorry.
23 A I'm sorry. Because he -- whenever he dates someone they
24 have to live with him or else.
25 Q Okay, where, if anywhere, did you go after that and

1 when?

2 A My mother, my mother helped us get a home off of College
3 Park Road and I had a very good job at Food Lion until one
4 night he ---

5 Q Oh, wait a minute, I'm only interested for the
6 moment.

7 A Okay, I'm sorry.

8 Q Okay. I don't want to confuse you and I don't want to
9 cut you off because what you have to say is important. Just
10 do your best to listen to my questions and you just answer
11 them, okay.

12 A Okay.

13 Q And then we'll get to other stuff.

14 A Okay.

15 Q Does that sound like a deal?

16 A Uh-huh (affirmative response).

17 Q You have to say yes.

18 A Yes, sir.

19 Q Okay, otherwise we're just hearing your head rattle.
20 When, when was it that you moved -- was it Ladson?

21 A Yes, sir.

22 Q Okay, when was it that you moved to Ladson?

23 A It was eight months after I had moved in at 1108 Lilac
24 Lane.

25 Q Okay, go ahead.

- 1 A I think it was like in March.
- 2 Q Of '05?
- 3 A Five, yes.
- 4 Q All right, and without adding anything when -- how long
- 5 did you live there?
- 6 A Till October ---
- 7 Q Of?
- 8 A --- of the same year.
- 9 Q '05, okay.
- 10 A Uh-huh (affirmative response), my ---
- 11 Q Okay, October of '05 -- I should say, where did you move
- 12 to on October of '05?
- 13 A To my mother's house, to the trailer that my mother has
- 14 given me, which is located at BB's trailer park in
- 15 Georgetown.
- 16 Q What lot number?
- 17 A Lot 14.
- 18 Q Okay, was there a period of time that the Defendant
- 19 stayed with you there at BB's trailer park?
- 20 A Yes, sir.
- 21 Q And how long did he stay there for?
- 22 A Maybe a week, a week and a half.
- 23 Q Okay, okay, so, he knew where it was prior to January of
- 24 2006?
- 25 A Yes, sir.

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1 Q Okay, now, from October of 2005 how long did you stay at
2 the Lot 14, BB's trailer park?

3 A After he left maybe a week and I went back to ---

4 Q Back where?

5 A To him.

6 Q Okay, back and you were separated for a couple of
7 weeks?

8 A Yes, sir.

9 Q When you say you went back to him, you resumed your
10 relationship?

11 A Yes, sir.

12 Q And where did you physically go back to?

13 A 1108 Lilac Lane.

14 Q In Summerville?

15 A Yes, sir.

16 Q The Defendant's grandparents?

17 A Yes, sir.

18 Q Who else was living there at the Defendant's
19 grandmother's house?

20 A His mother, which is Sherry Ward or Parker; his brother,
21 Josh Parker; his deceased girlfriend, Debbie. I don't know
22 her last name and the grandfather, which is James Ward and the
23 grandmother.

24 Q Shirley Ward.

25 A Shirley Ward.

1 Q Let me just jump back for a moment, the trailer park,
2 BB's, lot 14, I know it's kind of silly, that's here in
3 Georgetown County?

4 A Yes, sir.

5 Q And of course, Summerville is up in Berkeley.

6 A Yes, sir.

7 Q Now, while you started living with him again in October
8 of 2005, did there come a time when you started planning to
9 leave?

10 A Yes, sir.

11 Q And get away from him?

12 A Yes, sir. I -- I'm sorry.

13 Q Did, did a member of his family assist you in that?

14 A Yes, sir.

15 Q Who was that?

16 A The grandmother, Shirley Ward.

17 Q Okay, what day was it that you were able to leave?

18 A January the 17th of '06.

19 Q Tell the jury how -- well, let me back up for a moment.
20 I'm only asking for a yes or no answer. Do you understand
21 that?

22 A Yes, sir.

23 Q Did you have difficulties in your relationship?

24 A Yes, sir.

25 Q Was there some violence in the relationship?

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1 A Yes, sir.

2 Q Now, tell our jury how it was that you were able to leave
3 on January 17th, 2006.

4 A Well, his mother and I had an appointment ----

5 Q What kind?

6 A --- which is Sherry.

7 Q What kind?

8 A Appointment at the doctor's office in Moncks Corner and
9 he didn't go with me for once. He did not ride with us that
10 day for some reason and I had done talked to my mother and
11 told her that I had an appointment on the 17th, that Mrs. Ward
12 told me that she -- soon as Sherry went back to ---

13 Q Who is Sherry?

14 A Which is his mother, Sherry, Sherry Parker, once she went
15 back to do her appointment because her appointment was first
16 that she would take me to McDonald's to get to my mother so I
17 could get ---

18 Q Okay, all right, the only thing you're using she a lot
19 and all these are new names to our jury. So, what I want you
20 to do if you could use -- don't use pronouns --- .

21 A Names.

22 Q --- like she, he, try and use names.

23 A Okay.

24 Q Let me see if I can help you out. You went to the
25 appointment with the Defendant's mother.

1 A Sherry.

2 Q Sherry and the Defendant's grandmother, Shirley.

3 A Shirley, yes, sir.

4 Q Shirley's [sic] appointment was first.

5 A Yes, sir.

6 Q When she went back to see the doctor, what happened?

7 A Mrs. Ward, Shirley Ward said, ``Let's go, Belinda,`` and

8 we went to McDonald's which is like right across the street

9 where my mother was waiting for me and Mrs. Ward told me just

10 to take care of myself and don't come back.

11 MR. GOUDE: Objection to anything ---

12 THE COURT: Yeah, I sustain the objection. Don't tell

13 us what other people said.

14 Q That's called hearsay. You're not allowed to talk about

15 what other people said.

16 A Okay, I'm sorry.

17 Q That's okay. All right, she helped you get away.

18 A Yes, sir.

19 Q At that time were you able to take your -- other than the

20 clothes on your back, were you able to take any personal

21 belongings?

22 A No, sir.

23 Q Now, from January 17th until January 29th of 2006, did

24 you have some contact with the Defendant?

25 A Yes, sir.

1 Q By the way I think we need for the record, can you point
2 out the Defendant, Nicholas Parker and something he's
3 wearing?

4 A He's sitting over there.

5 Q Something he's wearing, please?

6 A A suit.

7 Q Okay.

8 MR. MODICA: Your Honor, may the record please reflect
9 that the witness has identified the Defendant?

10 THE COURT: All right.

11 BY MR. MODICA:

12 Q The contact that you had with him was by what method?

13 A Telephone.

14 Q Did you have a telephone at -- well, after you left, the
15 way you described for us on January 17th, where did you come
16 to live?

17 A With my mother, which is at [REDACTED] -- [REDACTED] in
18 Georgetown.

19 Q Now, were there arrangements for you to move elsewhere
20 with your children?

21 A Once I got my home situated, the BB's trailer park, lot
22 14.

23 Q Okay, and that's the place that you had lived with the
24 Defendant at least for a week back in October of 2006.

25 A Yes, sir; yes, sir.

- 1 Q Okay, now, when you moved back in October of 2006 back to
2 [REDACTED] up in Summerville, where were your children?
- 3 A They were with me at the time.
- 4 Q Okay, what happened to your children?
- 5 A I had talked to my mother, for my mother to come get
6 them, for my mother to get them because when I wanted to get
7 away I could never do it with my babies because I didn't want
8 anything to happen to them.
- 9 Q Okay, now, that, by the way, I might have said 2006, that
10 was in October of 2005.
- 11 A October 2005.
- 12 Q Okay, yes?
- 13 A Yes, sir.
- 14 Q All right, now, let's get back to -- tell our jury what
15 kind of contact -- at the time that you left after January
16 17th, 2006, my years are all messed up now, did you have a
17 cell phone?
- 18 A No, sir.
- 19 Q Did you have a phone at BB's?
- 20 A No, sir.
- 21 Q Did your mamma have a home phone?
- 22 A Yes, sir.
- 23 Q Did your mamma have a cell phone?
- 24 A Yes, sir.
- 25 Q Okay, I think the question I was getting to is how were

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1 you able -- what kind of contact did you have with the
2 Defendant after January 17th, 2006?
3 A Through a cell phone or a home phone ---
4 Q Okay.
5 A --- which is my mother's.
6 Q Did you have occasion to give him some of your friends'
7 numbers?
8 A I had called off some of my friends' numbers ---
9 Q Okay.
10 A --- because my mother wouldn't let me use the
11 telephone.
12 Q To call him?
13 A Yes.
14 Q And do you remember some of those friends' names?
15 A Kevin Johnson, Casey Lambert, John Hewitt, and that's
16 it.
17 Q Is there a Brandon Lambert?
18 a Brandon and Casey Lambert, they're a couple.
19 Q Husband and wife?
20 A Yes, sir.
21 Q Okay, when you were in these conversations did you ever
22 speak ---
23 A Excuse me.
24 Q In these conversations with the Defendant after January
25 17th of 2006, did you talk about your going up and getting

1 your stuff?

2 A Yes, sir, I did.

3 Q Was there a specific day that you had made arrangements

4 with the Defendant and members of his family to go pick up

5 your stuff?

6 A Yes, sir.

7 Q And what date was that?

8 A That would have been the 31st of January.

9 Q Tuesday?

10 A On a Tuesday.

11 Q Now, tell our jury what kind of stuff you had out

12 there.

13 A It was stuff from my father's death, things of my

14 children's first, just some, you know, personal items that I

15 had -- that had sentimental value to me.

16 Q And of course some of your clothes?

17 A Yes, and some of my, yeah, my clothes.

18 Q Okay, now if I could, let's take you to Friday, Friday

19 before January 31st, Tuesday, so that would have been, if I'm

20 correct, the 27th, January 27th.

21 A Uh-huh (affirmative response).

22 Q Do you recall having phone contact with him that day?

23 A Yes, I did.

24 Q And how about on the 28th, that would have been

25 Saturday?

1 A No, that night, that morning I did ---

2 Q Okay.

3 A --- which would have been Sunday morning.

4 Q The 29th?

5 A Yes, sir.

6 Q All right, let's go to Saturday the 29th, I'm sorry, the
7 28th, Saturday the 28th and in the evening hours could you
8 tell our jury where you were and what you were doing?

9 A I was at a friend's house, me and my children and, yes, I
10 had a few beers and it was -- I was new back here again. So,
11 I was trying to meet some new people. So, my good friend,
12 Casey Lambert, took me over to a guy named John Hewitt's house
13 where they would just -- everybody was just hanging out.
14 Thank you.

15 Q Okay, and did you have your children there?

16 A Excuse me, I didn't hear.

17 Q Were your children there?

18 A Yes, they were.

19 Q And were there other children present?

20 A Yes, sir.

21 Q What was the plan with regard to sleeping arrangements on
22 Saturday the 28th?

23 A Casey Lambert was keeping my children for me.

24 Q Okay, all right, had you planned to stay there
25 yourself?

1 A No, sir.

2 Q During the course of that evening, that being Saturday

3 the 28th, did you consume alcohol?

4 A Yes, sir.

5 Q Tell our jury about that.

6 A I consumed probably about four or five of them.

7 Q Of what?

8 A Of Bud Light.

9 Q And from what time to what time was that about?

10 A All together might have been six hours. I don't know

11 what the times. I don't want to -- probably evening to

12 probably eight or nine.

13 Q What time did you leave there approximately?

14 A It was a little bit after 12 o'clock.

15 Q So, it would have taken you into Sunday.

16 A Uh-huh (affirmative response).

17 Q You've got to answer yes or no.

18 A Yes, sir; yes, sir.

19 Q And where did you go?

20 A I went to my trailer which is at BB's trailer park, lot

21 14.

22 Q I'll get back there in a second, but during the time that

23 you were at John Hewitt's house, your friend's house ---

24 A Yes, sir.

25 Q --- and you all were there, can you tell our jury whether

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1 or not the Defendant had been calling you there?

2 A Yes, sir, he had.

3 Q Okay, whose phone had he been calling on?

4 A Kevin Johnson's.

5 Q And did you speak to him that night, that night being the
6 Saturday the 28th?

7 A No, not that Saturday night, no, I did not.

8 Q All right, now, on Saturday were you not feeling well?

9 A No, sir my mom had brought me some allergy medicine. So,
10 I had like a -- kind of like a -- I guess a allergy infection,
11 sinus infection.

12 Q Okay, what kind of medicine did she drop off?

13 A Advil Cold and Sinus.

14 Q Did you take it?

15 A Yes, sir, I did.

16 Q Did you take it Saturday going into Sunday?

17 A Yes, sir, I did.

18 Q If you know, when's the last time you took it Saturday
19 evening, night, Sunday?

20 A It was probably that evening, that evening.

21 Q How many pills?

22 A Two.

23 Q Getting to Lot 14 at BB's, can you tell, can you tell our
24 jury the state of readiness your trailer was for living in,
25 can you tell us about that, please?

1 A I still had boxes that I had to unpack. My kids' room
2 was not ready. My room was not ready. That's why I was
3 laying on the couch because I didn't have my house -- it just,
4 it just wasn't ready enough yet for me and my children to live
5 in.

6 Q After you all had moved out in October of 2005 and gone
7 back to Summerville from Lot 14 at BB's, do you know whether
8 your mother had changed the locks?

9 A Yes, she did.

10 Q As of January 28th, 29th, 2006, did the Defendant have
11 keys to that, BB's?

12 A No, sir, he did not.

13 Q Now, are you a heavy sleeper?

14 A Yes, sir, I am.

15 Q Now, you're sleeping. You went back to BB's, at Lot 14
16 and you fell asleep where?

17 A On my couch in my living room.

18 Q Now, did there come a time that your friend, Kevin
19 Johnson came over?

20 A Yes, sir.

21 Q Okay, could you tell our jury about what time that
22 was?

23 A It was probably about five something, five, 5:30.

24 Q In the morning.

25 A In the morning.

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- 1 Q And without saying what he said, did he relate to you
2 that the Defendant had continued to call on his phone?
- 3 A Yes, sir.
- 4 Q And did he bring the phone with him?
- 5 A Yes, sir.
- 6 Q The cell phone?
- 7 A Yes, sir.
- 8 Q Do you know whose cell phone that is?
- 9 A Brandon Lambert.
- 10 Q And after he related to you about the Defendant calling
11 what if anything did you do in relation to the cell phone he
12 brought over?
- 13 A I can't -- repeat that question, please.
- 14 Q Sure, what did you do with the cell phone after he told
15 you the Defendant kept calling him?
- 16 A I called Nicholas and told Nicholas to quit calling my
17 friends and stuff, they didn't want to hear it anymore.
- 18 Q Do you remember what else you might have told him?
- 19 A That it was over, I didn't want to talk to him
20 anymore.
- 21 Q What happened after that phone call?
- 22 A Kevin left, Kevin Johnson and I went to sleep.
- 23 Q Back on the couch?
- 24 A Yes, sir.
- 25 Q Now I'm going to direct your attention to the same Sunday

1 morning, January 29th, 2006, about 7, 7:30, tell us what you
2 remember about it.

3 A I remember waking up and somebody taping my arms
4 together. I felt somebody messing with my arms and when I
5 woke up he was like right there in my face.

6 Q Who was there?

7 A Nicholas Parker.

8 Q You all right?

9 A Yes, sir.

10 Q What did you notice about the rest of your body?

11 A That my ankles were taped also and he slapped a piece of
12 tape on my mouth.

13 Q Did you say anything to him -- what did he say to you
14 when you woke up and saw him or what did you say to him?

15 A "What are you", and that's all I could say and that's
16 when he put the tape on my mouth.

17 Q Okay, then what happened?

18 A I started screaming and yelling.

19 Q Well, how did you, what did you scream?

20 A "Please let me go, let me go," I mean, what do you?

21 Q I'm sorry. I'm not sure you understand. You had tape on
22 your mouth.

23 A No, I had choked -- I'm sorry, whatever he said what,
24 whenever I said, "What are you doing," he slapped the tape
25 on my mouth. My hands was like this and I jerked the tape and

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1 I left it on my coffee -- when I threw it, it went on my
2 coffee table that was in front of my couch.

3 Q Okay, after you ripped off the tape tell us what
4 happened.

5 A I just started screaming and begging him not that you --
6 not to take me anywhere, just, just leave me alone and then
7 that's when he picked me up and took me down my hallway and
8 broke my necklace and then when we got to the back porch I
9 moved, he was moving so much he just dropped me on my back
10 porch.

11 Q Who was moving too much?

12 A I was moving trying to get away, and that's when he
13 dropped me on my back porch. It just, I mean, just like, like
14 it was nothing and then he put me over his shoulder.

15 Q How was he able to lift you up?

16 A He just picked me up and put me over his shoulder.

17 Q What did he grab you with?

18 A His hands.

19 Q What part?

20 A Right here.

21 Q What was he saying and what were you saying inside the
22 trailer before he dropped you outside?

23 A "What are you doing, I mean." He's like, "You're going
24 with me, you're going with me. If I can't have you nobody is
25 going to have you and you're going with me. We're going to

- 1 talk. Well, you're going, " that's all, I mean, and all I can
2 say is, "My kids, my kids, I had to pick my kids up at
3 8:30."
- 4 Q What did he say about them?
- 5 A He didn't give a, he didn't care.
- 6 Q What did he say?
- 7 A He didn't give a fuck.
- 8 Q When you were struggling and he dropped you on the ground
9 can you tell our jury whether it hurt?
- 10 A Yes, I had a big knot on the back of my head.
- 11 Q What about your hair?
- 12 A He had pulled my hair.
- 13 Q Do you remember when he did that?
- 14 A Whenever we was inside of my home.
- 15 Q Did that hurt?
- 16 A Yes, sir.
- 17 Q Okay, he dropped you on the ground, picked you up and
18 threw you over his shoulder, then what happened?
- 19 A Then his grandmother was in the back yard and that's --
20 and then they had a king cab, and the back of it was already
21 sitting up and that's when he put me in the back and then he
22 went back inside and got my comforter.
- 23 Q Did you ask him to get the comforter?
- 24 A No.
- 25 Q Then what happened?

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1 A We drove off.

2 Q Why didn't you leave?

3 A I couldn't move. I was taped and his grand -- oh, I'm
4 sorry.

5 Q Okay, well, what was going on with the grandmother and
6 him and you?

7 A She was telling him that they're going to go to jail
8 for this, that he don't need to be doing this, and I mean
9 ---

10 MR. GOUDE: Objection to the hearsay, Judge.

11 MR. MODICA: Judge, this is during the actual
12 event.

13 MR. GOUDE: It doesn't matter if it's actual or
14 unactual. It's hearsay.

15 THE COURT: Let's let the jury go out in just a
16 minute and we'll take up a matter of law. We'll take a short
17 break while we take up something and go ahead and refresh
18 yourself while you're out.

19 (Whereupon, the following takes place outside the
20 presence of the jury.)

21 THE COURT: All right, Mr. Goude, I'll be glad to
22 hear from you. Now, I don't see where there's any charge of
23 conspiracy. So, it wouldn't fall under that theory, but it
24 would appear to me that it could possibly this be a, either a
25 present sense impression or at least excited utterance or res

1 gestae. Why would it not fall into one of those categories if
2 it's stated while an event is going on, Mr. Goude?

3 MR. GOUDE: Well, the grandma is charged with
4 burglary first, too. I don't know why she would be excited if
5 she went there to burglarize the girl's house. She was --
6 knowed they was going there to burglarize the house. The
7 grandma is charged with kidnapping, too. I don't know why she
8 would be excited if she was there to kidnap the witness in the
9 kidnapping. She would know what was going on, Judge. The
10 grandma ---

11 THE COURT: Well, you're telling me, well, she's
12 charged with it, but she hasn't -- I don't know if she's
13 confessed it. Anyway, we've got to look at what this witness
14 is testifying to and she's testifying to an exciting event, a
15 startling event.

16 MR. GOUDE: Why would it be startling? The
17 prosecutor is going to charge the grandma. Why would it be
18 startling to her? They say that she went there to burglarize
19 the house and kidnap the girl, why would it be startling and
20 exciting to her? She knew what she was going to do according
21 to them. I am not the one that charged the grandma. I am the
22 defense lawyer. The prosecutor says the grandma is charged
23 with burglarizing the house, kidnapping the person.
24 Apparently she knew what was going on according to them.
25 So, I am objecting to them putting in evidence saying the

1 grandma is excited and startled and don't know what's going on
2 since they're the ones saying she ---

3 THE COURT: Well, she doesn't have to be that she
4 doesn't know what she's going on. It's a statement relating
5 to a startling event or condition made while the declarant was
6 under the stress of excitement caused by the event.

7 MR. GOUDE: Well, she wasn't under any stress.

8 THE COURT: Well, how do we know?

9 MR. GOUDE: Well, they say she went there to kidnap
10 the girl. Why would she be stressed doing what she went there
11 to do? It's like cutting grass, "I'm going to go kidnap the
12 girl from Georgetown. We're going to drive from Summerville
13 to Georgetown and kidnap this girl and drag her to our house
14 in Summerville," that's not excited, that's normal. "I know
15 I'm going to do that. We're going to go break in her house,
16 shoot man, get out the car, Nicholas, go get the girl, bring
17 her here. We're going to take her back to the mountains."
18 Why would that be startling or exciting? I say it's not
19 startling, not exciting and it's hearsay. It's something
20 somebody else is saying offering to prove it's true that they
21 said it. That's my objection, Your Honor.

22 MR. MODICA: Your Honor, briefly, I would submit that
23 it would fall under that. It would also fall under res gestae
24 because this is actually we -- you know that kidnapping exists
25 during the whole course of time that the person's freedom of

1 movement is inhibited and that what she says and how he
2 responds, you know, it would be like, and of course, they are
3 Co-Defendants, it would be like a witness testifying that one
4 Defendant said, "Shoot the guy," and the other guy takes out
5 a gun and shoots him. Well, you're going to block a witness
6 testifying about what the other guy said? Of course you're
7 not because it's during the course of the crime. These are
8 statements made during the course of the crime, and if you
9 just pick out what she says and just have him saying stuff, it
10 makes absolutely no sense whatsoever. So, I would submit that
11 it falls under many exceptions to hearsay.

12 THE COURT: I'm going to allow it in. I find it does
13 fall within the excited utterance exception to hearsay, and
14 quite frankly, that, that is pretty much the definition of res
15 gestae statement anyway. So, I'm going to allow it under Rule
16 803, Subsection 2.

17 All right, let's take a short break while the jury's out.
18 I know they'll refresh and let's go ahead and do the same.
19 You can step down and you can't talk about your -- you can't
20 talk about your testimony with anybody but you can use the
21 rest room or whatever you need to do.

22 A Thank you.

23 THE COURT: Let's be probably about a 10-minute
24 break.

25 MR. MODICA: Yes, sir.

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1 ***** OFF THE RECORD *****

2 (On the record.)

3 (Whereupon, the following takes place outside the
4 presence of the jury.)

5 THE COURT: Thank you. Take your seats.

6 The State ready? The State ready?

7 MR. MODICA: We need to get the victim back and Mr.
8 Goude.

9 MR. GOUDE: All right, Mr. Goude is right there.

10 MR. MODICA: Oh.

11 THE COURT: Let's bring in the jury.

12 (Whereupon, the following takes place in the presence of
13 the jury.)

14 THE COURT: All right, you may proceed.

15 MR. MODICA: Thank you, Your Honor.

16 DIRECT EXAMINATION (CONTINUED)

17 BY MR. MODICA:

18 Q We were, we were at the point where you had told us that
19 he had taken you out of the trailer and dropped you on the
20 ground and picked you up, put you in the back, and my question
21 to you was what was Shirley Ward saying, what were you saying,
22 what was the Defendant saying, what was going on? Please tell
23 our jury.

24 A Ms. Ward kept telling Nicholas that, "Why are you doing
25 this? You're going to put both of us in jail. Why are you

1 doing this?" That was just the question over and over.

2 That's all she could say is, "Why are you doing this, why
3 don't you just let her go, let her go," and all Nicholas
4 could say was just, "Drive, just drive."

5 Q And did she?

6 A Yes, she did.

7 Q What's the normal route from BB Smith to Summerville?

8 A We would go through Lambertown and then you would go
9 through Jamestown, then Macedonia till you get on 176 which is
10 like three miles from Con's [spelled phonetically] crossroads
11 is where I was taken at 1108.

12 Q Where were you within the vehicle?

13 A I was in the back of the king cab. The king cab was
14 pulled up where you could not sit on it. I was laying down.

15 Q On the floor?

16 A Yes, sir.

17 Q Where was your head in relation to the seats if you
18 understand that question?

19 A My head was where -- on -- was behind the passenger seat
20 and my feet were up behind Mrs. Ward.

21 Q Could you see the route that she was taking?

22 A No, sir, all I could see is trees and the tops.

23 Q And where was the Defendant?

24 A In the back seat at first.

25 Q Okay, how was he?

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- 1 A Between, there's a big console in the Dodge truck and he
2 was like sitting up close to his nanna telling her just drive,
3 drive.
- 4 Q Okay, and where was that in relation to where you were
5 laying on the floor?
- 6 A I -- what do you mean?
- 7 Q Where was the Defendant in relation to you laying on the
8 floor?
- 9 A In the back.
- 10 Q Was he over you? Was he close by you? Where was he?
- 11 A It was like he was on his knees up, sitting up to the
12 thing.
- 13 Q Sitting up to that console?
- 14 A Uh-huh (affirmative response).
- 15 Q And you were laying underneath him?
- 16 A Yes, sir.
- 17 Q All right, tell us about what was going on when you were
18 traveling.
- 19 A He was just telling me to be quiet.
- 20 Q Why was he telling you to be quiet?
- 21 A Because I was screaming. I screamed from BB's trailer
22 park which is in Sampit all the way to 176 where I couldn't
23 even talk. Once I finally got back home there was just -- I
24 had no voice because I screamed because all I could think
25 about was my kids and was I ever coming back home. I didn't

1 know. I didn't know what kind of state of mind he was in.
2 Q Is your voice the same since then?
3 A No, it has not been the same.
4 Q Okay, did you try and talk to him and reason with him?
5 A I had said something whenever we had got to the little
6 house.
7 Q We'll get there. I'm talking about in the vehicle.
8 A No, I just kept telling him to please just take me home,
9 please, I want my kids, my kids, you know, they were expecting
10 me there at 8:30 and then my mother had to go look for them.
11 Q Okay, all right, don't jump ahead of me.
12 A I'm sorry.
13 Q You were supposed to pick up your children at 8:30
14 from ---
15 A Yes, sir.
16 Q --- over at -- I've forgotten his name now, John's house?
17 A Yes, sir.
18 Q John Hewitt?
19 A Yeah, that's where Casey and Brandon was at. That's
20 Casey was the one keeping them.
21 Q Okay, and did you remember talking to his grandma about
22 how you would pick up the kids. Now, I'm talking while you're
23 driving the vehicle.
24 A She might have heard me say it. I mean, I repeated that
25 I know 100 times.

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1 Q Do you remember something occurring while they were
2 driving you up to Summerville in regard to the police?

3 A Yes, sir, I do.

4 Q Can you tell our jury about that, please?

5 A When we got to -- in, in Moncks Corner there is a
6 Sunco and a Piggy Wiggly and down where Berkeley County Jail
7 is, she tried to turn down there.

8 Q Well, what if anything did she say?

9 A That she was taking him, that, you know, that we were
10 going to the police station and she tried to turn to go there
11 and he would not. He said, "You better go straight now, go
12 straight now."

13 Q What if anything did he do with the wheel?

14 A He grabbed it so she would not turn.

15 Q You were able to see that motion from the floor?

16 A I could hear it, I mean, well, that's when he was in the
17 front seat. He had got in the front seat and he kept telling
18 her no because she kept saying she was going to the police
19 station. At one time if I remember she said she was going to
20 take us both there, which I didn't care at that time if that's
21 where I had to go, as long as I was away from him.

22 Q Did you -- what do you call Shirley Ward?

23 A Nanna, I did.

24 Q Did, what if anything did you tell her about letting you
25 out, you could just walk home or anything like that? Do you

1 remember saying stuff like that to her?

2 A I just kept asking somebody just let me go, just let me
3 go back home.

4 Q All right, was there any pillow in the car?

5 A Yes, there was. Why? I don't know why he went back and
6 got my pillow.

7 Q When you got to 1108 Lilac tell our jury what happened.

8 A He put me in this, they had me into an apartment which
9 they call the little house and he took and it was freezing
10 cold, by the way, and he took me into the back, it's like at
11 the ---

12 Q How did he get you there?

13 A Huh?

14 Q How did you get there?

15 A How did I get there?

16 Q Yeah.

17 A He took me in there.

18 Q How? We weren't there.

19 A Over his shoulder.

20 Q All right.

21 A I'm sorry. I wasn't thinking and we went in to the back
22 where there was supposed to be a bedroom. It has like a --
23 it's like a one-bedroom apartment and he put me back there,
24 and just, how can I put it, terrorized me.

25 Q Where, okay, well, we'll talk about that in a second.

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1 Tell -- did he put you on something? Did he put you on the
2 floor?

3 A At first he put me on the couch and then he put me on the
4 floor and he brought my comforter back in.

5 Q It was cold, it was cold out there.

6 A Yes, sir.

7 Q You mentioned that he terrorized you. Tell our jury how
8 he terrorized you.

9 A He just would say that, "I know you've been screwing
10 around up there in Georgetown," and then, "If I can't have
11 you nobody can have you," and then five seconds later, "I
12 love you baby, I love you. I don't know what I'm doing. I
13 don't know what I'm doing," it's just back and
14 forth, back and forth, back and forth.

15 Q Okay, what other, what other things did he say and how?

16 A Then he pulled my pants down because he kept going on and
17 on and on about me having sex with someone else and then he
18 jammed his finger into my vagina and then said, "Oh, my God I
19 can't believe I just did that, but you're tight so I know you
20 ain't been messing with nobody."

21 Q Do you know what he meant by doing that? Did he talk
22 about that previously or that ---

23 A Yes, in the past. He says he knows if his girl has been
24 messing with somebody because it will be tight.

25 Q Did that hurt?

- 1 A Yes, sir, it did.
- 2 Q What else was going on?
- 3 A He's like, "Why aren't you talking to me? Why aren't you
4 talking to me," and I went to say something and he just popped
5 me right in the jaw, on the side of my cheek. He just slapped
6 me and I was like, "Why should I say something? Anytime I say
7 something you're going to hit me, you're going to slap me.
8 So, I mean, what, what can I say?"
- 9 Q Were you begging?
- 10 A Yes.
- 11 Q What were you begging?
- 12 A "Please, please just take me home, please," and I was
13 sitting there saying, "Please, daddy, help me," because my
14 daddy had passed away and he was like, "Oh, whatever,
15 whatever."
- 16 Q Did you talk about your children?
- 17 A Yes. I was like, "All I want to do is just get back to
18 MM and BM "To hell with MM and BM They
19 don't like me anyway because your mother has got them that
20 away." I mean, how can they like him, you know.
- 21 Q Stick with what he said and what you said. We'll talk
22 about the other stuff later.
- 23 A He just -- I just begged and begged.
- 24 Q How long did this go on for?
- 25 A A couple of hours.

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- 1 Q Did there come a time when Shirley Ward or nanna came
2 back to the little house?
- 3 A Yes, sir.
- 4 Q And could you see her?
- 5 A I could hear them, but I could hear them.
- 6 Q What was she saying and what was he saying?
- 7 A She was letting him know that my mother, which is Debbie
8 Elliott called, that she had called but they would never let
9 me talk. As soon as I heard her say Debbie is calling I tried
10 to scream mamma but it wouldn't come out.
- 11 Q Why?
- 12 A Because I had screamed for so long and my voice was just
13 gone and they would never let me talk to my mother.
- 14 Q How many times did Shirley Ward come out, about?
- 15 A About three or four times.
- 16 Q What was Shirley Ward saying to the Defendant about ---
- 17 A She told Nicholas that if he touched me or if he beat on
18 me that he would go to jail that day.
- 19 Q What about letting you go?
- 20 A Put, just let her go because, ``Eventually her mother and
21 brother is going to know something's wrong and they're going
22 to be up here.''
- 23 Q What were you saying to her when she was asking that?
- 24 A ``We're talking, nanna, we're talking, just get the hell
25 out. Just leave. I, I'm, I'm talking, I'm talking.''

- 1 Q What did he say about hurting himself or hurting you?
- 2 A If he couldn't have me nobody could.
- 3 Q How often did he say that?
- 4 A He said it a couple of times.
- 5 Q What did he say about hurting you or hurting himself?
- 6 A That he would kill me. If he won't -- it was going to be
- 7 me and him or nothing and that it would take jail or death to
- 8 get us apart.
- 9 Q How did you feel about what he was saying?
- 10 A I was scared. If I could just see Georgetown that's all
- 11 that mattered to me. It was just knowing that I could just --
- 12 I just wanted to go home. I just wanted to go home so bad
- 13 just, you know, just to see my kids or I didn't know what he
- 14 was going to do because ---
- 15 Q Did you fear for your life?
- 16 A Yes, I did.
- 17 Q Well, how did -- did there -- how is it that you were
- 18 able to leave?
- 19 A Mrs. Ward came in there and said that Mr. Ward said I
- 20 could go take my stuff because it was about to rain and he
- 21 finally said that I could go, to pack my stuff up.
- 22 THE COURT: When you say he, we need to know who he
- 23 is.
- 24 A Nicholas Parker, so they helped me pack my stuff and put
- 25 it into the back of the red Dodge.

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1 Q Okay, all right, did there come a time that some or all
2 of the tape or parts of the tape were taken off you?

3 A Yes, sir.

4 Q Can you tell our jury about that?

5 A He took, he just yanked, when we was in the little house
6 he just, just like it was, like he had no heart, like he
7 didn't care about anything or anybody.

8 Q Did that hurt?

9 A Yes, it did.

10 Q And how about the tape on your legs?

11 A Just jerked it off.

12 Q Was there a time period that you were back in the little
13 house that you didn't have tape on you?

14 A Yes, sir.

15 Q Why did he leave?

16 A Because I was packing my stuff. I was just doing what I
17 had to do.

18 Q No, no, no, no, I'm not sure you understand. Was there a
19 period of time in which prior to him letting you leave that
20 you did not have the tape on? Do you understand my question?

21 A Yes, he took the tape off, yes.

22 Q Did he take off the tape before he decided to let you
23 leave or at the time that he decided to let you leave?

24 A Before.

25 Q Okay, so, my question is in that time period where -- in

1 that time period when he took off that tape up to the point in
2 time where he said you could pack your stuff and leave why
3 didn't you leave?

4 A Because I was scared.

5 Q All right, well, we weren't there.

6 A Very, I mean, this -- I was scared. I didn't -- I mean
7 ---

8 Q Did he leave you alone? Did he leave you alone?

9 A What do you mean did he leave me alone?

10 Q Did he leave so that you could have walked out on your
11 own?

12 A No, never.

13 Q In -- at their house, that's the Parker, Wards's house do
14 they have a cell phone?

15 A No, sir.

16 Q Did they at that time period as far you know?

17 A As far as I know, no, sir.

18 Q Okay, did they have a cordless phone?

19 A No, sir.

20 Q Okay, so, they had the phones that were connected to the
21 wall or whatever and had actual wires.

22 A Yes, sir.

23 Q Okay, told you to go and pack up your stuff and tell our
24 jury about that.

25 A Me and his grandmother, which is Shirley Ward, and

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1 Nicholas Parker packed our stuff, packed my stuff into the
2 back of a red Dodge and then I asked Mrs. Ward could she
3 please go inside and get my formal gown that was left inside
4 of the home in a closet because I didn't want it to be out
5 there, I didn't want nothing to happen to it. So, she went
6 back and got that and we put that in the back of the king cab.
7 The king cab and the back of the truck was full of my
8 stuff, boxes, clothes, bags.

9 Q Okay, during the time that he said that you could go did
10 you -- were you able to get into the main house, did you go
11 into the main house?

12 A No, sir.

13 Q After your stuff was packed what happened?

14 A We left.

15 Q In the ---

16 A Red Dodge truck, me, Shirley Ward and Nicholas
17 Parker.

18 Q And where -- at that point in time you were no longer
19 taped?

20 A No, sir.

21 Q And where are you within the vehicle?

22 A I'm in the middle, sitting in the middle between him
23 and Shirley Ward, between Nicholas and Shirley Ward.

24 Q Who's driving?

25 A Shirley Ward.

- 1 Q Did you travel back to Georgetown?
- 2 A Yes, sir.
- 3 Q On your travel back from Georgetown did you stop
- 4 anywhere?
- 5 A Yes, sir, we stopped at a Sonoco, whatever that gas
- 6 station is called right there at Cross. It's in Moncks Corner
- 7 by -- across the street from Piggly Wiggly. There's a gas
- 8 station right there and we stopped there. He pumped the gas
- 9 while she went in.
- 10 Q Well, why didn't you run then?
- 11 A Because I was scared.
- 12 Q Scared of what?
- 13 A Of Nicholas. I mean, this is not the first time.
- 14 Q You were afraid to run?
- 15 A Yes, sir.
- 16 Q Where was he when you were in the vehicle?
- 17 A Pumping the gas which is on the driver's side.
- 18 Q So, since we weren't there, if you had take -- if you had
- 19 taken off running he would have seen you.
- 20 A Oh, yes.
- 21 Q Okay, did you stop anywhere else on your way home?
- 22 A Arby's in Moncks Corner ---
- 23 Q Okay.
- 24 A --- for a number two.
- 25 Q You got you a number two?

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1 A Yes, sir.

2 Q What's a number two?

3 A Beef and cheddar.

4 Q And what else?

5 A Curly fries and sweet tea.

6 Q Okay, did you eat the food?

7 A Not all of it, no, I didn't.

8 Q So, why didn't you eat it?

9 A I was just doing whatever he said to do just so I could
10 get home.

11 Q Did you -- did he offer you money?

12 A Yes, he did.

13 Q Where was that?

14 A While we were riding, we -- no, right before we got --
15 after the Arby's, after Arby's.

16 Q Did you go to the drive through in Arby's?

17 A Yes, sir.

18 Q Okay, you didn't get out of the vehicle.

19 A No, sir.

20 Q And you didn't yell to the people at the window.

21 A No, sir.

22 Q Why didn't you do that?

23 A Because I didn't know what Nicholas would do. I already
24 had my stuff in the back of that truck and they were on their
25 way taking me home. If I -- I just was ready to get there.

- 1 Q Were you still afraid?
- 2 A Uh-huh (affirmative response), up until, yes, sir, up
3 until he left.
- 4 Q When he offered you the money what did you say or do?
- 5 A I didn't need it.
- 6 Q After you made those stops did you travel back to
7 Georgetown?
- 8 A Yes, sir.
- 9 Q And where did you go when you got to Georgetown?
- 10 A Went to my home and the doors was locked.
- 11 Q Which, which home, because you were talking about two of
12 them?
- 13 A Lot, Lot 14 at BB's trailer park.
- 14 Q The doors were locked.
- 15 A Yes, sir.
- 16 Q Speaking of that, if you would, when you got taken by the
17 Defendant and was walking you towards the back door, can you
18 tell us whether or not you made an observation whether the
19 door was open or closed?
- 20 A My back door?
- 21 Q Yes. Do you know what point in time I'm referring to?
- 22 A When he was taking me to the back porch he kicked it to
23 open it.
- 24 Q Was it, was it partially open?
- 25 A Yes.

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- 1 Q Okay.
- 2 A And he just kicked it open.
- 3 Q Is that how your door was when you went to sleep?
- 4 A No, sir.
- 5 Q Did you leave it partially open?
- 6 A No, sir; no, sir.
- 7 Q Were your doors locked?
- 8 A Yes, sir, that's the only way my front door would stay
- 9 closed. You have to lock the top lock.
- 10 Q Well, talking about that door for a moment, the back door
- 11 for a moment, you said you had locked it.
- 12 A I don't never use that door.
- 13 Q So, you said you had it locked in this case.
- 14 A Yes, sir.
- 15 Q Okay, was there something about that door that you could
- 16 open it when it was locked.
- 17 A Yes, the chain did not fit equally because someone had
- 18 tried to break in it when my mother lived in it, which is
- 19 Debbie Elliott. So, the chain did not fit perfectly and
- 20 neither did the dead bolt, and it -- I mean, a strong person
- 21 could, you know, just yank it.
- 22 Q Can you tell our jury whether or not Nicholas Parker was
- 23 aware of that?
- 24 A Yes, he was.
- 25 Q Okay, you drive back to Georgetown, the doors are locked

- 1 but he doesn't pop it open.
- 2 A No, sir.
- 3 Q What happens then?
- 4 A We went to BB's store so I could call my mother.
- 5 Q Why?
- 6 A So she could come get me because I didn't -- she had done
- 7 come got -- I was using her truck at the time, her Ford
- 8 Escape. She had done come and got it because she didn't know
- 9 where I was at. She didn't know what was going on. She
- 10 didn't know where the grandbabies or anything. So she come
- 11 and got the vehicle.
- 12 Q Okay, all right, that's ---
- 13 A And then ---
- 14 Q Okay, okay, let me, let me interrupt you. Did your
- 15 mother have the keys to your place?
- 16 A Uh-huh (affirmative response).
- 17 Q Okay, you have to answer yes or no.
- 18 A Yes, sir, she had the keys.
- 19 Q Okay, is that one of the reasons why you called her, to
- 20 get you and to get the key?
- 21 A To come get me and to unlock my door so I could put the
- 22 stuff that was left outside inside because it was raining.
- 23 Q Okay, then you kind of jumped. When you got back did you
- 24 all unload it?
- 25 A Yes, but I -- after I called my mother and told my mother

1 -- it was already unloaded before I called my mother. I'm
2 sorry.

3 Q Who unloaded it?

4 A Me, Nicholas and Shirley Ward.

5 Q Where did you call from?

6 A BB's. It's, it's just called BB's convenience store in
7 Sampit from the pay phone.

8 Q All right, then you drive back there for them to drop you
9 off?

10 A Yes, sir.

11 Q What happened right before they drove off?

12 A He hugged me. I hugged him back. He said he loved me.
13 I said, "I love you, too."

14 Q Why did you say that?

15 A Just, just -- just some -- just to do it so he wouldn't
16 flip. He said that we would talk later.

17 Q Do you take medication?

18 A Yes, sir, I do.

19 Q What medication do you take?

20 A Klonopin.

21 Q Can you tell me why you take Klonopin?

22 A I take Klonopin because I have anxiety and panic
23 disorder. I've been on it for nine years.

24 Q Does it help you?

25 A Yes, it does.

1 Q It controls those feelings?

2 A It controls my mind where I'm not thinking about 50
3 million things at one time.

4 Q And it's helped you?

5 A Yes, sir.

6 Q Did you take it today?

7 A Yes, sir, I did..

8 Q When do you take your medication?

9 A In the mornings.

10 Q Were you able to take your medication, the Klonopin on
11 January 29th of 2006?

12 A No, sir.

13 Q Did the Defendant know that you took Klonopin?

14 A Yes, sir.

15 Q Did he know why you took Klonopin?

16 A Yes, sir.

17 Q And up to the -- approximately what time did you call
18 your mother to come pick you up?

19 A Probably about 3:30.

20 Q When -- I take it you were a wreck between what had
21 happened to you and the fact that you didn't take Klonopin.

22 A Yes, sir.

23 Q What happened when your mamma came?

24 A She pulled up and I went and showed her my arms and my
25 legs, my ankles, and of course, any mother, she went crazy.

1 Q You told her what happened?

2 A Yes, I did.

3 Q Did there come a time that you went inside?

4 A Yes, sir, I did and she told ---

5 Q I'm sorry?

6 A Yes, sir, that we went into my home, yes, sir, to put my
7 stuff in there.

8 Q Okay, did you get the comforter back, the comforter that
9 he took from your house?

10 A Yes, I did.

11 Q Did you see, when you went in with your mamma did you see
12 stuff that had to do with what happened to you earlier in the
13 day?

14 A The comforter.

15 Q Obviously the comforter.

16 A And also saw the duct tape that was left on my
17 coffee table and the piece of tape that was on my mouth.

18 Q When you say duct tape, do you mean a roll of duct tape?

19 A A roll of duct tape.

20 Q Did you have duct tape at your home there prior to that?

21 A No, sir, I did not.

22 Q What did you and your mother decide when you saw those
23 things in the house? When you and your mamma saw the roll of
24 tape and the piece of tape, what did you all decide?

25 A My mother said ---

- 1 Q No, I don't want you to say what your mamma said. I want
2 you to say what you all decided.
- 3 A We decided not to touch anything.
- 4 Q Why was that?
- 5 A So whenever I go to let the authorities know that I was
6 kidnapped that they would be able to see.
- 7 Q Did you grab some stuff quickly and leave?
- 8 A No, sir, I didn't grab anything.
- 9 Q Clothes, not even clothing?
- 10 A No, because my mother had some at her house.
- 11 Q Some of your clothes?
- 12 A Yes, sir.
- 13 Q All right, I'm sorry, I'm going to have to ask you this.
- 14 A All right.
- 15 Q During the course of these events did you unfortunately
16 mess yourself?
- 17 A Yes, sir, I did.
- 18 Q When you got back to your mom's house did you let your
19 mom know?
- 20 THE COURT: You got, no, you got to say yes or no.
- 21 A Yes, sir. I'm sorry, yes sir.
- 22 Q When you got back to your mom's house what did you do?
- 23 A Went inside and took a shower and then my mother come and
24 checked on me and I was so nervous and so wrecked I just, just
25 did not want to believe what just happened to me that

1 literally that my mother had to drive me home and help me get
2 myself dressed.

3 Q Then what did you do after that?

4 A My mom gave me some Advil, not cold and sinus, just
5 regular Advil and I laid down and I just laid down and was
6 thankful that I was finally home.

7 Q Did you and your mom decide not to go to the police that
8 day?

9 A Yes, because I was too upset and I was in a whirlwind.

10 Q Did you agree that you would go the following day?

11 A Yes, I did. Yes, sir.

12 Q Did you go the following day?

13 A Yes, sir.

14 Q And did you meet with Investigator Dustin Morris?

15 A Yes, I did.

16 Q After you took your shower to clean up, did you still
17 have some of the tape on you?

18 A While I was taking a shower I remember one time washed
19 off my ankles more, my wrists so I could show that I was taped
20 up.

21 Q So, that when you went to the police you still had some
22 of the remnants on you?

23 A Yes, sir, I did have.

24 Q You okay?

25 A Yes, sir.

1 Q Did there come a time that you left the police station --
2 I'm sorry, while you were at the police station did they take
3 some photographs of your injuries?
4 A Yes, sir.
5 Q And the injuries that you had did you have those prior to
6 this happening to you?
7 A No, sir.
8 Q Did there come a time that you left the police station
9 with Investigator Morris and another investigator and went to
10 lot 14?
11 A Yes, sir.
12 Q And you all let them in?
13 A Yes, sir.
14 Q And did you tell or point out some of the things?
15 A I pointed things out.
16 Q What did that include?
17 A I pointed out the duct tape that was on the coffee table,
18 the piece of tape that was on my mouth and then the comforter.
19 Q What about a locket?
20 A Oh, and my pendent that was in the hallway, a heart
21 pendant.
22 Q Did you tell Investigator Morris about the problem with
23 the back door?
24 A Yes, I sure did.
25 Q And I don't want you to say what they said but did you

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1 observe them do something in regard to the door?

2 A Yes, sir.

3 Q Where they were able to open it ---

4 A Yes, sir.

5 Q --- even though it was locked?

6 A Yes, sir.

7 MR. MODICA: One moment, Your Honor, please.

8 BY MR. MODICA:

9 Q When you pointed out the duct tape in the house you said
10 the piece of tape that was on your mouth and what was the
11 other thing?

12 A The comforter.

13 Q And the other thing?

14 A My heart pendant.

15 Q And I'm not trying -- was it -- what kind of shape was
16 the other tape in?

17 A Oh, the roll, it was just a roll.

18 Q Okay, all right, I was just making sure, all right. When
19 the Defendant back in Summerville took you out of the vehicle,
20 threw you over his shoulder you still had the tape on;
21 correct?

22 A Yes, sir.

23 Q And when you went -- when he put you in the little house
24 on the floor and on the couch, there was a time period when
25 you still had the tape on your arms and your feet?

1 A Yes, sir.

2 Q Can you tell our jury about how long it was that you had
3 the tape on your arms and feet when you were there?

4 A Probably a good hour or so.

5 Q You weren't timing it, but it was a long time.

6 A Yes, sir.

7 Q Okay, back then what color of hair did you have?

8 A Reddish.

9 Q You died your hair reddish?

10 A Uh-huh (affirmative response), yes, sir.

11 MR. MODICA: Your Honor, what I would like to do is
12 show her a number of exhibits, first showing it to counsel.
13 At the same time I would like to set up the screen if I might.

14 THE COURT: Certainly.

15 MR. MODICA: May I approach the witness, Your Honor?

16 THE COURT: Yes, sir, certainly.

17 BY MR. MODICA:

18 Q I'm showing you State's Exhibit Number 9, 10, 11, 12, 13,
19 14, 15, 16, 17 and 18. Please do me a favor and look through
20 those and when you're done looking through them let me know.

21 A Yes, sir. (Complies with request.)

22 MR. MODICA: Your Honor, at this time I would move
23 State's Exhibit Number Eight into evidence, which is a CD of
24 some photographs. Counsel has a copy of the CD.

25 MR. GOUDE: No objection.

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1 THE COURT: All right, be received without objection.

2 (WHEREUPON, State's Exhibit Number Eight [CD -
3 Photographs] admitted into evidence and appropriately marked.)

4 BY MR. MODICA:

5 Q I'm going to be standing next to you a for a little bit,
6 but even though I'm standing next to you I'm going to ask you
7 that you keep your voice up; okay ---

8 A Yes, sir.

9 Q --- as if you're still talking to me back there.

10 A Yes, sir.

11 Q All right, I'm showing you Exhibit Number Nine for
12 identification. Do you recognize what is shown in that
13 photograph?

14 A Yes, sir.

15 Q Who is that of?

16 A That's my arm.

17 Q Okay, which arm is that?

18 A That would be my left arm.

19 Q And are these the injuries that you sustained as a result
20 of what happened on January 29th?

21 A Yes, sir.

22 Q Number Ten basically the same photograph without a ruler?

23 A Yes, sir.

24 Q Number 11, what area of the body is that?

25 A That would be my right side.

- 1 Q What, what area, can you point to your body so the jury
2 can see?
- 3 A Up here.
- 4 Q Did you have that injury beforehand?
- 5 A No, sir.
- 6 Q Can you tell our jury how it was that you got that injury
7 if you know?
- 8 A From being picked up and being put over Nicholas's
9 shoulder.
- 10 Q Number 12 show basically the same area?
- 11 A Yes, sir.
- 12 Q Number 13.
- 13 A It's my elbow, which would be ---
- 14 THE COURT: All right, keep your voice up now.
15 Remember the lady in the orange has to hear you, too.
- 16 A It's my elbow which is my left elbow.
- 17 Q Back side?
- 18 A Yes, sir.
- 19 Q Did you have that injury beforehand?
- 20 A No, sir.
- 21 Q Fourteen.
- 22 A That is my right side.
- 23 Q Similar to the other photographs?
- 24 A Yes, sir.
- 25 Q Fifteen?

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1 A That is the top of my leg. Yes, that's the top of my
2 leg.

3 Q Did you have that injury beforehand?

4 A No, sir.

5 Q Actually Number 16.

6 A That is my knee.

7 Q And do you have, in regard to 16, do you have that injury
8 beforehand?

9 A No, sir.

10 Q Seventeen?

11 A That is my ---

12 Q You have to keep your voice up.

13 A That is my left foot with the tape marks on it.

14 Q Eighteen?

15 A That is my left arm.

16 Q Which part of your arm, the front or your back?

17 A The front.

18 Q Did you have that mark beforehand?

19 A No, sir.

20 MR. MODICA: Your Honor, at this time I would move 9
21 through 18 into evidence showing them once again to counsel.

22 MR. GOUDE: No objection.

23 THE COURT: Be received without objection.

24 (Whereupon, State's Exhibits 9 through 18 [Photographs]
25 introduced into evidence and appropriately marked.)

1 MR. MODICA: Your Honor, may I ask the witness to step
2 down?
3 THE COURT: Yes, you can step down.
4 BY MR. MODICA:
5 Q I'm going to take that from you and put the water down
6 there. May I ask you to hold this because you're going to
7 keep your voice too low. I know it because we're standing
8 next to each other, and what I'm going to do is I'm going to
9 show you a series of photographs and I'm going to ask you some
10 questions about the photographs.
11 A Yes, sir.
12 Q What I'll do is I'll either use a pointer or a light
13 to point to the areas. Remember that if you move forward
14 and look at it always step back so members of the jury can
15 see.
16 A Yes, sir.
17 THE COURT: Can all the jurors see it? Okay, good,
18 thank you.
19 Q Can you describe for our jury what's depicted here in
20 that area where I'm pointing?
21 A That is a bruise.
22 Q What part of your body?
23 A On my left arm, the front of my arm.
24 Q Next photo, please. A similar photograph?
25 A The same picture, yes, sir.

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- 1 Q Without the, without the ruler.
- 2 A Yes, sir.
- 3 Q What area is this?
- 4 A That is my, right up in here.
- 5 Q And again, how did you get that?
- 6 A From being grabbed to be put over his shoulder,
- 7 Nicholas's shoulder.
- 8 Q Next photograph, please.
- 9 A Same.
- 10 Q Same area without the ruler?
- 11 A Yes, sir.
- 12 Q What, what is this shown here in this photograph?
- 13 A That is the little house where I was at.
- 14 Q In Summerville.
- 15 A In Summerville.
- 16 Q And is that the house that you were taken into?
- 17 A Yes, sir.
- 18 Q The next photograph, please.
- 19 A Same thing, little house.
- 20 Q Okay, a little bit closer.
- 21 A That was the ---
- 22 Q This, what is this area here?
- 23 A That is the room that I was at, that I was in. That is
- 24 where my stuff was at and also where I was at.
- 25 Q Okay, on the floor.

- 1 A That there is close to the closet. If you come back
2 there is a couch I wasn't -- my stuff was there.
- 3 Q When you say your stuff you're talking about the Dole box
4 and some of these other boxes.
- 5 A No, my stuff I'd done been taking out -- well, yeah,
6 boxes like that, yes, sir.
- 7 Q Is this your stuff here that we're seeing?
- 8 A No, sir.
- 9 Q Okay, all right, it was stuff like that?
- 10 A Yes, sir.
- 11 Q Okay, next photograph. Does this look like the tape that
12 was used?
- 13 A Yes, sir.
- 14 Q And this is the floor.
- 15 A Yes, sir.
- 16 Q Next photograph, this here, what's this here that I'm
17 pointing?
- 18 A That's the couch that I was on.
- 19 Q Okay, and you were also on the floor.
- 20 A Yes, sir.
- 21 Q In this area here?
- 22 A Yes, sir.
- 23 Q Over here it has some writing on the wall. Had you seen
24 this writing before?
- 25 A Yes, sir.

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- 1 Q Okay, what does that, what does that writing say?
- 2 A Nick loves someone. I don't know who that was.
- 3 Q Okay, and it's obviously blacked out?
- 4 A Yes, sir.
- 5 Q Next photo, please. What's shown in this photograph?
- 6 A The truck that I was taken from her house, the Dodge Ram
- 7 truck.
- 8 Q That's the Wards' truck?
- 9 A Yes, sir.
- 10 Q What's this?
- 11 A Same.
- 12 Q Next photograph?
- 13 A Same, same vehicle.
- 14 Q Next photograph, do you have -- do you know what that is?
- 15 If you don't that's ---
- 16 A It's chewing gum, but I didn't have any chewing gum.
- 17 Q Next photograph.
- 18 A That's the back of the truck.
- 19 Q Is this the area where you were laying here on the floor?
- 20 A It's behind that passenger seat further back here.
- 21 Q But on the floor.
- 22 A Yes, sir.
- 23 Q Next photograph? What, what's this here?
- 24 A That is the back seat with the seat down, the king cab.
- 25 Q Point, where I'm pointing here, this -- the bottom part

1 of this does that go up?

2 A It lifts up, yes, sir.

3 Q This thing where I'm pointing you to now is this what

4 you're referring to?

5 A That is the console, yes, sir.

6 Q Where he was leaning over you?

7 A Yes, sir.

8 Q And kneeling on the floor behind you.

9 A Yes, sir.

10 Q The next photograph?

11 A That is what it looked like whenever he put me in it with

12 the seat up.

13 Q You're laying here.

14 A Yes, sir.

15 Q Do you know what that is? If you don't that's fine.

16 A No, sir, I don't.

17 Q Next photograph, this area here is where you're laying?

18 A Yes, sir.

19 Q Do you know what that is? If you do not, that's fine.

20 A I think that's my hair. I'm not sure.

21 Q The next photograph? Pictures of your injuries

22 again?

23 A Yes, sir.

24 Q Here and here where I'm pointing?

25 A Yes, sir.

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- 1 Q Again, you didn't have those injuries prior.
- 2 A No, sir. That is the tape marks that was on my wrist.
- 3 Q Next slide, the one with the ruler.
- 4 A Yes, sir.
- 5 Q That's the back of your ---
- 6 A Back of my left arm.
- 7 Q That injury wasn't there.
- 8 A No, sir, and neither was that one.
- 9 Q And that's underneath your right armpit.
- 10 A Yes, sir.
- 11 Q That there is what?
- 12 A Bruises that on the back of my arm, I think it's my left
- 13 arm, no, my right and they were not there prior to that day.
- 14 Q Okay, next photograph?
- 15 A On my elbow.
- 16 Q Next photograph, what's here?
- 17 A This is my right foot I think, right or left, I can't
- 18 remember which one it is but it's tape marks around my ankles.
- 19 Q From this incident?
- 20 A Yes, sir. That is bruises on my legs.
- 21 Q Were those there?
- 22 A No, sir, no, sir, that's more bruises on my legs, more
- 23 bruises, more. That is the back of the leg where the tape
- 24 was around my ankles, the same picture.
- 25 Q Different angle.

- 1 A Just different angle, yes, sir.
- 2 Q There's one ankle and there's the other.
- 3 A And that's the front of my foot where the tape was. That
- 4 is my other foot, the front of my other foot. That is my
- 5 home.
- 6 Q Here?
- 7 A Yes, sir.
- 8 Q And that's Lot 14.
- 9 A Yes, sir.
- 10 Q At BB's.
- 11 A Yes, sir.
- 12 Q Is this the front or the back?
- 13 A That is the front.
- 14 Q And this vehicle here, whose vehicle is that?
- 15 A That is my mother's vehicle. That vehicle was in the
- 16 yard the day that the incident happened.
- 17 Q Is that the vehicle that your mamma let you use?
- 18 A Yes, sir.
- 19 Q Now, from looking at this, is there a lot of parking area
- 20 in front of here?
- 21 A Yes.
- 22 Q Very easy to park here?
- 23 A Yes, sir.
- 24 Q In the ---
- 25 A And when I ---

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- 1 Q I'm sorry. Go ahead.
- 2 A When I have company that's where they park.
- 3 Q People don't park in the back.
- 4 A No, sir, you can't park in the back because of the septic
- 5 tank.
- 6 Q Mushy, muddy?
- 7 A Yes, sir.
- 8 Q And when Nicholas would come, except on this day would he
- 9 park in the front or the back?
- 10 A When he came before with his grandmother to pick me up for
- 11 me to go back home with him his grandmother parked in the
- 12 front yard.
- 13 Q What part, what area is this here?
- 14 A That's the back and that's where I fell right on the back
- 15 porch.
- 16 Q And that's the back door.
- 17 A Yes, sir.
- 18 Q Next photograph.
- 19 A The back door.
- 20 Q And this is the door that can you see along here where
- 21 I'm pointing some damage.
- 22 A Yes, sir.
- 23 Q And is that part of the reason, is it pulled out a little
- 24 bit?
- 25 A Yes, sir.

1 Q Is that part of the reason why the door doesn't function?
2 A Yes, sir.
3 Q Thank you. Next photo, please. Is this a close-up of
4 the back door with the locks?
5 A Yes, sir. That is the Arby's cup.
6 Q This cup is the Arby's cup that you had gotten?
7 A Yes, sir, it's my cup.
8 Q That he had bought.
9 A Yes, sir.
10 Q That's a close-up of it?
11 A Yes, sir. That is the couch that I was laying on that
12 morning.
13 Q And this thing down here, what is that?
14 A That is my little heater. It's just like a little space
15 heater.
16 Q Was that on while you were sleeping?
17 A Yes, sir.
18 Q And when you leave do you turn that off?
19 A Yes, sir.
20 Q Where I'm pointing now this area here, what's that?
21 A That's my refrigerator.
22 Q Down this hallway where I'm pointing what's that?
23 A Would be my kids' room and then you go straight which is
24 my bedroom and then I have a bathroom and then the back door
25 is on the left-hand side across from the bathroom.

- 1 Q Down this hallway.
- 2 A Hallway, yes, sir.
- 3 Q Is that the roll of tape you were referring to?
- 4 A Yes, sir.
- 5 Q And is that the piece that was on your mouth?
- 6 A Yes, sir.
- 7 Q And when you came back in the house with your mother
- 8 after she unlocked the door is that where it was?
- 9 A Yes, sir.
- 10 Q Is that where it was when the police arrived?
- 11 A Yes, sir.
- 12 Q In the previous photo, if we might jump back to that for
- 13 a moment, you can't see the duct tape here; is that correct?
- 14 A That's right.
- 15 Q And is that because?
- 16 A Of my roses I have in the middle of my table.
- 17 Q Blocking it.
- 18 A Yes, sir.
- 19 Q Two photos forward, one more and this area here?
- 20 A Is where the duct tape and the one that was on my mouth
- 21 and that's the space heater.
- 22 Q Next photo, please. This is the back of that couch.
- 23 A Back of the couch and back.
- 24 Q And this area here where I'm pointing is the table.
- 25 A Yes, sir.

- 1 Q And over here what's this thing?
- 2 A That's another space heater.
- 3 Q Was this on as well?
- 4 A I'm not positive on that.
- 5 Q Next photo. That's part of the couch?
- 6 A Yes, sir.
- 7 Q This here.
- 8 A Is the blanket that he wrapped me in. Excuse me.
- 9 Q The comforter.
- 10 A Yes, sir.
- 11 Q That we've been talking about.
- 12 A Yes, sir.
- 13 Q This other, sorry, this other stuff here.
- 14 A That is the stuff that come from Mrs. Shirley Ward's
- 15 home, the little house.
- 16 Q Your stuff ---
- 17 A Yes, sir.
- 18 Q --- that you had taken from there.
- 19 A Yes, sir.
- 20 Q The next photo.
- 21 A That's it just being shoved in there.
- 22 Q Okay, that's a little bedroom.
- 23 A Yes, sir.
- 24 Q This item here that might be a little bit difficult to
- 25 see.

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- 1 A That's, that is my heart pendent that was in the hallway
2 and this right here is my bathroom, that's my bathroom and
3 then across from it would be my back door.
- 4 Q And was that on your neck prior to the Defendant doing
5 this to you?
- 6 A Yes, sir.
- 7 Q And what is this here?
- 8 A That is the back door.
- 9 Q And this is inside looking out.
- 10 A Yes, sir.
- 11 Q Next photo. This is down that hallway.
- 12 A Yes, sir.
- 13 Q And the refrigerator.
- 14 A Yes, sir.
- 15 Q This here?
- 16 A Is the tape that Detective Dustin found inside of the
17 comforter.
- 18 Q The comforter that we saw in the other photographs ---
- 19 A Yes, sir.
- 20 Q --- and you recognize that comforter?
- 21 A Yes, sir.
- 22 Q You can have a seat. Thank you very much for your
23 patience. Please answer any questions counsel might have.
- 24 A Thank you.
- 25 THE COURT: Mr. Goude.

1 MR. MODICA: Your Honor, I realize I neglected an
2 area. Might I continue examining?

3 THE COURT: Go ahead. I'll reopen direct.

4 MR. MODICA: Thank you.

5 BY MR. MODICA:

6 Q I'm showing you State's Exhibit Number One that's into
7 evidence. These are the telephone logs. I'm going to ask
8 you if you would just flip through these.

9 A (Complies with request.)

10 Q I'm going to ask you to flip through these several pages
11 and when you're done let us know.

12 A (Complies with request.) I'm done.

13 Q All right.

14 A I'm done.

15 Q All right, referring to State's Exhibit Number One, I'm
16 just going to lay it here and open it up. Let's start if we
17 might with the first couple of numbers here, [REDACTED].

18 A Yes, sir.

19 Q Do you recognize whose number, telephone number that is?

20 A Yes, sir, that's my mother's home phone.

21 Q I'm going to jump down a little bit to the number of [REDACTED]

22 [REDACTED].

23 A That is my mother, Debbie Elliott's cell phone. Hello,
24 okay.

25 Q First phone number, [REDACTED]:

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- 1 A That is my mother's home number.
- 2 Q The other one that I referred to, [REDACTED].
- 3 A My mother, Debbie Elliott's cell phone.
- 4 Q Now, if I might on that page move down to these numbers
- 5 here, [REDACTED].
- 6 A Kevin Johnson.
- 7 Q Okay, and Kevin Johnson was the person that you referred
- 8 to as being your friend and then came over with the phone.
- 9 A Yes, sir.
- 10 Q Now, flipping over to where it says January 29th. Do you
- 11 see where I'm referring to where it says January 29th, 2006?
- 12 A Yes, sir.
- 13 Q The phone number that is here about five down.
- 14 A 527?
- 15 Q Yes, that number. Do you recognize that number?
- 16 A Yes, sir that's John ---
- 17 Q [REDACTED]?
- 18 A John Hewitt.
- 19 Q Okay, and that's one of the people that whose house you
- 20 were over to ---
- 21 A Yes, sir.
- 22 Q --- on Saturday.
- 23 A Yes, sir.
- 24 Q How about up here, [REDACTED]?
- 25 A That is my brother's, Chris Driggers, cell phone.

- 1 Q And I think we covered this one [REDACTED].
- 2 A Brandon Lambert and Casey Lambert cell phone.
- 3 Q Thank you.
- 4 A Thank you.
- 5 THE COURT: Mr. Goude.
- 6 MR. MODICA: I'm almost there, Your Honor.
- 7 THE COURT: I'm sorry.
- 8 BY MR. MODICA:
- 9 Q The vehicle that we saw in the picture the -- that white
- 10 Vehicle ---
- 11 A Yes, sir.
- 12 Q --- what, what kind of vehicle was that?
- 13 A It's a Ford Escape.
- 14 Q And you said that was your mother's vehicle?
- 15 A Yes, sir.
- 16 Q She let you use it?
- 17 A Yes, sir.
- 18 Q Did you have it during part of the time that you were in
- 19 the relationship with the Defendant?
- 20 A Yes.
- 21 Q When it comes to driving that ---
- 22 A No, I mean, not, not when I was with Nicholas. When I
- 23 come back home to my mother on January 17th that's when she
- 24 gave me the vehicle.
- 25 Q Did you have a vehicle during part of the time that you

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- 1 had a relationship with the Defendant?
- 2 A I had bought a vehicle in '95, Oldsmobile Aurora.
- 3 Q Okay, in regard to that vehicle, can you tell our jury
- 4 whether or not he would allow you to drive that vehicle
- 5 without him being around?
- 6 A No. He wouldn't even get the tags for it. I had to pay
- 7 for that in the end.
- 8 Q I understand that, but were you allowed to drive it?
- 9 A No, sir.
- 10 Q That's because he wouldn't allow you to?
- 11 A That's exactly right.
- 12 Q Now, I want you to listen to my question very
- 13 specifically and answer it specifically. I'm not asking about
- 14 potential violence in your relationship. I'm specifically
- 15 asking you about control. You talked a little bit about it,
- 16 but I want you to tell our jury in what way the Defendant
- 17 controlled your behavior.
- 18 A When we would have friends over to the home that we had
- 19 in College Park if his friends would look at me I would get
- 20 the blame for it when they left. One night I was laying on
- 21 the floor when we had just moved into this trailer and my
- 22 shorts came up a little bit and I paid for that. He choked me
- 23 in the bath ---
- 24 Q Very clearly I do -- I do not, let me highlight, I do not
- 25 want you to talk about prior violence. Do you understand

1 that?

2 A Yes, sir, I'm sorry.

3 Q Okay, what -- that's fine. I just want to make clear.

4 We don't -- we didn't follow you day to day. We don't know

5 your relationship. I'm asking not about violence. I'm

6 specifically asking you about in what ways did he control your

7 actions, work, money, things of that nature. Do you

8 understand the question?

9 A Yes, sir.

10 Q Okay, now, I want you to tell our jury about

11 that.

12 A I got a job and he would always think people were

13 flirting with me. I couldn't, I couldn't do anything. When

14 my children left to go to my mother's he wouldn't let me speak

15 to my children. He would -- he was just -- it was his way or

16 no way.

17 Q What about when you made money, what happened to your

18 money?

19 A It went to him.

20 Q How about in terms of deciding what you were going to do

21 and where you were going to go, who made those decisions?

22 A Nicholas Parker.

23 MR. MODICA: Thank you for the Court's indulgence.

24 THE COURT: Mr. Goude.

25 CROSS EXAMINATION

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1 BY MR. GOUDE:

2 Q Ma'am, I'm going to show you what is marked as Defense
3 Exhibit One. Is this a calendar for the year of 2006 that
4 includes January on it?

5 A Yes, sir.

6 MR. GOUDE: Judge, I offer that as Exhibit One.

7 MR. MODICA: No objection.

8 THE COURT: Be received.

9 (Whereupon, Defense Exhibit Number One [Calendar]
10 introduced into evidence and appropriately marked.)

11 BY MR. GOUDE:

12 Q Ma'am, I'm showing you what's marked Defense Exhibit Two.
13 Is this a map of the Georgetown County area showing Highway
14 17A the St. Delight's Road to Lambertown Section and 521
15 coming to Georgetown?

16 A Yes, sir.

17 MR. GOUDE: Judge, I would offer this as our Exhibit
18 Two.

19 MR. MODICA: No objection.

20 THE COURT: Received.

21 (Whereupon, Defense Exhibit Number Two [Map]
22 introduced into evidence and appropriately marked.)

23 BY MR. GOUDE:

24 Q Ma'am, I'm going to show you ---

25 MR. MODICA: May I approach when he shows the

1 photograph? Thank you, Your Honor.

2 Q I'm going to show you Defense Exhibits Three through 12
3 and ask you are these photographs of the BB Smith trailer
4 park which include your trailer in it or the road going from
5 the Highway 17A to your trailer park?

6 A Yes, sir.

7 MR. GOUDE: Judge, I would offer that as our Exhibits
8 Three through Twelve.

9 THE COURT: Any objection?

10 MR. MODICA: No objection.

11 THE COURT: Be received.

12 (Whereupon, Defense Exhibits Three through Twelve
13 [Photographs] introduced into evidence and appropriately
14 marked.)

15 BY MR. GOUDE:

16 Q As I understand it, you had met Mr. Parker approximately
17 October 2004 or started dating him approximately that time?

18 A Yes, sir.

19 Q And started living with him approximately at that time?

20 A Yes, sir.

21 Q At the time that you lived with him and his grandparents
22 in their house in Summerville did you pay rent while you were
23 living there?

24 A I supplied the food, \$400 a month worth of food.

25 Q How much a month?

1 A \$400.

2 Q Were you working at that time?

3 A No, sir.

4 Q How did you get money to give them if you weren't
5 working? How did you get money to give them if you were not
6 working?

7 A Because Mrs. Ward said that me supplying the food was
8 perfectly fine.

9 Q Well, my question was were you working at that time to
10 make the money to give them the \$400 worth of groceries?

11 A No, sir, not -- I did not -- not right when I moved in
12 there, no, I was not.

13 Q Where were you getting money to buy the groceries, \$400
14 worth of groceries?

15 A It's called a Food Stamp card.

16 Q Food stamp card?

17 A Yes, sir.

18 Q They had a phone in that house as I understand it you
19 said?

20 A Yes, sir.

21 Q The dwelling house, and the house, as I understand,
22 ma'am, in Summerville that had a like a frame house that the
23 family lived in in Summerville and then they had this garage
24 apartment or storage house or whatever you want to call it
25 outside of the house in the yard; is that correct?

- 1 A Yes, sir.
- 2 Q And in the house, is it correct, that they had, they had
- 3 basically you would go in the front door of the house and you
- 4 would go into the sort of like a big living room would be over
- 5 on the left side as you go in the front door.
- 6 A Yes, sir.
- 7 Q And behind the living room, if I'm walking, say I'm
- 8 walking into the front door of their house the living room
- 9 would be over here to the left?
- 10 A If I'm walking into it like this here's the living room.
- 11 Q Okay, if you walk into it that way there is the living
- 12 room and over here and then the kitchen is over there behind
- 13 the living room?
- 14 A Yes, sir.
- 15 Q There would be like a three bedrooms here, here and here.
- 16 A Yes, sir, and then a bathroom in the middle.
- 17 Q And the bathroom would be about sort of like there'd be
- 18 two bedrooms on this side of the house with the bathroom in
- 19 between?
- 20 A Yes, sir, a bedroom, a bedroom, a bathroom, a bedroom.
- 21 Q All right, if I understand the -- walk in the front door
- 22 the first bedroom on the right over here is Nicholas Parker's
- 23 mother's Sherry Ward's bedroom; is that correct?
- 24 A On what side?
- 25 Q As you're walking in the front door where you are at the

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1 living room and the kitchen are here over here on the left
2 where the jury is; right?

3 A Yes, sir.

4 Q So, the bedrooms would be over here where the court clerk
5 and the Defendants and all that is seated.

6 A Yes, sir

7 Q Is the first bedroom there on the right Sherry's bedroom,
8 the mamma?

9 A Once you walk into like a little hallway there's a room,
10 that would be hers, then the other one was mine and Nicholas's
11 and then there's a bathroom and then the other was Josh and
12 his girlfriend, which is his brother.

13 Q Is Josh and his girlfriend is that the one they call the
14 bunk bedroom? Did it have bunk beds in it?

15 A Oh, that's the one that Sherry stays in, Sherry Ward, the
16 mother.

17 Q All right, okay, all right, and as I understand it the
18 main house is like a frame house, a wood house?

19 A Yes, sir.

20 Q And the garage apartment is that a wood frame building or
21 is that a concrete block building?

22 A It's a concrete. It used to be a garage or something.

23 Q And in the main house they had a telephone, a wall
24 telephone in the kitchen?

25 A Yes, sir.

- 1 Q While you were staying there living with them did you pay
2 a phone bill?
- 3 A No, sir.
- 4 Q Did they have utilities and all that stuff, lights and
5 everything in the main house?
- 6 A Yes, sir; yes, sir.
- 7 Q Did you pay utility bills while you were living there?
- 8 A No, sir.
- 9 Q All right, and as I understand it sometime around March
10 or so of '05, two years ago, you and Mr. Parker moved away
11 from his grandparents' house and you all moved into a trailer
12 somewhere over there near Ladson.
- 13 A Yes, sir, off College.
- 14 Q What -- excuse me now. What did you say?
- 15 A Off College Park Road.
- 16 Q Is the name of that thing Summer Creek.
- 17 A Yes, sir.
- 18 Q Is it a trailer park or something?
- 19 A Yes, sir.
- 20 Q How far was that from Nicholas's house that he had lived
21 in with his grandparents approximately?
- 22 A Like a seven-minute ride, maybe ten at the most.
- 23 Q Five or six miles or something like that?
- 24 A Yes, sir.
- 25 Q You all were living there until approximately October

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- 1 2005?
- 2 A Yes, sir.
- 3 Q Do you know a guy named Roland?
- 4 A Yes, sir, I do.
- 5 Q What's his last name?
- 6 A Roland Ward.
- 7 Q Now, what relation is he to Nicholas Parker?
- 8 A First cousin.
- 9 Q And he's a -- well, is he a grandson or a great grandson
- 10 of Shirley Ward?
- 11 A A grandson, it's her son's son.
- 12 Q He's a grandson also?
- 13 A Yes, sir.
- 14 Q Did he stay there in the house, the Wards' house some
- 15 while you were there?
- 16 A Yes, sir, he did.
- 17 Q He is now approximately how old?
- 18 A I think he's 18.
- 19 Q And when you and Nicholas moved out in March of '05 till
- 20 October of '05 and stayed in the trailer park in Ladson in
- 21 Summer Creek did Roland sometime stay there with you all?
- 22 A Roland stayed there the majority of the time that we were
- 23 there.
- 24 Q And at some point I think you said around October of '05
- 25 you moved out of that trailer park and moved back to

1 Georgetown or moved to Georgetown and started staying ---
2 A Yes, sir.
3 Q --- in the trailer that we've shown the pictures of in
4 this trailer park; is that right?
5 A Yes, sir.
6 Q And this is the -- these pictures are the BB Smith
7 trailer park over there at Lambertown Section?
8 A Yes, sir, well, Sampit.
9 THE COURT: Counsel, counsel, counsel, you're between
10 the witness and the jury.
11 Q Step over here if you would, please.
12 A (Complies with request.)
13 Q On these, on these photographs, let's see, 3A, 3B and 3C
14 is your trailer the first one on the right there that you see?
15 A Yes, sir.
16 Q That would be the first one on the right there that you
17 see; is that what you said? And the person taking that
18 picture, these pictures would have been in the back end of the
19 trailer park looking toward the main highway; is that right?
20 A Yes, sir.
21 Q And the main highway that you can -- it would be at the
22 end of the little road comes into the trailer park, that would
23 be Highway 17A, the St. Delight's Road ---
24 A St. Delight's, yes, sir.
25 Q --- the Lambertown Road; is that correct?

1 A Yes, sir, it's Sampit.

2 Q Sampit.

3 A Yes, sir.

4 Q And in Defense Exhibit 4A the person taking the
5 photograph would have still been in the back end of the
6 trailer park and it would show one trailer on the right, then
7 your trailer, then another trailer behind, on the other end of
8 yours?

9 A Yes, sir.

10 Q Is that correct?

11 A Yes, sir.

12 Q So, one, one trailer on the right, then the next trailer
13 would be yours and then the -- one other trailer on the end of
14 your trailer and the guy taking the picture or woman would
15 have been on the back side of the trailer park?

16 A Back side, yes, sir.

17 Q Is it -- the highway is out here like where the Court is,
18 you would turn down a little dirt road or hard gravel road and
19 go into the trailer park; is that right?

20 A Yes, sir.

21 Q And there was three trailers on the left and three
22 trailers on the right; correct?

23 A No, two, on the -- well, on my side there was three,
24 across there was only two.

25 Q Okay, and on your side, that's on the left, there's one

- 1 trailer and then your trailer is in the middle and then
2 another trailer on the end.
- 3 A Yes, sir.
- 4 Q Then there's some bushes are at the end of the little
5 dirt road there ---
- 6 A Yes, sir.
- 7 Q --- at the end of the trailers. So, this picture in 5A
8 through C, well, the person taking the pictures would have
9 been coming into the trailer park showing your trailer on the
10 left; is that correct?
- 11 A Yes, sir.
- 12 Q Coming into the trailer park, yours would have been, on
13 the three trailers on the left, your trailer would have been
14 the middle trailer?
- 15 A Yes, sir.
- 16 Q So, it's coming the picture -- that would have been
17 coming into the trailer park and showing the three
18 trailers on the left and your trailer would have been the
19 middle one on the left?
- 20 A Yes, sir.
- 21 Q And then this 6A and 6B basically it just shows the front
22 of your trailer; is that correct?
- 23 A Yes, sir.
- 24 Q And then 7A, 7B and 7C the person taking the picture is
25 basically on the back side of your trailer; is that correct?

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1 A Yes, sir.

2 Q And you can see a trailer, well, you basically can see
3 the back side of your trailer in the top one and the back side
4 of your trailer in the middle one and the back side of your
5 trailer in 7C, also; correct?

6 A Yes, sir. Now, this, this right here was not there when
7 this incident happened.

8 Q The trailer straight across in front of your trailer ---

9 A Actually looks like two on that side.

10 Q ---, was not there on the day that that happened.

11 A No, sir, they just moved that in there.

12 Q These is showing the back side of your trailer?

13 A Yes, sir.

14 MR. MODICA: Your Honor, at this point I think I need
15 to object to 7A, B and C because it doesn't accurately depict
16 what existed back then because that, the trailers shown in
17 that photograph wasn't there.

18 MR. GOUDE: Well, that's -- the witness already said
19 that.

20 THE COURT: I overrule the objection. I think that's
21 been clarified.

22 BY MR. GOUDE:

23 Q And 8A and 8B, this also shows the back side of your
24 trailer; is that correct?

25 A Yes, sir.

- 1 Q And at that time you had a little wooden deck on the back
2 side of your trailer just like you had on the front side of
3 your trailer ---
- 4 A Yes, sir.
- 5 Q --- and that's not in these pictures but at that time
6 there was a little wooden ---
- 7 A Yes, sir.
- 8 Q --- stoop coming out; right?
- 9 A Yes, sir.
- 10 Q This also shows the back side of your trailer.
- 11 A Yes, sir, without the steps.
- 12 Q Without the back steps, and this 9A and B and C is
13 basically the same thing showing the back side of your
14 trailer; is that correct?
- 15 A Yes, sir.
- 16 Q And again, the blue trailer that's across the street was
17 not there on the date that we talked about in January of '06.
- 18 A No, sir; no, sir.
- 19 MR. MODICA: Same objection.
- 20 THE COURT: Well, they're already into evidence. You
21 didn't object when they came in. So, they're in.
- 22 BY MR. GOUDE:
- 23 Q And this picture 10A, B and C, does this show the little
24 BB Smith store that's out at the main highway?
- 25 A This picture right here does, yes, sir.

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1 Q That's the middle one and then the top one shows
2 basically the sign and the storage yard and driving back into
3 the trailer park?

4 A Yes, sir.

5 Q And then the bottom one, 10C just shows the store as you
6 approach it from the Georgetown Andrews Highway ---

7 A Yes, sir.

8 Q --- 521; is that correct?

9 A Yes, sir.

10 Q And it's got a little street sign on the bottom picture,
11 Ellen is that the little lane that runs down into you all's
12 trailer park?

13 A No, sir, ours is St. -- yeah, that's, it is Ellen, yes,
14 sir, yes, sir, because he has another trailer park beside it.
15 I was thinking that was it.

16 Q Okay, and then this middle picture is that the pay phone
17 that you called from that evening ---

18 A Yes, sir.

19 Q --- Sunday evening?

20 A Yes.

21 Q And that's the little store there by the main highway
22 that you come into your trailer park?

23 A Yes, sir.

24 Q BB Smith's store and BB Smith's trailer park; is that
25 right?

- 1 A Yes, sir.
- 2 Q And this is basically a picture of the little lane, Ellen
3 Lane that goes into your trailer park and then the top picture
4 here the person taking the picture would have been on the
5 Jamestown or Moncks Corner or ---
- 6 A Of the sign BB's.
- 7 Q --- of the side like you was looking back toward Highway
8 521?
- 9 A Yes, sir.
- 10 Q And then the bottom picture the guy would have just been
11 standing across the highway, on the other side of the highway
12 looking into the road going into the trailer park?
- 13 A Yes, sir.
- 14 Q This is the little dirt road, Ellen Drive, or hard gravel
15 going into you all's trailer park?
- 16 A Yes, sir.
- 17 Q And the last picture 12A and 12B this is pretty much like
18 11, this is the person standing across the highway from the
19 trailer park looking into the trailer park showing the road
20 going into you all's trailer park.
- 21 A Yes, sir.
- 22 Q And basically the same thing on the bottom picture but
23 the person ---
- 24 A There's a convenience store and then turning in to go to
25 the trailer park.

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1 Q And this picture being at the store or at the highway
2 looking into the road going into the trailer park.

3 A Yes, sir.

4 Q All right, if you would please be seated again. Thank
5 you.

6 A Thank you. (Complies with request.)

7 Q Now, when -- well, about October when you moved from the
8 Summer Creek trailer park, October of 2005, moved into the
9 trailer there at BB Smith trailer park in the Lambertown,
10 Highway 17A Section of Georgetown County, who owned that
11 trailer that you moved into?

12 A My mother. She's always owned it.

13 Q Did she own it before October 2005?

14 A Yes, sir.

15 Q Was it there at the BB Smith trailer park before 2005?

16 A Yes, sir.

17 Q Before October '05?

18 A Yes, sir.

19 Q When you moved into it in October 2005 was there somebody
20 living in it?

21 A No, sir.

22 Q And as I understand it and you moved into it and you
23 moved your stuff -- when you all left Summer Creek trailer
24 park, Ladson, South Carolina, in October '05, you left -- did
25 you leave by yourself to come to BB Smith or did Nicholas

1 Parker come with you?

2 A Nicholas Parker came with me.

3 Q Both of you all moved at the same time?

4 A Yes, sir.

5 Q Did you all leave some of you all's possessions in the
6 trailer in Ladson at the Summer Creek place you all were
7 living over in Summerville or Ladson, did you all leave some
8 of you all's stuff, personal items or the kids' toys,
9 whatever, boxed up over there?

10 A There was inside the shed it was.

11 Q That's right.

12 A And then Mrs. Ward came and got them because she likes
13 to, you know, like go through stuff or whatever like flea
14 market stuff.

15 Q All right, and when you and Nicholas came to Georgetown
16 were the lights and utilities on in the trailer at BB Smith
17 trailer park when you all came to Georgetown or did you and
18 Nicholas turn them on?

19 A No, sir, my mother done had them on for me.

20 Q She did or did not?

21 A She did.

22 Q And were they in your name or her name?

23 A My mother's name.

24 Q Was there a debt, a monthly debt, a lien to some lender
25 on that trailer or was it paid for?

1 A It was paid for.

2 Q Did you all have to pay a lot rent to BB Smith trailer
3 park?

4 A Yes, sir, of \$90 that my mother paid for me.

5 Q All right, and you all stayed there I think about a week
6 or two weeks and then Nicholas moved out and moved back to his
7 grandma's house in Summerville?

8 A Yes, sir.

9 Q And you stayed another week or week and a half and then
10 you moved out, too, and you moved to his grandma's house in
11 Summerville?

12 A Yes, sir.

13 Q Did -- who paid the utilities for the period of time that
14 you all were staying there at the trailer at BB Smith's
15 trailer park?

16 A My mother.

17 Q And she paid the lot rent, too?

18 A Yes, sir.

19 Q Did you all have a telephone in that trailer at BB
20 Smith's?

21 A No, sir, she would let me use her cell phone.

22 Q All right, and he moved to his grandmamma's for -- and --
23 after a week or so staying in the trailer here in Georgetown
24 County, he moved to his grandmamma's and a week or so later
25 you left and you moved in with him at his grandma's house,

- 1 too?
- 2 A Yes, sir.
- 3 Q Did you say you took your two kids with you to
- 4 Summerville at that time in October or November of '05?
- 5 A Yes, sir, I did take them with me.
- 6 Q And did you keep the kids there with you until January
- 7 the 17th when you moved out?
- 8 A No, sir, my children left in November.
- 9 Q And where did they go?
- 10 A To my mother's.
- 11 Q You said you had two, BM and MM did you say?
- 12 A BM and MM
- 13 Q
- 14 A Yes, sir.
- 15 Q Which one is nine, did you say nine and seven?
- 16 A BM is nine and MM is seven.
- 17 Q All right, and they left, the two kids left in November
- 18 and went to your mom's.
- 19 A Yes, sir.
- 20 Q Is -- Nicholas is not the father of the children.
- 21 A No, sir.
- 22 Q Does the father of the kids have visitation with the
- 23 kids?
- 24 A He doesn't have anything to do with them.
- 25 Q Does he pay you child support?

1 A No, sir.

2 Q When you stayed with Nicholas and his grandparents from
3 October or so of '04 till March of '05 did your kids, two kids
4 live with you there at their house?

5 A Yes, sir.

6 Q When you and Nicholas lived together from March '05 till
7 October '05 in the trailer park in Ladson did your two kids
8 live with you there?

9 A Yes, sir.

10 Q All right, then from November to January the 17th or so
11 you were in the -- Nicholas's home and the children were
12 staying with your mother?

13 A Yes, sir.

14 Q During that time, October or November of '05 till January
15 17th of '06 did you have that white Ford Escape with you in
16 Summerville then?

17 A No, sir, my mother didn't let me bring it down here.

18 Q Did you have it before you went over there?

19 A I went -- I had it only when I was in Georgetown, only if
20 I lived in Georgetown. She wasn't going to let me bring it
21 down here, well, down there to Summerville.

22 Q Did you have it for the couple of weeks or so you all
23 stayed in the BB Smith trailer park in October of '05?

24 A Uh-huh (affirmative response), yes, sir, I did.

25 Q Is that a SUV?

- 1 A Yes, sir, it's a Ford Escape, it's a mini SUV.
- 2 Q Mini SUV, it's got the hatchback on the back?
- 3 A Yes, sir.
- 4 Q And the back seat lay down?
- 5 A Yes, sir.
- 6 Q What year car is that?
- 7 A I'm pretty sure it's a 2001 or either 2002.
- 8 Q Was there a monthly payment on that that you were having
- 9 to pay?
- 10 A No, sir.
- 11 Q All right, and then January the 17th when you moved back
- 12 to BB's, back to Georgetown County your ma let you use that
- 13 car then?
- 14 A Yes, sir.
- 15 Q When you came back to Georgetown in January the 17th then
- 16 on that calendar January the 17th would have been what day of
- 17 the week?
- 18 A On a Tuesday.
- 19 Q And the incident that we're all here talking about today
- 20 that happened on January the 29th that was what day of the
- 21 week?
- 22 A Which was a Sunday.
- 23 Q So, if you moved out from Summerville on the 17th that
- 24 would have been like Tuesday and then a week and a half later
- 25 this incident would have occurred?

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1 A Yes, sir.

2 Q Did -- when you moved back to Georgetown on January the
3 17th where did you start living then?

4 A I was with my mother at first.

5 Q And at first what does that mean?

6 A When I first moved back I lived with my mother at 230
7 Warbler, which is off of 521.

8 Q That's like Highway 17A from the Lambertown Section like
9 if you go from Georgetown to Andrews, you turn left halfway
10 there on the ---

11 A Right before the 521 Mini-Mart on 521.

12 Q All right, to get to the BB Smith's trailer park if
13 you're going from here to Andrews ---

14 MR. MODICA: Your Honor, objection as to relevance.

15 THE COURT: It's cross. I'll allow it. Go ahead.

16 BY MR. GOUDE:

17 Q If we're going from -- to your trailer park, BB Smith's
18 trailer park from here at the courthouse we would drive
19 through here like we're going to Andrews and turn left on
20 Highway 17A, the Lambertown Section; correct?

21 A To go to my mother's.

22 Q To yours?

23 A To go to my home, yes.

24 Q And you were down, what, two or three miles down before
25 you get to BB Smith's trailer park.

1 A From my mother?

2 Q From where you turn off of 521 onto 17A.

3 A About a two-minute drive.

4 Q Okay, so, a couple of miles from Highway 521, goes
5 between here and Andrews, and you left turn on 17A, go down
6 two minutes and BB Smith's trailer park is there on the left;
7 correct?

8 A Yes, sir.

9 Q And your mother, she lives right off of Highway 521
10 between here and Andrews on the left before you get to the 17A
11 turnoff; is that correct?

12 A If you're coming from Georgetown, yes, it's on the left.

13 Q So, she lives -- where she lives on Warbler Street about
14 how far was that from your trailer at BB Smith trailer park?

15 A Five minutes if you're doing the speed limit, seven at
16 the most.

17 Q Now, when you came back January the 17th, 2006, you say
18 you lived with your mother at first. How long did you live
19 with your mother?

20 A I stayed with her like the first week. That weekend that
21 all this happened was the first weekend that I was starting to
22 get in there to start and straighten things up so me and my
23 children can live in there together and not live with my
24 mother.

25 Q Had you brought, when you left Summerville January the

1 17th, did you bring any stuff with you?

2 A No, sir, just myself.

3 Q Well, how did you get from ---

4 A Because my stuff was still left at BB's trailer -- at the
5 home in BB's trailer park because whenever we -- I went back
6 in October I didn't bring my stuff.

7 Q You didn't take ---

8 A I didn't take my, like my microwave and all my personal
9 stuff in that home. All I did was take clothes.

10 Q All right, and as I understand it, Mrs. Ward had moved
11 whatever stuff you all had left in the trailer park in Ladson,
12 the Summer Creek trailer park when you moved out in October of
13 '05, she had taken that stuff and taken it to her house the
14 Lilac Lane in Summerville?

15 A Yes, sir.

16 Q All right, and did you say that you stayed with your
17 mother when you came back down here January the 17th of '06?
18 You stayed with her till about the first week or so or did you
19 say you stayed with friends after that?

20 A No, I started going into my home trying to get it ready
21 for me and my children to stay in it just us three.

22 Q Were the lights on in the trailer?

23 A Yes, sir, the lights has always been on.

24 Q They stayed on while you were in Summerville.

25 A Even when I was in Summerville with Nicholas.

1 Q Did you have a -- did say you had no phone in the trailer
2 at that time?

3 A No, sir, no phone.

4 Q Now, between January the 17th and January the 29th when
5 you came back down here at sometime during the week before
6 this incident on Sunday the 29th did you drive back to
7 Summerville and see Mr. Parker?

8 A One time I saw him.

9 Q Did you like go to his workplace or something?

10 A He wasn't working.

11 Q Was the -- did you go to their house?

12 A Yeah, 1108 Lilac.

13 Q And was that the Friday before this Sunday occurred?

14 A That might have been like the second day after I was
15 gone.

16 Q Say Saturday.

17 A So, that'd be like the 19th.

18 Q And were you driving the white Ford Escape SUV then?

19 A Yes, sir.

20 Q Did you bring some of your stuff back from Summerville in
21 with you?

22 A Just a little bit of it, the stuff that was in his
23 bedroom.

24 Q All right, and then I understand that between the 17th
25 and the 29th you had talked with somebody there at his house

1 and made arrangements you were going there that Tuesday,
2 January the 31st, to pick up the rest of your stuff that was
3 there in the house; right?

4 A Yes, sir, me and my mother had talked to Mrs. Ward and
5 told her that we would definitely be there Tuesday the 31st to
6 get everything that belonged to me.

7 Q That Sunday morning January the 29th when all this stuff
8 occurred, you and Mr. Parker talked about 5:30 that morning on
9 the telephone; is that correct?

10 A And I told him to quit calling, yes, sir, that's correct.

11 Q And during that call did he ask you to go to Summerville
12 that day, Sunday, instead of coming Tuesday to get the
13 remainder of your stuff?

14 A No, sir.

15 Q During that call did you ask him to come get you and take
16 you to Summerville that morning?

17 A No, sir, because I already knew I was going there that
18 Tuesday.

19 Q What vehicle were you all going to drive that Tuesday?

20 A Me and my mother was going to have my brother help us and
21 have a trailer.

22 Q And your mother's name, as I understand it is, her maiden
23 name is Dangerfield; is that correct?

24 A Her maiden name is Debbie McLaughlin.

25 Q Is what?

1 A McLaughlin.

2 Q Does she have a -- has she ever been known by
3 Dangerfield?

4 A Yes, sir, but her real name is McLaughlin. It's just --
5 it's a long story.

6 Q Is Dangerfield a prior married name or an adopted name or
7 ---

8 A Adoption.

9 Q Adopted name.

10 A Yes, sir.

11 Q And she says that she has a adopted name of
12 Dangerfield and a prior married name of
13 Driggers?

14 A No, Elliott.

15 MR. MODICA: Objection as to relevancy.

16 THE COURT: Well, it -- excuse me, it's cross. I'll,
17 I'll allow it. Go ahead.

18 Q Has Driggers ever been her last name?

19 A No, sir.

20 Q All right, you said the only last name she's had would be
21 McLaughlin would be her birth name, Dangerfield her adopted
22 name.

23 A And then Elliott which is her married name which now
24 she's divorced.

25 Q Now, you had indicated that Nicholas Parker's mother,

1 Sherry Ward, knew you and visited you -- visited her boyfriend
2 who lived in property where you were staying. Was that your
3 property or your aunt's?

4 A It was my father's property. It's split in three
5 different ways. One's my father's, one's my aunt's and one's
6 my uncle's.

7 Q Now, do you use, do you use cigarettes?

8 A Not anymore I don't. Since I got sick I haven't smoked,
9 but I did smoke in the past.

10 Q Up until approximately when?

11 A A week ago.

12 Q And were you a -- how heavy of a cigarette smoker were
13 you?

14 A A pack could probably last me two days, day and a half,
15 two days. I don't know. I don't -- I, I don't know

16 Q And on the Sunday morning -- well, strike that. Did your
17 mother and Mr. Parker get along well together?

18 A No, sir.

19 Q Did she like him or not like him?

20 A No, sir.

21 Q Approximately, approximately September or October of '05,
22 a couple of days before you moved out from Summer Creek in
23 Ladson, did your mother, Debbie Elliott, drive over there to
24 your home in the Summer Creek trailer park in Ladson and did
25 she tell you that if you did not leave ---

1 MR. MODICA: Objection, calling for ---

2 THE COURT: Go ahead. Don't answer, but go ahead and
3 complete your question.

4 MR. MODICA: It's calling for hearsay.

5 MR. GOUDE: I'm not offering it for the truth.

6 THE COURT: Well, go ahead and ask the question and
7 then we'll take care of it.

8 BY MR. GOUDE:

9 Q Did your mother tell you that if you did not leave
10 Nicholas and leave that trailer park she was going to take the
11 kids and tell everyone that you and Nicholas were on
12 drugs?

13 A Do I answer that?

14 THE COURT: Wait, wait, wait, no. You object?

15 MR. MODICA: Yes.

16 THE COURT: I sustain the objection.

17 MR. GOUDE: Judge, we'd like to make an offer of
18 proof on that point.

19 THE COURT: All right, we'll put that down. We'll
20 make a proffer at a later time. Go ahead.

21 BY MR. GOUDE:

22 Q Did your mother visit you at any time in September or
23 October of '05 while you were living in the Summer Creek
24 trailer park in Ladson?

25 A Yes, sir, but we was not living in the Summer Creek

1 trailer -- in -- yeah, from March to -- yes, yes, she did.

2 Q And ---

3 A I have got mixed up on your dates.

4 Q And the last time that she visited over there while you
5 were living there how much time passed between the last time
6 she was there and the date that you all -- you and Nicholas
7 moved out of that trailer?

8 A How long what?

9 Q From the last time your mother came to your trailer in
10 Ladson until you and Nicholas moved out about much time passed
11 between those two events?

12 A I don't really -- I, I don't know.

13 Q And the time I mentioned a second ago where your mother
14 came there, even though I can't ask the question at this
15 point, was Roland Ward, Nicholas's cousin, was he there on the
16 porch when your mother drove up in the car?

17 A What time are you talking about? I don't even know what,
18 I don't even know what you're talking about.

19 Q All right, well, let me ask it this way. Approximately
20 September of, October of '05 a few days before you moved out
21 of the trailer ---

22 A Okay.

23 Q --- in Ladson did your mother come to the trailer park
24 and you and Roland were there at the trailer and your mother
25 spoke to you from the car she was in and you and Roland

- 1 basically heard what she said?
- 2 A No, sir.
- 3 Q And shortly after -- well, I'll ask you a second
- 4 question, shortly after your mother left did you then tell
- 5 Nicholas that you were going to have to leave
- 6 because you would not give up your children for Nicholas?
- 7 A No, sir.
- 8 Q Have you ever told him that, something like that that ---
- 9 A No, sir.
- 10 Q --- you would not give up your children for him?
- 11 A No, I would -- I'm not going to give my children up for
- 12 nobody.
- 13 Q I understand that. I'm asking you did you tell him that?
- 14 A No.
- 15 Q You did not tell him that.
- 16 A No, sir. Oh, my God.
- 17 Q On this weekend when this incident happened, Sunday,
- 18 January the 29th, and that evening, where did you stay Friday
- 19 night of that week?
- 20 A At my, at my home, at my trailer, me and my children.
- 21 Q And your children stay there, too?
- 22 A Yes, sir.
- 23 Q And Saturday night where did they stay?
- 24 A Casey and Brandon -- well, John -- it was at John
- 25 Hewitt's house. Casey Lambert is the one that kept them for

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1 me.

2 Q And where is that located?

3 A It's at Joe Smith's trailer park.

4 Q How far is that from BB Smith's trailer park?

5 A Like a second. It's the next trailer park. It's like
6 two minutes.

7 Q Could we see that one from the photographs that we were
8 looking at ---

9 A Oh, no, sir, no, sir.

10 Q --- a while ago?

11 A No, sir, you can't see them from that. I mean, like two
12 minutes, it's like, it's a two-minute drive.

13 Q Is that the one that's on the photographs?

14 A You're not going to be able to see them in them
15 photographs. You've got to go past BB's, back past the
16 church, then there's the trailer park.

17 THE COURT: All right, counsel, try not to get
18 between the witness and the jury.

19 Q The -- so, the trailer park that's immediately
20 behind your trailers that you can see in photograph 11A
21 through Ellen Drive that's not the Joe Smith trailer park?

22 A No, sir, that's BB's other trailer park.

23 Q Is that still part of BB Smith's trailer park?

24 A Yes, sir.

25 Q And there are what, eight or ten trailers in that section

1 of BB's trailer park, too?

2 A Probably about that many.

3 Q And then on that morning five in your section of the

4 trailer park?

5 A Yeah, one, two, about four, yeah, four or five.

6 Q Three on your side on the left as you drive down the

7 little road and there's two ---

8 A Yeah, it's five, five.

9 Q And this Saturday evening or Friday night you stayed in

10 your trailer with your children.

11 A Yes, sir.

12 Q Were you alone on that Friday night?

13 A Yes, sir.

14 Q Did you not stay in a motel any that weekend or a motel

15 ---

16 A No, sir.

17 Q --- or anything with any other people?

18 A No, sir.

19 Q And this Saturday what did you do during that Saturday?

20 A Hung out with my kids, got up with my friend, we went

21 over to John Hewitt's house.

22 Q And the friend was whom?

23 A Casey, Casey Lambert.

24 Q And approximately what time did you get over to John

25 Hewitt's house?

- 1 A It was afternoon, after 12.
- 2 Q And is he married?
- 3 A Yes, he is married with two children.
- 4 Q And you all stayed there from approximately 12 o'clock
- 5 noon on Saturday until approximately when?
- 6 A It was probably around 1:30, 2:00 and then I left before
- 7 midnight that night because I wasn't feeling good.
- 8 Q And did the children stay there at John Hewitt's house?
- 9 A Yes, with my, with my friend, Casey.
- 10 Q All right, and that's where the alcohol was drank. Now,
- 11 did you also use cocaine during that time?
- 12 A Yes, I think I might have did two.
- 13 Q And did you also smoke marijuana during that time?
- 14 A No, sir, I didn't smoke any marijuana.
- 15 Q And when you got back to your trailer or that morning
- 16 Sunday morning when Mr. Parker came in was there cocaine
- 17 residue on the coffee table?
- 18 A No, sir, I have children. I would never do anything like
- 19 that.
- 20 Q Was there marijuana roaches in the ashtray ---
- 21 A No, sir.
- 22 Q --- there in your trailer?
- 23 A No, sir.
- 24 Q Was there alcohol beverage containers there in that
- 25 trailer?

1

2 A No, sir, the way you see the pictures that's what my
3 house looked like.

4 Q And those pictures were taken as I understand it on ---

5 A The very next day after I got kidnapped.

6 Q Was it Monday afternoon?

7 A Yes, I'm pretty sure it was Monday afternoon. Once I got
8 kidnapped from there I never went back there. I stayed with
9 my mother until Detective Dustin came and did what he had to
10 do.

11 Q Those pictures were not taken Sunday morning, January the
12 29th; were they?

13 A No, sir, but I'm seeing how you see the pictures whenever
14 Dustin took them that's what they looked like Sunday.

15 Q All right, how long have you had the bronchitis and
16 pneumonia problem?

17 A I just got it a week and a half ago.

18 Q And you had mentioned that you and Mr. Ward lived
19 together since October of ---

20 A Mr. who now?

21 Q Excuse me, Mr. Parker, from about October of '04 till
22 January -- off with the times we've talked about and the
23 places till January of '06 and were you and he and the mother
24 did not like Mr. Parker, you stated that; correct?

25 A No, sir, she did not.

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1 Q Were you and Mr. Parker heavy cocaine users?

2 A No, sir, we were not.

3 MR. MODICA: Objection, objection.

4 THE COURT: I sustain the objection. She said they
5 weren't but I sustain the objection. That's got -- that's not
6 relevant.

7 Q Were you and Mr. Parker heavy marijuana users during that
8 time?

9 A No, sir.

10 Q Were you and Mr. Parker heavy users of alcohol during
11 that time?

12 A No, sir. You can't have all that stuff if you don't have
13 a job. You know, you can't have fun if you don't have any
14 money.

15 Q All right, now, this Sunday morning as I understand it,
16 when you were at Lilac Lane in Summerville, did you see Josh's
17 girlfriend, Debbie?

18 A No, I did not.

19 Q Ma'am?

20 A No, sir, I did not.

21 Q Did you know Debbie?

22 A Yes, I did know Debbie when she was alive.

23 Q All right, I think you said about 5:30 that Sunday
24 morning, January the 29th, Kevin Johnson came over to the
25 trailer where you were at?

- 1 A Yes, sir.
- 2 Q Where does he live?
- 3 A He lives on the same street as my mother but he was there
- 4 that night.
- 5 Q He was there where?
- 6 A Because him and John Hewitt are best friends.
- 7 Q Where was he staying that night?
- 8 A I guess he stayed the night there. I mean, they ---
- 9 Q At John Hewitt's?
- 10 A Yes, sir.
- 11 Q This is the trailer that's a couple of miles, a couple of
- 12 minutes away from your trailer?
- 13 A Yes, sir.
- 14 Q Did anyone come with him at that time?
- 15 A No, sir.
- 16 Q And as I understand it you used the telephone and made a
- 17 phone call to ---
- 18 A To Nicholas because Nicholas kept calling their phones
- 19 which you can see in the records. So, I told him to leave my
- 20 friends alone.
- 21 Q Now, have you been around people that are heavy users of
- 22 cocaine? And I have a reason for the question. The reason is
- 23 ---
- 24 MR. MODICA: Objection.
- 25 THE COURT: Well, whoa, whoa, whoa, don't go into

1 that. He's objecting and I sustain it, but I'll let you make
2 a proffer later.

3 Q Ma'am, do you know that people that use cocaine
4 frequently, often develop sinus or bronchial problems from
5 burning out their throat lining using cocaine?

6 A Yes, but I've had this since I was a child if you're
7 talking about me. I've always had allergy problems and I did
8 not, I've never did cocaine in my life until October when I
9 lost my father. I've never been a big user. It's just
10 something I went to whenever I lost my father. I lost my
11 mind. I did coke for a while and then I realized it's not
12 worth it.

13 Q October of what year?

14 A Of '02.

15 Q At any point during that morning you all were in
16 Summerville did you go into the main house ---

17 A No, sir.

18 Q --- where the Wards lived?

19 A No, sir.

20 Q You didn't speak to Mr. Parker's mother during that
21 morning?

22 A No, sir.

23 Q You didn't -- did you see Roland that morning?

24 A No, sir.

25 Q Did you help load any of the stuff of yours that was

- 1 there at the Ward or Parker house in Summerville to bring back
2 that Sunday?
- 3 A Yes, sir, the light things that wasn't as heavy.
- 4 Q And were those things in boxes or did you all put them
5 in those black construction garbage bags or how were they?
- 6 A There was some in trash bags. There was some in boxes.
- 7 Q Before that Sunday, January the 29th, did you have any
8 boxes still in your trailer in BB Smith's trailer park that
9 were still boxed up, any boxes or personal items?
- 10 A Yes, sir, behind the couch.
- 11 Q Behind the couch.
- 12 A Uh-huh (affirmative response), yes, sir.
- 13 Q Do you know approximately how many boxes?
- 14 A Probably like two or three.
- 15 Q Are you a person that bruises easily?
- 16 A Yes, sir.
- 17 Q Where are you living now today?
- 18 A I live in Moncks Corner with my two children on my own.
- 19 Q Now, have both children been living with you or have you
20 been living in Moncks Corner since this incident, let's say
21 since January of '06?
- 22 MR. MODICA: Objection as to relevance.
- 23 THE COURT: Yeah, I sustain the objection.
- 24 Q Have both kids been with you since January '06?
- 25 A Oh, yes.

1 Q Has not been with your mother any during that time?

2 A My little girl did because of school situations because
3 everything that was going on.

4 Q What period of time?

5 A She stayed there probably three months and then once I
6 got my home in Moncks Corner that I live in now then I got my
7 child back.

8 Q That was your aunt in Moncks Corner?

9 A Excuse me?

10 MR. MODICA: Objection as to relevance.

11 THE COURT: I sustain the objection.

12 Q How far is that from where Linda Parker lives?

13 MR. MODICA: Objection.

14 THE COURT: I sustain the objection.

15 Q During any of the time that you and Mr. Parker were
16 living together from October of '04 through the end of January
17 through the date of this incident, January 29th, '06, at any
18 time during that time was your mother telling you not to say
19 do what she said but as to the question did she tell you ---

20 MR. MODICA: Objection, hearsay, objection.

21 THE COURT: Wait a minute, I've got to hear the
22 objection before you object. I can't rule on it till I hear
23 the question. Don't answer.

24 MR. MODICA: Yes, but Your Honor, you can tell from
25 the context that it's asking for hearsay.

1 THE COURT: Well, go ahead and ask the question.
2 MR. GOUDE: Not asking for the truth of the ---
3 THE COURT: Well, I'm not -- I've just asked you to
4 ask the question.
5 BY MR. GOUDE:
6 Q At any point from October of '04 when you and Mr. Parker
7 started living together till January 29th, '06 when this
8 incident occurred did your mother, Debbie Elliott ever tell
9 you words similar to what I'm going to ask you now, not these
10 exact words but similar to this, meaning this, that if you
11 didn't leave Mr. Parker she was going to report you to the DSS
12 or take your children away from you?
13 A No, sir, my mother, no, sir, the reason why that she did
14 not care too much for Mr. Parker is ---
15 MR. MODICA: Your Honor.
16 THE COURT: He didn't ask you that.
17 A Okay.
18 THE COURT: Just wait till you get your next
19 question.
20 Q So, would you say that she didn't care, it's be fine with
21 Her if you stayed with Mr. Parker, you and the children ---
22 MR. MODICA: Objection.
23 Q --- kept living with him?
24 THE COURT: I sustain the objection. I sustain the
25 objection.

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1 Q She didn't tell you ---

2 MR. GOUDE: I'll ask another one, Judge.

3 BY MR. GOUDE:

4 Q Did she care if you lived with Mr. Parker or not?

5 MR. MODICA: Your Honor ---

6 THE COURT: I sustain the objection. This is an
7 adult. She can live where she wishes.

8 Q All right, ma'am, what is your age?

9 A 30.

10 Q What is your height?

11 A 5-6.

12 Q What is your weight?

13 A 150 pounds.

14 Q Was your weight approximately the same?

15 THE COURT: Wait a minute. We got a hand raised over
16 here.

17 MR. MODICA: Your Honor, I need a break.

18 THE COURT: Okay, all right, we'll take a short
19 break. I'd like to finish. It's getting towards lunchtime
20 but I'd like to try to get through with this witness. So,
21 let's take a short break. Just wait. All right, we got a
22 bailiff? Let's take the jury to the jury room.

23 (Whereupon, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right, we'll take about a 10-minute

1 break. You can do the same thing as last time.

2 A Thank you.

3 MR. MODICA: May I approach briefly with counsel?

4 THE COURT: Yeah.

5 (Whereupon, a Bench conference was held.)

6 ***** OFF THE RECORD *****

7 (On the record.)

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 THE COURT: All right, before we get the jury back
11 in, over the break we -- I had a little bit of dialogue with
12 counsel, and we've got some issues about to what degree the
13 Defense can go into prior drug use by this victim, alleged
14 victim, the witness on the witness stand. I'm going to allow
15 a proffer on that at a later time. Like to go ahead and
16 finish up with the testimony. The State, of course, objects
17 to that on the ground of relevancy, and I have preliminarily
18 and we actually put this on the record yesterday, I believe,
19 in motions in limine found that it was not relevant. I do
20 understand from the Defense that it's the Defense position
21 that this goes into some type of intent as to whether or not
22 the Defendant did what he did if he did it, in fact, with sort
23 of a good Samaritan rescue intent or whether he, that is
24 whether he lacked criminal intent, that he was doing this as a
25 favor to this lady. I'm not going to allow testimony about

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1 the prior drug use. She's testified that she used some drugs
2 and some alcohol on the day before this and, of course, the
3 testimony so far is that without invitation he went to her
4 premises, and so, I don't believe the state he found her in is
5 really relevant since he went there uninvited, and there's no
6 testimony at this point as to her being in any kind of
7 condition on that particular day, and his testimony, if he
8 does testify, and of course, he has a Fifth Amendment Right to
9 remain silent, will certainly -- could go to this state of
10 mind as to what he thought, but as far as going into testimony
11 as to her prior use of drugs, I'm not going to allow that. I
12 will allow the Defense to make a proffer, but I'd like to do
13 that after lunch so we can get -- let the jury go to lunch.
14 Anything else from the Defense, I mean, from the State?

15 MR. MODICA: Your Honor, I had also said at the side
16 bar when we took the break that I believe that the Defense has
17 opened the door by a number of questions, and if you want me
18 to be specific about it I can let the Court know, but you
19 heard the testimony that he has opened the door concerning
20 past violence against the victim, which would give the jury an
21 explanation of why she's acting the way she is under certain
22 circumstances and it includes, but not limited to, the fact
23 that she moved back in with him at a period of time that she
24 saw him afterwards and that the mother does not like the
25 Defendant, and since he asked that, ``And well why doesn't she

1 like him, " because he's, he's, you know, "He's beating me
2 silly."

3 THE COURT: Well, again, as I stated to -- I think
4 put a little bit on this record Monday and then just on the
5 side bar earlier, I really don't see the relevancy in his past
6 conduct as to what happened that morning. I mean, so, I'm
7 going to -- not allow either the -- either issue to be
8 developed at least at this point. I don't find the door has
9 been opened on any kind of prior violence. I don't think it
10 would take a genius to see that this couple had a rather
11 stormy relationship. She's already testified to his
12 controlling nature and his conduct on that particular morning.
13 So, I'm not going to allow any further development unless
14 something else happens.

15 All right, bring in the jury.

16 (Whereupon, the following takes place in the presence of
17 the jury.)

18 BY MR. GOUDE:

19 Q Ma'am, before we broke I asked you your weight at the
20 time and you said 150 pounds. Is that now or was that on
21 January the 29th, 2006?

22 A That's now.

23 Q Was your weight basically the same thing then?

24 A Yes, sir.

25 Q Now, when you first were talking with the police

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1 reporting this incident you went to them on Monday, January
2 the 30th, the day after the incident; correct?

3 A Yes, sir.

4 Q And then again after they had done some investigation on
5 Tuesday, January the 31st, about 6 p.m., did the police talk
6 with you again?

7 A Yes, sir.

8 Q And at that time did they tell you that ---

9 MR. MODICA: Objection. Did they tell you is calling
10 for hearsay.

11 MR. GOUDE: I'm not asking for the truth, just ---

12 THE COURT: No, this, this is after the -- I overrule
13 the objection.

14 BY MR. GOUDE:

15 Q Did the police tell you that they had talked to Mrs.
16 Ward, the grandma, and she had said that you had called their
17 house on the morning of the incident, January the 29th; did
18 they tell you that Tuesday evening, January the 31st?

19 A Yes, sir, they did.

20 Q And did the policemen, investigators investigating the
21 case did they ask you at that time if you had called that
22 house that morning?

23 A Yes, sir, they did.

24 Q And you told them, no, you did not call that house on
25 January the 29th; correct?

1 A I did not, no, no.

2 Q You said you did not call there that morning; is that
3 correct?

4 A Yes, sir.

5 Q And then the next day, February the 1st, about 11:30, did
6 you meet with the investigators again and then did you tell
7 them that you had something to tell them, that really you did
8 call that house that morning?

9 A Yes, sir.

10 Q And you talked with them on Monday the 31st, that
11 evening, you said you did not call, the police investigator
12 then told you that Monday evening, January the 31st, that he
13 was going to obtain the phone records for ---

14 MR. MODICA: Objection.

15 MR. GOUDE: I'm not offering it.

16 THE COURT: I'll go ahead and allow it.

17 BY MR. GOUDE:

18 Q When you told the police officer, investigator Monday
19 evening, the 31st, that you had not called that house, he then
20 told you that same evening, didn't he, that he was going to
21 obtain the phone records for the Wards' phone to prove that
22 they were lying when they said you had called their house that
23 morning. Didn't he tell you that?

24 MR. MODICA: Objection.

25 THE COURT: Well, I sustain the objection. I find

1 that's not relevant. I'll let you make a proffer on it.

2 A Do I answer, Your Honor?

3 THE COURT: You don't need to answer. I'll let you
4 make a proffer later.

5 BY MR. GOUDE:

6 Q Prior to that point, January the 29th, 2006, for whatever
7 Reason, had Mr. Parker seen you passed out before?

8 MR. MODICA: Objection.

9 THE COURT: I overrule the objection. It's cross.

10 A Answer?

11 THE COURT: Yeah.

12 A No, sir.

13 Q Never in a year and a half of living together?

14 A No, sir.

15 Q Did you say earlier that you had spoken to Mr. Parker on
16 Friday, the day, two days before this incident, January the
17 27th?

18 A Yes, sir.

19 Q When you called Mr. Parker's house Sunday morning,
20 January the 29th about 5:30 you had no phone in your trailer;
21 correct?

22 A No, sir.

23 Q And you used Brandon Lambert or somebody's cell phone?

24 A Yes, sir.

25 Q Did you tell Mr. Parker when you were talking with him on

1 the phone at 5:30 that morning where you were at?

2 A No, sir, I don't think I did. No, sir, I didn't.

3 Q Since then, since January the 29th, 2006, have you been
4 back to Mr. Parker's home at Lilac Lane in Summerville?

5 A No, sir, but I did pay my respects to the sister-in-law
6 that passed away because me and her were friends.

7 Q The sister-in-law, who is that now?

8 A That would be his brother's girlfriend, Debbie.

9 Q That is the brother, Josh?

10 A Yes, his girlfriend that passed away, yes, sir.

11 Q Debbie was the one that lived there at the house with
12 them, too?

13 A Yes, sir.

14 Q She passed away approximately when?

15 A I think it was in October of last year.

16 Q Did you go to the Parker house?

17 A No, I called and paid my respects.

18 Q You have not been back to that house since then?

19 A No, sir; no, sir.

20 Q Have you -- and Mr. Parker's mother, Sherry Ward, have
21 you all spent time together since January?

22 A She has come to my home one evening when I was in --
23 laying in the bed watching TV with my children and threatened
24 me.

25 Q Threatened you?

1 A Yes, sir, she did.

2 Q Has she been and talked with you any other time person to
3 person other than that one time?

4 A She has come to the home to where I was at before I moved
5 to Moncks corner, threatening me, telling me that I need to
6 come call you and tell you that I forgive him. If not, I'm
7 going to pay for it. That's the only time we've ever had any
8 kind of conversation is her threats.

9 Q What home was that where you were staying at?

10 A That was in Summerville.

11 Q Was that the same place you're living now?

12 A No, sir, it's the -- it was -- that's the place where my
13 father owned, the piece of land that my father -- that's where
14 I lived with my aunt. I no longer live with my aunt anymore.

15 Q Have you and she not talked on the phone many times since
16 January the 29th, 2006?

17 A She has called me to come pick her up from bars and stuff
18 and I wouldn't answer the telephone. She would leave it on my
19 answering machine.

20 Q Have you and she not been out together since then?

21 A No, sir.

22 Q When you were driving to Summerville that morning,
23 January the 29th, from the trailer, BB Smith's trailer park,
24 at some point that morning did you ask Shirley Ward to call
25 your mother and ask your mother to pick up your children from

1 the person's house they were staying in?

2 A No, sir, all I kept saying is, "I need to get to my
3 children." She's the one that said that she would call my
4 mother.

5 Q And did you tell Mrs. Ward where the children were
6 staying, who had the children?

7 A After my -- after the phone call was made she come and
8 asked.

9 Q She who?

10 A Mrs. Ward, I'm sorry, Mrs. Ward come and asked where my
11 children were.

12 Q Did you tell Mrs. Ward?

13 A And then that's when I told her and that's when she told
14 my mother.

15 Q Did you tell Sherry Ward in 2006 after this incident that
16 you had to prosecute this case to the fullest or your mother
17 would take your children from you?

18 A No, sir.

19 Q Since January 29th, 2006, did you tell Nicholas Parker's
20 mother, Sherry Ward, that you had talked with the solicitors
21 about dropping the charges and they said they would give you
22 18 months in jail for false statements to the police if you
23 did do that?

24 A No, sir.

25 Q I wasn't asking you if you did talk to the prosecutors.

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1 I'm asking you did you tell Sherry Ward that?

2 A No, sir, I didn't tell Sherry Ward anything.

3 Q So, the most recent time before the January 29th, '06,
4 that you saw Mr. Parker would have been approximately when?

5 A Before January the 29th, January the 17th when I left.
6 No, I did see him two days after that, the 19th. I came up
7 there.

8 Q The ---

9 A January the 19th.

10 Q January the 19th, you left on the 17th. I think we said
11 that was Tuesday, that would have been like on Thursday.

12 A Yes, sir.

13 Q The weekend after you left, which would have been the
14 weekend of Friday, Friday would have been January the 20th,
15 Saturday January 21st, Sunday January 22nd, did you go back to
16 Summerville that weekend and stay the night with him and his
17 family any?

18 A No, sir.

19 Q Did you at about noontime on that Sunday, January the
20 29th, there at the Parker/Wards' house in Summerville, did you
21 tell Mr. Parker's mother, Sherry, she asked you why you looked
22 so rough, you tore up on drugs and you said because you had
23 been partying with some friends that weekend.

24 MR. MODICA: Objection, Your Honor.

25 THE COURT: I sustain the objection.

1 Q Did you not say that?

2 A No, sir; no, sir.

3 THE COURT: I sustain the objection. You don't have
4 to answer.

5 A Oh.

6 Q After Mr. Parker was put in jail on this charge ---

7 MR. MODICA: Your Honor, may we approach?

8 THE COURT: Well, let me hear the question.

9 MR. MODICA: We're getting lots of cats out of the
10 bag.

11 THE COURT: All right, wait, wait just a minute. I'm
12 going to let you ---

13 MR. MODICA: Can we?

14 THE COURT: All right, come on around.

15 MR. MODICA: Thank you, sir.

16 (Whereupon, a Bench conference was held in the presence,
17 but out of the hearing, of the jury.)

18 MR. MODICA: Do I understand that counsel is through,
19 Your Honor?

20 THE COURT: No.

21 MR. GOUDE: I think I'm through with my questions
22 other than the proffers we talked about, Judge.

23 THE COURT: All right.

24 REDIRECT EXAMINATION

25 BY MR. MODICA:

1 Q Defense counsel showed you a lot of photographs. Now,
2 there's six trailers, but back then there were five and the
3 proximity of the trailers within each other. Now, correct me
4 if I'm wrong, this incident happened on Sunday morning 7 to
5 7:30.

6 A Yes, sir.

7 Q Early Sunday morning.

8 A Yes, sir.

9 Q And I think that part of the reason why he was
10 asking you questions and showing you those was to indicate
11 that if you were screaming why is it that nobody heard
12 you?

13 A Well, my neighbors was at Myrtle Beach. The reason why
14 I know that is because when ---

15 Q Well, they were out of town?

16 A Yes, sir.

17 Q All right, would it be fair to say that most of the
18 screaming occurred when you got in the vehicle?

19 A Yes, sir.

20 Q And were driving away.

21 A Yes, sir.

22 Q Certainly you screamed some before you left.

23 A Yes, sir.

24 Q By the way, despite the fact that you have bronchitis
25 And pneumonia is your voice now like this all the

1 time?

2 A Yes, sir.

3 Q And that's because of what, the screaming?

4 A Yes, sir, because I strained something in my vocal

5 cords.

6 Q And after you had seen the police you also went to the

7 doctor.

8 A Yes, sir.

9 Q About the injuries and your strained voice.

10 A Yes, sir.

11 Q Regardless of what drugs you used on Friday, cocaine,

12 alcohol, whatever it might have been, when you were asleep in

13 your home on Sunday, when he came into your home uninvited,

14 were you under the influence of any drugs?

15 A No, sir. The only thing except my Klonopin that I had

16 took because I take a half a one at night time and a whole one

17 in the morning time, but that's ---

18 Q Other than that?

19 A Yeah, other than that nothing.

20 Q And that's to help you with your nerves.

21 A Yes, sir, to rest.

22 Q Counsel asked you if you bruised easily and we've seen

23 the photographs. Our question for you is as a result of what

24 he did were you in pain?

25 A Yes, sir, I was.

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- 1 Q Went to the doctor for it?
- 2 A Yes, sir.
- 3 Q After that did you get bed rest?
- 4 A Yes, sir.
- 5 Q Now, counsel asked you about living together in Ladson,
6 if I'm not mistaken.
- 7 A Yes, sir.
- 8 Q With the Defendant.
- 9 A Yes, sir.
- 10 Q I'm sorry. Actually I want to move to October. In
11 October you lived with the Defendant.
- 12 A Yes, sir.
- 13 Q With your children.
- 14 A Yes, sir.
- 15 Q And he moved out.
- 16 A Yes, sir.
- 17 Q Okay, and that was because of your mom.
- 18 A Yes, sir.
- 19 Q Yet, you at that point in time you're not with him
20 anymore; correct?
- 21 A Yes, sir.
- 22 Q Despite that fact you moved back in with him in
23 Summerville with your kids.
- 24 A Yes, sir.
- 25 Q Well, I don't walk a mile in your shoes, but that scene

1 doesn't make sense. You're saying that you were afraid of him
2 and that he was mean to you but you moved back in. Why did
3 you do that?

4 A I do not know.

5 Q Was he controlling your life?

6 A Pretty much, yes, he would call my mother's phone begging
7 me back.

8 Q Do you regret going back?

9 A Yes, sir, definitely.

10 Q Can you describe if you recall what you were wearing the
11 night into the morning of the 29th?

12 A I think it was jogging like loose pants with a
13 t-shirt.

14 Q Here's State's Exhibit Number Seven. Do you see
15 that?

16 A Yes, sir.

17 Q That, okay. Let the record reflect I am cutting open
18 State's Exhibit Number Seven that's sealed and removing the
19 contents. Do you recognize these?

20 A Yes, sir.

21 Q How do you recognize these?

22 A That's what I had on that morning.

23 Q When the Defendant abducted you?

24 A Yes, sir.

25 MR. MODICA: Let the record reflect that I have

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1 returned State's Exhibit Number Seven into evidence and at
2 this time I would move it into evidence.

3 While he's looking, Your Honor, may the record reflect
4 that I'm opening a sealed box labeled State's Exhibit Number
5 Five?

6 THE COURT: Now, let's go back. You've looked at the
7 other ones. Do you have any objection?

8 MR. GOUDE: I hadn't looked at it. I can't look at
9 it and then talk at the same time, Judge.

10 THE COURT: Let him -- while you're doing that he'll
11 take a look at it.

12 MR. GOUDE: Judge, we have no objection to this
13 exhibit.

14 THE COURT: All right, be entered without
15 objection.

16 (Whereupon, State's Exhibit Number Seven [Clothing]
17 entered into evidence and appropriately marked.)

18 BY MR. MODICA:

19 Q Now I'm showing you State's Exhibit Number Five, a
20 cardboard box, which the record will reflect that I unsealed
21 and opening and partially opening. Do you recognize what's in
22 here?

23 A Yes, sir; yes, sir.

24 Q What is that?

25 A That is the comforter.

1 Q What comforter?

2 A That Nicholas Parker put on me after he put me in the
3 back of the Dodge Ram truck.

4 MR. MODICA: Your Honor, at this time, we would
5 move State's Exhibit Five into evidence showing it to
6 counsel.

7 MR. GOUDE: Judge, we have no objection to this
8 exhibit.

9 (Whereupon, State's Exhibit Number Five [Comforter]
10 entered into evidence and appropriately marked.)

11 MR. MODICA: Thank you, nothing further.

12 THE COURT: All right, any recross?

13 MR. GOUDE: No, sir.

14 THE COURT: All right, you can step down. Thank
15 you.

16 Members of the jury panel -- go ahead and step down --
17 we're going to break for lunch. We usually break a little
18 earlier but I like to get through with the witness. Let's
19 come back at 2:30. That's a little -- I'm sorry, let's come
20 at 2:45. That's a little over an hour, and we have a little
21 bit of work that we need to do outside your presence, but you
22 be back at 2:45. We'll get started as promptly as we
23 can thereafter. Have a pleasant lunch. Everybody else remain
24 seated.

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right, we'll -- let's take a break
3 for lunch and we'll do a proffer, but we've been having some
4 chats and I've been doing some research. I'm a little
5 concerned. If you read the statute, kidnapping statute, it
6 almost reads like it's a strict liability statute, but it's
7 not. In State versus Jefferies, 1994, the Court explained,
8 the Supreme Court and that's -- I'll just give you the
9 Southeastern, 446 Southeastern 2d 427.

10 MR. MODICA: What was the last three numbers, Your
11 Honor? I'm sorry.

12 THE COURT: 427

13 MR. MODICA: Thank you.

14 THE COURT: I'm not sure and I want both of you to
15 research this and, Mr. Goude, I want you to be aware of where
16 we're going and so you can discuss all this with your client.
17 The -- as I read this case, and it's a little -- not as clear
18 as perhaps should be, the mens rea the intent, this is not a
19 strict liability, but the mens rea for the -- for one
20 regarding the crime of kidnapping is knowledge. It's not
21 purpose, which has an intent element to it, but simply
22 knowledge. The Court held that they found that there
23 was no legislative intent to make kidnapping a crime of strict
24 liability, but they find that the clear legislative intent was
25 to require a lesser mens rea than purpose; and therefore, the

1 requisite mens rea would be simply knowledge, and in a
2 footnote the Court said a person is said to act knowingly if
3 he is aware that that result is practically certain to follow
4 from his conduct whether his desire may be as to that result.
5 The purpose, the highest level of mens rea known in criminal
6 law is not required under the kidnapping statute, and in
7 footnote nine it leaves me a little confused because it talks
8 about specific intent and general intent, but it's clear to me
9 that this is not a specific intent crime but rather a general
10 intent and that intent is based on knowledge, that is the act
11 if it's done with knowledge that it's an unlawful act then
12 regardless of the specific intent I think the jury could find
13 one guilty if the intention was lofty as long as it
14 was done unlawfully and with knowledge that it was an unlawful
15 act, and the reason I looked at that at this time because in
16 side bars and in the gist of the questioning and what little I
17 know about the case at this point it appears that the defense,
18 which it doesn't have an affirmative defense, but their
19 position seems to be that the argument to the jury is
20 basically going to be that I call it the
21 Good Samaritan or the rescue, that Mr. Parker's acts were done
22 with good intentions and good motives, and I'm not sure that
23 the bar is that low. I think the bar on kidnapping is if you
24 take somebody and confine them or with knowledge that it's
25 wrong to do that, the fact that you've got good intents when

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1 you do it is not for the jury to consider. I don't think it
2 rises to the specific intent of, "Well, I thought I was doing
3 somebody a favor." It's wrong if you know when you commit
4 the act that it's against the law to confine someone and
5 I just want everybody because we're going to be charging the
6 jury sometime tomorrow, and since I clearly sense that that's
7 where the Defense is headed that Mr. Goude and Mr. Modica
8 would have the right, can give me some update on that and Mr.
9 Goude can certainly advise his client regarding what elements
10 the jury will be considering in regard to his culpability.
11 All right, we'll take a break. Let's be back -- can we be
12 back at about 2:30. That's about 45 minutes and we can get
13 into those proffers. We'll be at ease until whatever time I
14 said, 2:30.

15 ***** OFF THE RECORD *****

16 (On the record.)

17 (Whereupon, the following takes place outside the
18 presence of the jury.)

19 THE COURT: The State, the State ready to proceed?

20 MR. MODICA: Yes, sir.

21 THE COURT: All right, Defense ready?

22 MR. GOUDE: Yes, sir.

23 THE COURT: All right, I'm going to recall Ms.

24 Mitchum and we'll make a proffer on whatever counsel for the

25 Defense wants to do. Just come on back up. You're still

1 under oath.

2 A Yes, sir.

3 AT THIS TIME BELINDA MITCHUM WAS RECALLED TO THE STAND AND
4 TESTIFIED AS FOLLOWS:

5 THE COURT: All right, you may proceed.

6 PROFFER

7 BY MR. GOUDE:

8 Q Ma'am, were you up on the -- January the 29th of '06, at
9 that time, were you -- hadn't you been an habitual user of
10 cocaine for a year or more at that time?

11 A No, sir.

12 Q When you and Mr. Parker lived in Summer Creek Mobile
13 Home Park didn't you use cocaine basically about every
14 day?

15 A No, sir.

16 Q From March of '05 till October of '05?

17 A No, sir.

18 Q And you were charged in March the 2nd of '06 with
19 possession of a controlled substance.

20 A That was my Klonopin.

21 Q Is that what that was?

22 A Yes, sir. No, actually, I think it was my Zoloft.

23 Q That charge was dismissed in May?

24 A Sir?

25 Q That charge was dismissed in May of '06?

- 1 A Yes, sir.
- 2 Q And we had asked that on January the 31st, well, the
3 incident occurred on Sunday the 29th and you reported to the
4 police on January -- on Monday the 30th; correct?
- 5 A Yes, sir.
- 6 Q And they did some investigation and then on the evening
7 of Tuesday the 31st, the police talked with you and told you
8 that Shirley Ward had said that you had called over to her
9 house that morning; right?
- 10 A Yes, sir.
- 11 Q That's what the police told you.
- 12 A Yes, sir.
- 13 Q And you told them, no, that you had not called her house
14 that day; right?
- 15 A Yes, sir, because -- I'm sorry.
- 16 Q And then the policeman told you, "Well, we're going to
17 subpoena her phone records and that way we'll be able to prove
18 that Shirley Ward is lying, that no call came into her house
19 that day." He told you that that evening; right?
- 20 A Yes, sir.
- 21 Q And then the next day, which was February 1st, about
22 11:30 or 12 o'clock, whatever time that day, you talked with
23 the policeman again and you said, "Yes, really I did call
24 their house that Sunday morning."
- 25 A Yes, sir, to speak to Nicholas Parker.

1 Q Okay, and then after Mr. Nicholas Parker was in jail last
2 year in 2006 on this charge did he call his grandmother's
3 house one day or somewhere around October or in any event
4 sometime after he was arrested in March of '06, did he call
5 his grandmother's house and you happened to be there and
6 talked with him on the telephone?

7 A No, sir.

8 Q And when you all were in route to Summerville that
9 morning, the 29th, you and Mr. Parker, the Defendant, and his
10 grandmother, Shirley Ward, when you all got to about Moncks
11 Corner or wherever did Ms. Ward tell you that she was going to
12 take you all to the police and you asked her, "No, don't do
13 that."

14 A That did not happen, sir.

15 MR. GOUDE: That's all of my proffers, Judge.

16 That's all the questions I wanted to ask her. The purpose

17 ---

18 THE COURT: Well, anything from the State? Do you
19 have any questions you want to ask?

20 MR. MODICA: Well, Your Honor, my proffer would go
21 towards the violence.

22 THE COURT: All right, well, if you have anything you
23 want to cross her on on his issues.

24 MR. MODICA: On his questions, no, sir.

25 THE COURT: Okay, all right.

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1 Be glad to hear from you.

2 MR. GOUDE: On the prior drug history, Judge, Mr.
3 Parker says that the witness was under the influence of drugs
4 that Sunday morning, that there was cocaine, marijuana and
5 alcohol in the trailer.

6 THE COURT: He can certainly testify, if he
7 testifies, which of course he does not have to, and I'll talk
8 to him about that later, but he can testify as to all of that
9 if he wishes.

10 MR. GOUDE: All right, sir, and that the grandma --
11 what he's told me is that when the -- Mr. Parker brought the
12 witness out of the trailer the witness looked to her like she
13 was high on drugs and that she knows what the woman, the
14 witness looks like when she's high on drugs because she's seen
15 her many times while the girl, while the witness lived with
16 the grandmamma high on drugs and Mr. Parker carrying her in as
17 -- when she was passed out or whatever. The purpose of that
18 -- that would be the ---

19 THE COURT: How many of those times was she taped up?

20 MR. GOUDE: None as far as I know, Judge.

21 THE COURT: Okay, go ahead.

22 MR. GOUDE: That would be -- of course, on this time
23 the grandmamma says that the girl had a comforter around her
24 when she came out the trailer and she did not see any tape on
25 her when she came out of the trailer. She had that comforter

1 which is being put in, already in evidence.

2 THE COURT: Well, how could she tell the condition of
3 the woman if the woman was covered with the comforter?

4 MR. GOUDE: If she could see her face and her face --
5 she was -- Mr. Parker had his arms around her carrying her as
6 if she was half looped on drugs and I ---

7 THE COURT: Okay, all right, you've made your
8 proffer. I'm not going to allow that in.

9 MR. GOUDE: All right, sir, the, the proffer of the
10 Defense asking the witness did the police tell her on January
11 the 31st or that Mrs. Ward had said that the witness had
12 called the Wards' house on Sunday morning and the witness told
13 the investigating officer on January the 31st, "No, I did not
14 call over there," and then the officer told the witness,
15 "Well, I'm going to subpoena the Wards' telephone records to
16 show that the Wards are lying, to show that you did not call
17 over there," and the next morning after, apparently after the
18 girl had time to think about it or talk to somebody about it
19 she went back to the police or talked with the police about
20 11:30 the next day and said, "I got something to tell you. I
21 really did call over there Sunday morning," the purpose of
22 that is ---

23 THE COURT: Well, first off, I thought she testified
24 to that.

25 MR. MODICA: Yes, sir.

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1 THE COURT: I thought she, I thought she ---

2 MR. GOUDE: She, she got it all except the question
3 I asked her about, "Didn't the policeman tell you he was going
4 to subpoena the Wards' telephone records to show that they're
5 lying, that you didn't call over there." When I asked that
6 question the prosecutor objected and the Court sustained that
7 objection. I wasn't allowed to ask it. The purpose of
8 showing that is our purpose is to show the credibility of the
9 witness. The policeman thought he was going to get
10 irrefutable evidence that she was telling the truth and that
11 the Wards and Parkers were lying when they said she called
12 over there. So, after the witness thought about it then she
13 came back and told the police, "Oh, yeah, really I did call
14 over there." It goes directly to the credibility, which is
15 the whole issue of the case as I see it, Judge.

16 THE COURT: All right, well, I'll allow you to ask
17 her that in front of the jury.

18 MR. GOUDE: Thank you.

19 THE COURT: Anything else?

20 MR. GOUDE: The next one about did Mr. Parker call
21 his grandma's house after he was in jail and you happened to
22 be there, that also goes to the credibility of the witness
23 because she said she never went back to the grandmamma's house
24 after that January 29th, 2006.

25 THE COURT: Well, but she denied it.

1 MR. GOUDE: But I wasn't allowed to ask it. They
2 objected to it and I want to be able to ask that.

3 THE COURT: But I thought you asked it and she denied
4 it.

5 MR. GOUDE: Far as I know ---

6 THE COURT: I'm talking about in the proffer.

7 MR. GOUDE: Oh, in the proffer.

8 THE COURT: She still denies it.

9 MR. GOUDE: In the proffer she denies it but Mr.
10 Parker is going to say that he did do that and the grandmamma.
11 So, if I've not asked her then the jury won't know she's
12 telling -- she -- they won't know that she's telling the truth
13 or telling a fib.

14 THE COURT: Well, isn't that a collateral, a
15 collateral issue, impeachment by collateral issue? I'm not
16 going to allow that. All right, what next?

17 MR. GOUDE: And the other question, Judge, was that
18 the girl, Ms. Ward said she was going to take them to the
19 police when she got to Moncks Corner, did the witness say --
20 my question is, "Did you say, no, don't take us to the police
21 or something to that effect," and the witness says, "No, I
22 didn't say that." I want to be able to ask her that, too.
23 Mrs. Ward says that's what happened.

24 THE COURT: Well, that would just be pitting
25 witnesses against each other; wouldn't it?

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1 MR. GOUDE: No, that's each of them saying what they
2 say happened.

3 THE COURT: Well, your client can -- I mean, that
4 lady can still testify to it.

5 MR. GOUDE: All right, thank you.
6 That's, that's all I've got, Judge.

7 THE COURT: All right, Mr. Modica, you want to --

8 MR. GOUDE: Not in what ---

9 THE COURT: --- ask questions concerning the
10 violence?

11 PROFFER

12 BY MR. MODICA:

13 Q We talked about violence in your relationship. Would you
14 briefly tell the Court, tell the Court about the first time
15 the Defendant committed violence on you, if I could refresh
16 your recollections, the time that he took you outside. Do you
17 know what I'm referring to?

18 A Yes, sir.

19 Q Okay, go ahead, please.

20 A I came back from my dad's place, and when I was coming in
21 the driveway he was running and he just started pounding me in
22 this side of my face, and I had my hands on the steering wheel
23 and he tried to jerk me out of the car and when he did he
24 jerked -- I had little red shorts on. He jerked them
25 completely off that and my panties and made me sit in the cold

1 and he fought around and around in circles while his brother
2 Matthias and his cousin, Roland, saw it.

3 Q Were you -- what was on top?

4 A I didn't have any clothes. Nicholas Parker was on top of
5 me.

6 Q No, no, no, did you have clothes on on the top?

7 A Nothing, nothing, he took everything off me and told me
8 to sit right there and freeze bitch.

9 Q Except for your panties.

10 A Yes, sir.

11 Q Okay, and that was the first time?

12 A Yes, sir.

13 Q Okay, and you had worked at -- Ms. Ward, Shirley Ward had
14 made arrangements for you to have a job at Food Lion?

15 A Yes, sir.

16 Q And that was through a friend of hers?

17 A Yes, sir, Ms. Linda, is that her name?

18 Q And the Defendant didn't like that?

19 A No, sir, he did not.

20 Q Okay, because he didn't have control.

21 A Exactly.

22 Q Okay, what did he do about that?

23 A Right before I started and we had got in a disagreement
24 when I was telling you earlier about the shorts he said that
25 my shorts I was trying to show my leg to somebody. I don't

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1 know who, and he, I mean, beat me bad from the bathroom all
2 the way to the living room. I had to go to Food Lion and tell
3 them that I got robbed so I would not lose my job, and they
4 was nice enough to let me stay off for a week to heal.

5 Q Where were your injuries?

6 A I -- he had busted my lip, both my eyes, my nose, my body
7 was badly bruised and he -- I had marks on my neck where he
8 had got a white t-shirt and tried to strangle me, I guess.

9 Q Eventually did you have to quit that job?

10 A Yes, I did.

11 Q Why?

12 A Because of Nicholas Parker, because he beat me so bad
13 that I did not want to go back. I didn't want to show my face
14 there.

15 Q Okay, so, on subsequent occasions other than when you
16 mentioned he beat you again so it was visible that you were
17 beaten?

18 A Every time he's ever beat me it's been visible.

19 Q I got you, but specific as to not going back to Food
20 Lion?

21 A He had busted one of my eyes, my mouth and I just had
22 marks all over me. I mean, it was there -- my kids saw this.

23 Q Okay, were there times that you stayed in the room so
24 your children wouldn't see you?

25 A The first time he ever beat me I stayed in the room for

1 two days so my babies would not see the way I looked.

2 Q Had you ever had a relationship in which this was going
3 on?

4 A Did I ever have what now?

5 Q A relationship with a man in which this activity was
6 going on?

7 A I've never had a man to ever hit me, never in my life.

8 Q Okay, and tell the Court why it was you could not leave
9 him.

10 A Because I was scared to death and then look what
11 happened. That's why I was so scared.

12 Q Is that why you went back to him in October?

13 A I went back to him, I guess, because I felt sorry for him.
14 because he's all -- I just -- I felt sorry for him and then
15 once I got back I realized that things was not going to
16 change. He was continuously going to beat on me.

17 Q Is that because when you're not together he plays sweet
18 to you?

19 A Oh, yes.

20 Q Kind?

21 A Yes, sir.

22 Q And he did that even after you separated in January?

23 A And every time he beat me then he would, "Oh, baby, I
24 love you, I love you, I'm so sorry," but then the next day if
25 things didn't go his way I'm the one that paid for it, not

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1 nobody else in that house but Belinda and her children.

2 Q Okay, and again, in regard to my question that what --
3 after January 17th when you left did he sweet talk you?

4 A Oh, yes, on the telephone, yes, he did.

5 Q Okay, in an effort to get -- win your confidence back.

6 A Yes, sir.

7 Q I just lost my train of thought. Why is it that you
8 didn't tell the police about making the phone call?

9 A Why didn't I?

10 Q Yes.

11 A I cannot tell you that answer because I'm not going to
12 make up something. I just -- I had a lot on my mind and it's
13 not because he said he was going to subpoena the records. I
14 just -- it's -- I had a lot on my mind that day.

15 Q Okay, well, what made you remember? What was it that
16 made you remember and told the police?

17 A Because me and Kevin Johnson was talking about him
18 bringing the telephone to me to call Nicholas Parker to quit
19 calling me. That's when everything come back to my mind and I
20 went straight to Mr. Morris and told him.

21 Q And who did you bring with you?

22 A Kevin Johnson.

23 Q So he could indicate ---

24 A Yes, sir.

25 Q --- and verify that.

1 A Yes, sir.

2 Q Thank you.

3 THE COURT: Any cross?

4 Q Oh, by the way, he beat you many times. We've only been

5 talking a few times; correct?

6 A Yes, sir.

7 Q But he beat you a lot?

8 A Yes, sir.

9 THE COURT: Mr. Goude.

10 PROFFER

11 BY MR. GOUDE:

12 Q All right, well, since from October '04 to January of

13 '06, which would have been October, November, December,

14 January, that's four, and 12 months in '05, which would have

15 been 16, in the 16 months how many times did he hit you, kick

16 you, beat you, knock you down, push you into the wall?

17 A I don't have enough fingers to count.

18 Q Well, don't use your fingers then, use your mouth and

19 just say an answer and verbal.

20 A Too many, at least 25, 30 times that I've been beat by

21 him.

22 Q That would be like in 16 months if there's four weeks in

23 a month that would be 65 or 70 weeks. So, in that time it

24 would have been how many times, you say 15 or 20 or 20 or 25?

25 A Yes, sir.

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1 Q Now, how many times have you hit, kicked, slapped,
2 choked, punched or pushed him during that time?

3 A I've hit him one time because he hit me so hard in my jaw
4 that that's just a -- I mean, a reflex. Anybody is going to
5 do that. I didn't hit him there as hard as he hit me. I can
6 promise you.

7 Q All right, now, how many ---

8 A But I didn't hit him near as hard as that he hit me. I
9 can promise you.

10 Q How many of these times when he hit you or you hit him
11 were you all on drugs?

12 A Nicholas Parker was on marijuana. Whenever, whenever he
13 couldn't get marijuana that's when he would show himself and
14 flip. I -- it's not -- we didn't -- he didn't hit me because
15 we were on drugs. He hit me because he has mental problems.

16 Q Didn't he use cocaine regularly while you all were living
17 in Charleston?

18 A No, we did not use cocaine regularly.

19 Q He, didn't he use cocaine regularly while you all ---

20 A No, he did. I not use it regularly either. Marijuana,
21 yes, he did, but not cocaine.

22 Q What do you call regularly?

23 A He would smoke a blunt a day, a blunt or two.

24 Q Cocaine, how often would he use cocaine?

25 A Whenever he had the money, which was hardly ever.

1 Q I mean, like would that be once a day, once a week?

2 A Maybe once a month, maybe once every three months

3 depending on how his money and how he could hustle to get

4 money.

5 Q Did you all ever use cocaine at Mrs. Ward's house?

6 A Yes, sir.

7 Q How often did you all do that?

8 A It's not -- it wasn't often, I mean.

9 Q Like one or two times, five or six, 20 or 30, 50, 100?

10 MR. MODICA: Your Honor ---

11 A I never really counted them.

12 MR. MODICA: Your Honor, I thought we were talking

13 about violence. He's talking about drugs.

14 MR. GOUDE: I'm getting into that.

15 THE COURT: Well, this is a proffer. Let's just get

16 everything on the record.

17 BY MR. GOUDE:

18 Q And you say he beat you in a car after your daddy died.

19 About when was that?

20 A No, it was not after my father died. That's not what I

21 said. I said I had left from my father's home and went back

22 to 1108 Lilac Lane. I didn't come back in time enough for Mr.

23 Parker. So, he comes running to the car beating the mess out

24 of this whole side of my face. Then he ---

25 Q Well, what date was that approximately?

Proffer

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- 1 A That was in October.
- 2 Q Of what year?
- 3 A I don't -- the first year I got with him, in '04.
- 4 Q '04?
- 5 A Yeah, yes, sir, I mean. I'm sorry.
- 6 Q He did work while you all were together; didn't he?
- 7 A Maybe two months with his uncle, Kenny Ward, and then he
- 8 also worked at a body shop but he hardly ever got paid from
- 9 Leonard.
- 10 Q Did you ever report any of these beatings to the police?
- 11 A No, sir, because I was scared and every time he would
- 12 ---
- 13 Q Did you ever ---
- 14 A I'm sorry.
- 15 Q Did you ever sign an arrest warrant on him?
- 16 A No, sir.
- 17 Q Did you ever contact CASA ---
- 18 A No, sir.
- 19 Q --- the people that ---
- 20 A No, sir.
- 21 Q --- protect women from beating beat?
- 22 A No, sir.
- 23 MR. GOUDE: That's all the questions I had, Judge.
- 24 THE COURT: All right, I'm not going to allow any of
- 25 the testimony that was offered in the proffer in front of the

1 jury except for what I said about the officer supposedly, for
2 lack of a better word, threatening that he was going to get
3 the records if she changed her mind.

4 All right, let's bring in the jury.

5 (Whereupon, the following takes place in the presence of
6 the jury.)

7 THE COURT: You'll see that the same witness is back
8 on the stand. I have ruled that the Defense can ask one more
9 question.

10 RECROSS EXAMINATION

11 BY MR. GOUDE:

12 Q Ma'am, we had got into before the evening of January the
13 31st about six or seven p.m. you talked with the investigator
14 and he told you that Ms. Shirley Ward had said you had called
15 over to her house that morning the same morning; right?

16 A Yes, sir.

17 Q And the investigator asked you did you call over to that
18 house Sunday morning; right?

19 A Yes, sir.

20 Q And you said, "No, I didn't call over there"; correct?

21 A That's right, yes, sir.

22 Q And the investigator then told you, "Okay, well, I will
23 subpoena her phone records and we'll be able to prove that
24 they lied about the call from you."

25 A Yes, sir.

1 Q Didn't he tell you that? Then the next day, which was
2 February 1st, did you talk with the policeman about noontime
3 or so and tell him that you had something to tell him, that
4 yes you did call the Wards' residence on the morning of the
5 incident?

6 A Exactly.

7 Q Thank you. That's all.

8 MR. MODICA: Thank you.

9 Just a few questions.

10 REDIRECT EXAMINATION

11 BY MR. MODICA:

12 Q Can you explain to our jury why you neglected to tell the
13 police that?

14 A I had so much on my mind I did not think about that until
15 me and Kevin Johnson, which is the fellow that brought me the
16 telephone, was sitting talking about it and that's when he
17 said that I had made the phone call that time to call Nicholas
18 and tell Nicholas to quit calling all my friends, bothering
19 them about me. It was my fault. I just forgot and that's why
20 I went back and told the truth.

21 Q And you told Investigator Morris.

22 A Investigator Morris, yes, sir.

23 Q And you gave a statement to that effect?

24 A Yes, sir.

25 Q Who if anybody went with you?

1 A Kevin Johnson went with me and he also made a statement.
2 Q To that effect?
3 A Yes, sir.
4 Q That he had come over and that he had -- you had used the
5 phone that he brought over.
6 A Yes, sir.
7 Q And called Nicholas Parker?
8 A Yes, sir.
9 Q And told him to leave you all alone?
10 A Yes, sir.
11 Q Okay, thank you. Nothing further.
12 THE COURT: All right, you can step down now, thank
13 you.
14 A Thank you.
15 THE COURT: The State will call its next witness.
16 MR. MODICA: Thank you, Your Honor.
17 At this time the State would call Investigator Dustin
18 Morris.
19 AT THIS TIME DUSTIN MORRIS WAS CALLED TO THE STAND, DULY SWORN
20 BY THE CLERK AND TESTIFIED AS FOLLOWS:
21 THE CLERK: Thank you. Please be seated and state
22 your name for the record, please.
23 MR. MORRIS: My name is Dustin Morris.
24 DIRECT EXAMINATION
25 BY MR. MODICA:

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1 Q Could you tell our jury, please, where you're employed,
2 what rank you hold, the length of time you've been so
3 employed.

4 A I'm employed with Georgetown County Sheriff's Office.
5 I'm currently a criminal investigator. Been with the
6 Sheriff's Office for two years. Prior to that I was employed
7 with the Georgetown Police Department for ten years where I
8 was the rank of investigator.

9 Q Also, a corporal.

10 A I was also a corporal, as I currently am.

11 Q With the County.

12 A Sheriff's Office.

13 Q Okay.

14 A That's right.

15 Q Directing your attention to January 30th of 2006, at
16 approximately 11 p.m. did you have occasion to be at the
17 Sheriff's Department and become involved with the
18 investigation where Belinda Mitchum as the victim of a
19 burglary and a kidnapping?

20 A Yes, I did. It was actually around 11 a.m., not p.m.

21 Q Did I say p.m.? I'm sorry.

22 A Yes, you did.

23 Q And as a result of that did you have a conversation with
24 her regarding some of the events?

25 A Yes, I did.

1 Q Did you have further conversations with her?
2 A Plenty.
3 Q Did you, among other things, either yourself or made
4 arrangements to have some of her injuries photographed?
5 A Yes, I did.
6 Q And when you were speaking with her and interviewing her
7 did you have occasion to see what appeared to be something on
8 her wrist and her ankles or legs?
9 A Yes, I did.
10 Q And tell our jury what it appeared to be.
11 A It was a grayish colored. It appeared to be an adhesive
12 sticky remnants as if tape had been peeled off of her skin.
13 Q What kind of tape?
14 A Duct tape.
15 Q What color?
16 A It was a grayish silver color, the remnants.
17 Q Typical duct tape color?
18 A Yes.
19 Q Just so the jury knows can you look through nine through
20 18 for me and when you're done let me know.
21 A (Complies with request.) Okay, sir.
22 Q Have you had a chance to look through them?
23 A Yes, I have.
24 Q And those are the photographs you either took or had
25 taken?

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- 1 A Yes, sir.
- 2 Q Because some of them were done by a female.
- 3 A That's correct.
- 4 Q Given the nature of the photographs.
- 5 A Yes, sir.
- 6 Q Were the injuries that you observed and the tape
- 7 obviously consistent with what she had indicated had occurred
- 8 to her?
- 9 A Yes.
- 10 Q Now, I take it that she told you the incident place where
- 11 this happened.
- 12 A Yes.
- 13 Q And actually where it continued to?
- 14 A Yes, sir.
- 15 Q In Summerville?
- 16 A Yes, sir.
- 17 Q And after you met with Belinda Mitchum -- by the way, who
- 18 came down to the police department with her?
- 19 A Her mother, Debbie Elliott.
- 20 Q After you had all, you know, done, finished talking to
- 21 her and taking the photographs, did you have occasion to go to
- 22 Lot 14 at BB's?
- 23 A Yes, I did.
- 24 Q Because she had indicated that there might be some
- 25 evidence there?

1 A Yes, sir, and plus, it was the -- a crime scene. It was
2 considered a crime scene based on the nature of the crime.

3 Q Correct. Who if anyone from your department went with
4 you?

5 A Investigator Michael Thacker.

6 Q Now, would you tell our jury please when you went there
7 tell them what you did, what you found, what you collected.

8 A When we arrived at the location we met with Ms. Mitchum
9 and her mother who granted us access into the trailer. Ms.
10 Mitchum kind of walked us through, showed us where areas were
11 where she had been sleeping that morning when she was
12 abducted. She pointed out the roll of duct tape and the piece
13 of duct tape that she had indicated she removed from her
14 mouth. She then walked us to the, I guess you would say, the
15 rear of the trailer and she pointed out into a spare bedroom
16 type room where the comforter was and showed us some boxes
17 that had been moved into the residence and also showed us the
18 back door and just to kind of give us a brief description of
19 how the door was at the time when she was asleep.

20 Q Regarding sleep, did she indicate that she was a heavy
21 sleeper?

22 A Yes, she did.

23 Q As a result of being there and observing certain items
24 did you proceed to collect some items?

25 A Yes, I did.

1 Q Tell our jury about that, please.

2 A Well, before collecting the items, they were
3 photographed, depicted in some of the photos I believe you
4 looked at earlier today, collected a roll of silver duct tape
5 from the coffee table, collected a strip of silver duct tape
6 from the coffee table, which were side by side, then proceeded
7 to collect the comforter that was located in the spare
8 bedroom.

9 Q Did you have occasion to look inside the comforter?

10 A Yes, I did. &

11 Q And what did you observe?

12 A What I observed was a strip of silver duct tape that
13 appeared to be in loops on the ends indicative of being around
14 someone ankles or wrists.

15 Q Consistent with what she had told you.

16 A Correct.

17 Q And you secured that item as well?

18 A Yes, I did. Well, actually I kept the comforter and the
19 tape as one and packaged them together so as to not
20 contaminate any further.

21 Q Contaminate the evidence that might have been in there
22 including the tape?

23 A That's correct.

24 Q Did you have occasion to go down the hallway towards the
25 back door?

1 A Yes, I did.

2 Q Did you locate something on the floor?

3 A Yes, on the floor right outside the bathroom the bathroom
4 and the back door are parallel to each other. On the floor I
5 observed a heart-shaped pendant on the floor.

6 Q Was finding that pendant consistent with what she had
7 told you?

8 A Yes.

9 Q Now, the back door, there was an indication that there
10 was some problem with the back door?

11 A Yes.

12 Q What if any testing did you and Investigator Thacker do
13 and why?

14 A Investigator Thacker stood on the outside. I stood on
15 the inside of the residence and secured the lock and based on
16 the fact that she had told us it was kind of a faulty locking
17 system we performed a test on it to see if it -- how easy it
18 would be to pull the door open and with some degree of force
19 Investigator Thacker was able to pull the door open but he --
20 it was not a great deal. I mean, he was able to with a
21 moderate amount of force to get it open.

22 Q Was there an indication in that door that there was some
23 damage to the door?

24 A Yes, the door was old. It appeared weathered. It
25 appeared that somebody had forced entry into that door at some

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1 point in the past.

2 Q Which had an effect on the door's utility?

3 A Yes.

4 Q Now, did there come a time that you, of course, you
5 became aware that another in a sense crime scene had occurred
6 in Berkeley County?

7 A Yes.

8 Q More specifically 1108 Lilac, I think it is drive or
9 avenue in Summerville?

10 A Lane, Lilac Lane.

11 Q Lane, thank you, in Summerville.

12 A Yes, sir.

13 Q And when and what did you do in relation to going to
14 Summerville?

15 A Well, on January 31st I attempted to contact Ms. Shirley
16 Ward, the grandmother of Mr. Parker. I wanted to talk to her
17 because of what Ms. Mitchum had told us that she had been
18 present during the incident. She indicated to me ---

19 Q How about for the moment we skip what she told you.

20 A Okay.

21 Q As a result of a conversation were you able to get her to
22 come to Georgetown?

23 A No.

24 Q Okay, and I take it that's what you wanted.

25 A Right.

1 Q Due to that not occurring, her coming to Georgetown what
2 if anything did you do?

3 A Went to see her.

4 Q Okay, and what day, when -- what day and when was that
5 time of day and what day?

6 A It was on January 31st. That would have been on a
7 Tuesday approximately two o'clock in the afternoon.

8 Q Okay, did you take anyone from the Georgetown Police
9 Department, Sheriff's Office?

10 A Yes, sir; yes, sir.

11 Q Who is that?

12 A Investigator Michael Thacker.

13 Q And did you request and get assistance from the Berkeley
14 County Sheriff's Office?

15 A Yes, sir.

16 Q How many officers went with you?

17 A There were three.

18 Q Three Berkeley?

19 A Three Berkeley officers.

20 Q And of course one Michael Thacker and you.

21 A That's right.

22 Q Did you have occasion to speak to Shirley Ward when you
23 went out there?

24 A I did.

25 Q And did you -- had you on the phone in your telephone

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1 conversation with her let her know the nature of what you were
2 investigating?

3 A Absolutely.

4 Q Specifically what did you tell her in regards to the
5 nature of your investigation?

6 A I told her that the allegations had been made that her
7 grandson had kidnapped Belinda, told her there was outstanding
8 warrants and that we need to find him.

9 Q Outstanding warrants for Nicholas Parker?

10 A That's correct.

11 Q Okay, when you arrived at her house on January 31st,
12 2006, at approximately two p.m. did you have a conversation
13 with her again relative to the purpose of your investigation?

14 A I did.

15 Q Tell our jury about that, please.

16 A Well, I informed her that, you know, she -- we needed to
17 talk to her about the incident. She was, you know, alleged to
18 have been present at the time and we needed to make contact
19 and get a statement from her and she indicated that she was in
20 the process of obtaining an attorney. So, therefore, I did
21 not question her any further about the actual incident itself.

22 Q Did she talk to you though?

23 A She talked to me.

24 Q Okay, and she tell you a little bit about things?

25 A Yes.

1 Q About what she knew?

2 A That's right.

3 Q Okay, while you were talking to her did you have occasion

4 to notice something that had been described to you by the

5 victim?

6 A Yes.

7 Q What was that?

8 A There was two things, a burgundy Dodge Ram truck,

9 extended cab and the outbuilding located at the right side of

10 the residence.

11 Q What she had talked about to you on the day before.

12 A Well, that she had told me she was transported in to that

13 location and then subsequently kept hostage in the

14 outbuilding.

15 Q Okay, as a result of seeing the vehicle that fit the

16 description did you make inquiry of that and being able to

17 look into it of Shirley Ward?

18 A Yes, I did.

19 Q Tell our jury about that, please.

20 A I advised Ms. Ward that we needed to look into the

21 vehicle, asked her for a consent to search the vehicle and

22 looking for any evidence or belongings that might belong to

23 Belinda. After my conversation with her, I was led to believe

24 that it would be okay to search the vehicle. Further

25 questioning, I discovered that the truck was not registered to

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1 Mrs. Ward. It was actually registered to Mr. James
2 Ward, her husband.

3 Q So, what did you do with that information?

4 A Told her that I would need to speak to Mr. Ward. She
5 said he was in the back bedroom and myself and Investigator
6 Thacker followed her into that room. At that point she
7 explained to Mr. Ward that we were there because of certain
8 allegations that had been made.

9 Q What allegations?

10 A That Belinda, specifically Belinda is saying that
11 Nicholas kidnapped her, that's exactly what she said.

12 Q So, Mr. Ward was aware of a kidnapping allegation?

13 A Yes.

14 Q Okay, go ahead, please.

15 A And then I explained to Mr. Ward that we would like to
16 search the vehicle for any evidence belonging to Belinda and
17 he initially said no, became agitated, didn't want any part of
18 it. At that point I explained to Mr. Ward that I could obtain
19 a search warrant and seize the vehicle, tow it to Georgetown
20 and keep the vehicle for as long as we needed to search the
21 vehicle. At that point he granted us consent to search the
22 vehicle.

23 Q Did you ask him to sign a consent form?

24 A Yes, I did.

25 Q Tell our jury about that, please.

1 A I asked Mr. Ward if he would willingly sign a voluntary
2 consent to search form is a form, a standard form we use at
3 the Sheriff's Office when we get consent from someone to
4 search their property. He said he wasn't signing anything.
5 He said we could look in the vehicle, but he wasn't going to
6 sign anything.

7 Q Now, let me just back up for a moment, you told our jury
8 that you told them that you'd get a search warrant, have the
9 car towed to Georgetown, keep it until you finished it.

10 A That's right.

11 Q If he, if you didn't get consent what would you have
12 done?

13 A Probably got a search warrant.

14 Q Exactly as you told him.

15 A Exactly.

16 Q Believing, of course, you had a legal right to do that.

17 A Absolutely, probable cause existed.

18 Q Okay, how is it that you got the key to the vehicle?

19 A Mrs. Ward gave me the key.

20 Q And after that did you and Investigator Thacker have
21 occasion to go into that vehicle?

22 A Yes, sir.

23 Q And in regard to going into that vehicle would you tell
24 our jury please what if anything significant was found and
25 what if anything was recovered?

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1 A Entering the vehicle as I previously described it, a
2 burgundy in color Dodge Ram truck, it was an extended cab
3 truck which means that you could seat someone in the back row.
4 We entered the vehicle. Immediately upon entering the vehicle
5 I lifted up the back seat. It was down in the seated
6 position. I lifted it up to depict that day. Ms. Mitchum
7 described that she -- the seat was when she was in the
8 vehicle. I immediately observed a clump of reddish color hair
9 on the floorboard on the passenger side on the rear behind the
10 front passenger seat. I marked this hair as possible
11 evidence. I also observed a piece of silver in color duct
12 tape underneath the front passenger seat on the rear
13 floorboard. That was marked as well. These items were also
14 photographed and they were collected as subsequent evidence.
15 Some hairs were also collected from the floorboard just by
16 using hinge lifter which is a tape.

17 Q What color were those hairs?

18 A They were reddish color.

19 Q At the time did the victim have reddish color hair?

20 A Yes.

21 Q Okay, is that why you used the lifters?

22 A Yes.

23 Q Could you tell our jury what lifters are, please?

24 A Well, these lifters are specifically for developing
25 fingerprints and lifting fingerprints and they're secured to

1 not destroy the fingerprint. However, in this situation we
2 collected the hairs because it's just basically tape that
3 folds over onto a plastic backer and secures the tape or the
4 hairs on that plastic backer.

5 Q So, you take the sticky part and you tap the areas where
6 you want to pick up hairs.

7 A Yes.

8 Q Or other evidence.

9 A Right.

10 Q Could be fibers but in this case ---

11 A Fibers, trace, anything.

12 Q I'm sorry. I interrupted you. Would you continue as it
13 relates to the vehicle?

14 A We -- after locating these items, collecting them,
15 photographing them, I also located a receipt on the front
16 dashboard. It was an Arby's receipt dated for January 29th.
17 I believe it was at approximately 2:09 p.m.

18 Q Okay, was that receipt consistent with what the victim
19 had told you about what transpired?

20 A Yes.

21 Q Continue, please.

22 A Basically that was all the evidence that was
23 located inside the truck. We've got that -- the clump of
24 hair, the hair fibers and the gray piece of duct tape.

25 Q Okay, do you recall seeing a piece of gum?

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1 A There was a piece of gum. It was collected but later
2 determined to have no evidentiary value in this case.

3 Q After you had finished processing the vehicle as you
4 described for our jury, did you have occasion to see Mrs. Ward
5 again?

6 A I did.

7 Q Did you inquire about getting into the outhouse or
8 the other building, not the main house but the other
9 building?

10 A I did.

11 Q Okay, can you tell our jury about that, please?

12 A I -- myself and Ms. Ward walked over to the outbuilding
13 which is located approximately 20 yards from the main
14 residence. I went on to tell Mrs. Ward that this is
15 where the victim had indicated she had been held for a
16 while and that we needed to look inside and I asked her if she
17 would have any problems and would give me consent to look
18 inside. At that point she pulled out a set of keys, unlocked
19 the door and said, "Go ahead and look," and that's what I
20 did.

21 Q When you went in would you tell our jury about what if
22 anything you observed and what if anything you might have
23 collected?

24 A When I entered the outbuilding I observed a wide variety
25 of construction materials, boards, boxes. There was a lot of

1 items that were stacked up making it kind of hard to get to
2 the back. I ended up going to the right rear bedroom or
3 makeshift bedroom, however you will, located in the corner of
4 the little outbuilding, went inside and observed a small
5 couch. It was a carpeted room. There were boxes stacked up.
6 It appeared to be like a little hangout. There was some
7 graffiti on the wall, on the floor a piece of silver duct
8 tape.

9 Q Was that significant?

10 A Absolutely.

11 Q Consistent with what the victim told you?

12 A Yes, sir.

13 MR. GOUDE: Objection to that, Judge.

14 MR. MODICA: I'll withdraw the question.

15 THE COURT: All right, I ---

16 BY MR. MODICA:

17 Q Why did you -- what if anything did you do with that,
18 that piece of tape?

19 A Photographed it, with and without a scale, and collected
20 it as evidence.

21 Q Why did you collect it?

22 A Based on the statement given to me by the victim.

23 Q Anything else in regard to the outhouse that we didn't
24 cover?

25 A It was just photographed, a piece of silver duct tape was

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1 collected. That was it.

2 Q Did you have occasion on the same day, January 31st of
3 2006, at approximately four o'clock have occasion to go to the
4 Sonoco gas station in Moncks Corner.

5 A Yes, I did.

6 Q And why was it that you went there?

7 A Just wanted to corroborate just a little bit more of the
8 victim's statement and the fact that she had indicated to me
9 that she had been to the Sonoco. They had went there and got
10 gas and she was held inside the vehicle while Nicholas pumped
11 the gas.

12 Q And what if anything did Mrs. Ward do?

13 A She entered the store and purchased a pack of
14 cigarettes.

15 Q Okay, what if anything did you do when you were at the
16 Sonoco gas station on January 31st at four o'clock to
17 determine whether or not that had occurred.

18 A I viewed the video surveillance system, which was a
19 digital system.

20 Q And what did, okay, and what did you observe?

21 A I observed a -- what appeared to be a glimpse of a
22 burgundy vehicle pulling into the parking lot. It was not the
23 greatest camera angle to see the parking lot. So, you could
24 -- it was just minimal coverage but I did observe
25 Mrs. Ward, after just meeting her 30 minutes earlier, I

1 observed her walk into the store, approach the counter, the
2 cash register and purchase some cigarettes.

3 Q And why was that significant in regard to what the victim
4 had told you?

5 A Because it's exactly what the victim had told me.

6 Q Did you have occasion to contact, I believe it's Home
7 Telephone Company to get certain records of the Ward
8 residence.

9 A Yes, I did.

10 Q And with the assistance of the Solicitor's Office did you
11 get those records?

12 A I did.

13 Q Did there come a time on February 1st that the victim,
14 Belinda Mitchum, and Kevin Johnson came in to see you about a
15 telephone call that occurred on the morning of Sunday, January
16 29th of 2006?

17 A Yes, sir.

18 Q Did you take a written statement from both of them
19 regarding that phone call?

20 A I did.

21 Q By the way, can you tell us whether those statements were
22 consistent with the records ---

23 MR. GOUDE: Objection. That's hearsay.

24 THE COURT: I overrule the objection. I thought the
25 records were -- are these the same records that are in?

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1 MR. MODICA: Yes, sir.

2 THE COURT: Okay, well, I overrule the
3 objection.

4 BY MR. MODICA:

5 Q Was the information regarding the phone calls confirmed
6 by the telephone records?

7 A Yes.

8 Q When you met with Belinda Mitchum on February 1st of 2006
9 did you collect any evidence from her?

10 A Can I refer to my notes briefly?

11 Q Would that refresh your recollection?

12 A Yes. Yes, sir, I did.

13 Did you hear my response?

14 Q Yes.

15 A Okay.

16 Q Now, having looked at that, now having looked at that do
17 you recall collecting some evidence from the victim?

18 A Yes, I do.

19 Q And what was that?

20 A I collected two buccal swabs, which are actually swabs of
21 her, the inside of the cheek of her mouth and collected hair
22 samples from the victim.

23 Q What was the purpose of collecting those things?

24 A For future DNA analysis based on hairs and fibers that
25 were recovered from the truck, any other evidence that we may

1 have uncovered during the investigation.

2 Q In regard to the piece of tape that you had taken from
3 the table, not the roll of duct tape, what if anything did you
4 do in relation to that?

5 A I swabbed the adhesive side of the tape for possible DNA
6 evidence.

7 Q And why did you do that?

8 A To prove that it had been on her mouth.

9 Q Because that's what it was related to.

10 A That's right.

11 Q Did you cause those items to be submitted to SLED, the
12 swabs and the swabs, the swabs of her mouth and the swabs that
13 you took from the duct tape that was recovered from
14 the coffee table?

15 A Yes, I did.

16 Q Would you step down for a moment, please?

17 A (Complies with request.)

18 Q Can we back the photograph up one, please? These ones
19 that we're quickly running through, these are photographs that
20 were taken either by you or somebody in your office regarding
21 the victim's injuries?

22 A Yes, sir.

23 Q Okay, stop there for a moment. Could you tell our jury
24 what this is here?

25 A That is the outbuilding at 1108 Lilac Lane in

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1 Summerville, the location where the victim had been held
2 against her will.

3 MR. GOUDE: Objection to that statement.

4 THE COURT: Yeah, just disregard the way that was
5 couched. Ask a question and get a response.

6 Q Next up.

7 THE COURT: Well, don't you want him to answer this
8 question?

9 MR. MODICA: Okay.

10 THE COURT: I have struck that answer. You can move
11 on if you want, but I've struck that answer.

12 BY MR. MODICA:

13 Q Is that a closer view of that?

14 A That's a closer view of the outbuilding, the Lilac
15 Lane.

16 Q Okay, the outbuilding at ---

17 A 1108 Lilac Lane.

18 Q And here?

19 A That is the room and the right rear of the outbuilding.

20 Q And I want to direct your attention down to this area
21 here. Do you see where I'm referring to?

22 A Yes, sir.

23 Q What's in that area?

24 A That is the two-edged scale which is marking a piece of
25 silver duct tape.

1 Q So, a double edge ruler with a piece of duct tape?
2 A That's correct.
3 Q Is that the duct tape you found there?
4 A Yes.
5 Q Is that a close-up of the previous photograph?
6 A Yes, sir.
7 Q And this area here?
8 A Just an overall shot of the same room.
9 Q What's depicted in that photograph?
10 A That is the burgundy Dodge truck that was registered to
11 Mr. Ward.
12 Q James Ward?
13 A James Ward.
14 Q You were able to confirm that?
15 A Yes, sir, with the DMV.
16 Q And that's the one that you -- this picture as well the
17 one that you got consent to search in?
18 A Conducted a search, yes, sir.
19 Q The same thing, doors open?
20 A Same thing, that's the piece of gum I spoke about
21 earlier. That's just a rear shot of the license plate.
22 That's the piece of silver duct tape under the passenger front
23 seat towards the rear floorboard marked with the two-sided
24 ruler, a close-up, closer up shot. That is the photo of the
25 seat down in the location it was when I first entered the

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1 truck. This is in the same location with the seat pushed up.
2 That's a photograph of an Arby's receipt.

3 Q What time and date was on that?

4 A January 29th, '06, and I think it was 14:09 hours or 2:09
5 p.m. That is a two-sided ruler depicting the clump of red,
6 reddish hair on the floorboard, which is actually on the
7 passenger's side. So, we're actually at the passenger door
8 looking in now at the rear, just a close-up shot of the patch
9 of reddish hair, that area.

10 Q Difficult to see in that photograph?

11 A It from -- I'm sure the back row is having a hard time
12 but you can a little closer. You can see the little bit, you
13 know.

14 Q It's kind of one of those red and green things.

15 A Yes.

16 Q You can see it but you can't.

17 A That's right.

18 Q And then again these are the injuries.

19 A That's correct.

20 Q Thank you.

21 A (Witness returns to witness stand.)

22 Q I'm going to start if I might with State's Exhibit
23 Number Seven for identification, actually I think it's in
24 evidence. Do you recognize what's written on the outside of
25 this?

- 1 A Yes, I do.
- 2 Q Were you present when it was pulled out of the
3 bag?
- 4 A Yes, I was.
- 5 Q For your purpose in terms of identifying do we need to
6 pull it out of the bag?
- 7 A No, sir.
- 8 Q Okay, do you recognize whose handwriting appears on
9 State's Exhibit Number Seven?
- 10 A That's my handwriting.
- 11 Q And when and where did you collect that item?
- 12 A I collected this item from Lot 14, BB's trailer park,
13 actually got them from Ms. Belinda Mitchum.
- 14 Q And when was that?
- 15 A That was on January 30th, '06, at 1500 hours, three,
16 three p.m.
- 17 Q That's when you went there, that's when you went there
18 that afternoon?
- 19 A Yes, sir.
- 20 Q And I'll -- do you see that box, can you see State's
21 Exhibit Number Five there?
- 22 A Yes.
- 23 Q Okay, and let the record reflect that I'm opening it
24 up.
- 25 A Okay.

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- 1 Q Do you recognize what is contained in there?
- 2 A Yes, it's a bed comforter.
- 3 Q And I'm showing you -- I'll hold it up. Do you recognize
- 4 the evidence, emblem that's on this box?
- 5 A This?
- 6 Q No.
- 7 A This?
- 8 Q Yeah.
- 9 A Yeah.
- 10 Q How do you -- silly questions, how do you recognize
- 11 it?
- 12 A It's my handwriting.
- 13 Q And when and where was this collected from?
- 14 A It was collected from Lot 14, BB Smith trailer park on
- 15 January 30th, '06, at 3:15 p.m.
- 16 Q I'm showing you what's been marked as State's Exhibit
- 17 Number Two for identification.
- 18 A Okay.
- 19 Q Do you see that there?
- 20 A Yes, sir.
- 21 MR. MODICA: And, Your Honor, may the record please
- 22 reflect that I'm opening a sealed box.
- 23 BY MR. MODICA:
- 24 Q With some degree of difficulty I have it. Let the record
- 25 reflect that I'm opening or going to attempt to open that box.

- 1 The contents of the box are now open. I'm asking you whether
2 or not you recognize the contents of this box? Do you need to
3 hold this?
- 4 A Yes, I recognize this.
- 5 Q What do you recognize these -- this as being?
- 6 A I recognize this roll of silver duct tape. My initials
7 are in the inside of it. I recognize this piece of silver
8 duct tape. My initials appear to be on that as well. I also
9 recognize this piece of silver duct tape.
- 10 Q Where was that piece taken from? Do you know?
- 11 A I believe this is a piece that was cut off from the roll
12 by SLED, if I'm not mistaken, the same with this.
- 13 Q Do you recognize this item here?
- 14 A No, I don't.
- 15 Q Okay, that's something SLED might have done?
- 16 A Yes.
- 17 Q And this item here, first of all, the black bottom and
18 clear top box, you don't recognize that.
- 19 A Do not.
- 20 Q Okay, and then the off-white semi-clear box?
- 21 A Do not recognize it.
- 22 Q So, that's stuff that you believe that SLED had worked
23 on.
- 24 A Yes, sir.
- 25 MR. MODICA: May I have one moment, Your Honor?

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1 BY MR. MODICA:

2 Q Within State's Exhibit Number Two is there a piece of
3 tape, if you know, that you took off the coffee table in
4 which you did the swab, and if you need to take a peek at it
5 go right ahead? It might appear that all the duct tape is
6 looking alike now, but ---

7 A This is the piece of duct tape that was swabbed.

8 Q Okay, which one is that?

9 A This whole piece.

10 Q Okay, the whole piece being all of them here or the
11 middle section or all of it?

12 A All of it, it appears to have been cut for analysis.

13 Q Thank you. I'm showing you now what has been marked as
14 State's Exhibit Number Three for identification, a heat-
15 sealed bag with two paper bags inside. Can you tell our jury
16 whether or not you recognize the content of State's Exhibit
17 Number Two?

18 A Yes, I do.

19 Q What do you recognize those two bags being and how do
20 you recognize them?

21 A I recognize this bag on top which is our agency item
22 number six is a bag containing a piece of silver duct tape
23 with possible hair was recovered from a 1996 Dodge Ram truck
24 under the front passenger seat.

25 Q Whose handwriting is that?

1 A That is my handwriting.

2 Q Okay, so, you were the person who collected it and put
3 it in that bag.

4 A Yes, sir. The second bag, I believe you alluded to item
5 number seven is also in my handwriting, a piece of silver
6 duct tape containing possible hair recovered from the garage
7 apartments or outhouse on Lilac land.

8 Q Okay, one from, the second one from the outhouse and the
9 other one from the vehicle?

10 A That's correct.

11 Q Let me make sure. In regard to nine and ten, the box
12 that I just cut open, there was a roll of duct tape and those
13 other things, so we're clear, where did you recover those
14 items?

15 A The roll of duct tape and the piece of silver duct tape
16 was located off the coffee table at lot 14 BB Smith trailer
17 Park.

18 Q And of course, you swabbed the -- a piece of duct tape?

19 A Yes, I did.

20 Q Showing you State's Exhibit Number Four for
21 identification, a heat-sealed plastic bag, do you recognize
22 some of the content of the heat-sealed plastic bag?

23 A Yes, I do.

24 Q What do you recognize within it?

25 A A piece of silver duct tape that appears consistent with

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1 the other silver duct tape. There's a smaller piece also
2 inside the bag.

3 Q And you collected this at different areas?

4 A These items came off of the comforter.

5 Q Okay, which was in State's Exhibit Number Five.

6 A That's correct.

7 Q At this time, I'm showing you State's Exhibit Number Six
8 that has been previously opened. Were you present when this
9 box was opened?

10 A Yes, I was.

11 Q And inside there's a number of envelopes; correct?

12 A Yes.

13 Q Okay, I'm going to remove the envelopes and I'm going to
14 ask you to look inside. Is there any other envelopes in
15 there?

16 A I don't see any.

17 Q Anything up my sleeve? I'm going to start with if I
18 might what is listed as item one. Is that your item one?

19 A Yes, sir.

20 Q Your handwriting?

21 A That's my handwriting.

22 Q Could you tell our jury what item one is?

23 A Two white cardboard containers each containing two
24 buccal swab samples collected from Belinda Mitchum.

25 Q Would you -- when and where did you collect that?

- 1 A These were collected at the Sheriff's Office on February
2 1st, 2006, at 1200 hours.
- 3 Q Can you open them up and just pull them out and show
4 the containers to the jury please? Let the record reflect
5 that the witnesses is complying. And those are the two that
6 you collected?
- 7 A That's correct. Each box contains a swab.
- 8 Q Please place them back in the envelope, indicating that
9 the witness has complied. Now I'm showing you item number
10 three.
- 11 A Two DNA swab samples collected from a piece of duct tape
12 collected at lot 14 BB Smith trailer park.
- 13 Q Okay, in laymen's terms tell us what that is.
- 14 A That is the piece of duct tape recovered from the coffee
15 table swabbed using these packages of swabs, stills swab
16 sticks.
- 17 Q You filled out the front of it?
- 18 A Yes, I did.
- 19 Q Can you open that up and show the jury what's contained
20 therein and let the record reflect that the witness is
21 complying.
- 22 A This is a DNA swab sample from duct tape, my
23 handwriting.
- 24 Q Would you place it back in the envelope. The record
25 should reflect that the witness is complying.

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1 Was your item number one and your item number three
2 submitted to SLED for purposes of comparing one against the
3 other, that is one against three, to see if there was a
4 match?

5 A Yes.

6 Q That was one of the many things that you had asked SLED
7 to do, DNA and otherwise?

8 A Yes.

9 Q In regard to the tape that we've talked about, the tape
10 that you recovered from the back of the vehicle and the roll
11 of tape that you recovered from the coffee table at lot 14,
12 was that caused to be submitted to, pardon me, SLED for
13 purposes of comparison to determine whether they matched?

14 A Yes.

15 Q And whether they were consistent?

16 A Yes.

17 Q I'm showing your item number two and I asked you what
18 that is.

19 A One white sheet of paper containing known hair samples
20 provided by Belinda Mitchum on February 1st, 2006, at 12:05
21 p.m.

22 Q Did you collect that?

23 A Yes, I did.

24 Q Item number five.

25 A One white envelope containing possible human hair

1 recovered from the rear floorboard of a 1996 Dodge Ram truck
2 bearing South Carolina tag 444UHD.

3 Q And this is what you described to our jury as what you
4 collected in the back of the vehicle?

5 A Yes.

6 Q Up at 1108 Lilac Lane?

7 A That's right.

8 Q Your item number four?

9 A Four Sirchie hinge lifters containing hair and fiber
10 samples collected from rear floorboard of a 1996 Dodge Ram
11 truck, South Carolina tag 444UHD, recovered on January 31st,
12 '06, at 3:15 p.m.

13 Q Again, taken from the back of the vehicle ---

14 A That's correct.

15 Q --- floorboard of the vehicle?

16 A Yes, sir.

17 Q I'm showing you this last envelope. You have identified
18 all the rest. Can you identify this one?

19 A No, I cannot.

20 Q Okay, and on the outside of it it says serology, DNA?

21 A Yes, it does.

22 Q Potentially something SLED did, you did not.

23 A Yes, sir.

24 Q All these other envelopes were prepared by you?

25 A That's correct.

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1 Q Sealed by you for SLED?

2 A Yes, sir.

3 MR. MODICA: Your Honor, at this time, one moment,
4 Your Honor. Your Honor, at this time, I would place the
5 items taken from State's Exhibit Number Six and place them
6 back. The record would please reflect that. At this time I
7 would move the contents of State's Number Six into evidence,
8 State's Number Four, State's Number Two, State's Number Three
9 and I believe already into evidence State's Exhibit Number
10 Five and State's Exhibit Number Seven.

11 THE COURT: Any objection, Mr. Goude?

12 MR. GOUDE: If I can see them I'll ---

13 THE COURT: He wants to see them.

14 MR. MODICA: Showing them to counsel.

15 Your Honor, can the record reflect that counsel is
16 opening heat-sealed bags.

17 THE COURT: Yeah, don't open any of the bags just at
18 this point, I mean.

19 MR. MODICA: State's exhibit number three at least
20 he's attempted to open.

21 MR. GOUDE: I would certainly object to anything
22 that I can't see before it goes into evidence, Judge.

23 THE COURT: All right, let me let the jury go to the
24 jury room just a minute.

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right, we'll take a short break while
3 you go through them. Don't open any, and if you object to
4 them on that grounds, we'll deal with that.

5 MR. GOUDE: I will object to all the exhibits on the
6 grounds that I couldn't see what was in it, Judge. Yes, I
7 know drugs or something you don't open the cocaine bag and
8 sniff it or something to prove to see it, but a closed paper
9 bag, I would never consent for something like that to go into
10 evidence because the jury is going to be able to open it when
11 they get a hold of them.

12 Something that I can see like in this box because it's
13 been opened.

14 THE COURT: All right, well, just tell me what you
15 object to and what you -- if there's nothing -- tell me what
16 you object to and what you do not object to, and I'll give
17 you a few minutes if you want.

18 MR. GOUDE: I do not object to, I do not object to
19 State's Exhibit Two that I've opened and looked at. It's
20 the box.

21 Two, have no, no objection to Exhibit Six, Judge, which
22 is a box of stuff that I've looked at. Judge, we have no
23 objection to Exhibit Four, which is duct tape. The only one
24 I, the only one I object to, Judge, is this thing here that's
25 supposedly sealed, the paper bags in it that I don't know

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1 what's in the paper bag until I can see it. When the jury
2 gets it they're going to be able to open the plastic sandwich
3 bag it's in and open the paper bag it's in and see stuff and
4 I never seen something that could go to the jury when the
5 Defendant and his lawyer can't even see the stuff. So, I
6 would object to it on that grounds.

7 MR. MODICA: I will say this and he has the SLED
8 reports and can look at them and see, neither one of these
9 items come back either trace or DNA as being a match. They
10 did analysis on these things but they were no match. You
11 know, obviously, if you want it open, the Court orders us to
12 open it, we open it but I've tried many a case where sealed
13 envelopes go back to them. The things that are the DNA match
14 are number two.

15 THE COURT: What's supposedly in there?

16 MR. MODICA: As testified, Number Six is ---

17 THE COURT: Well, let's just do this, I will order
18 that they be opened so he can, the Defendant can examine
19 them. That's not going to ---

20 MR. MODICA: And the record please reflect, Your
21 Honor, that I have taken the scissors and I'm opening the
22 contents of State's Exhibit Number Three, a heat-sealed
23 bag.

24 THE COURT: The record will reflect that you're doing
25 it very aptly, too.

1 MR. MODICA: And I'm removing the contents to show to
2 counsel.

3 Item seven is removed and item six is removed, both of
4 these are sealed. Your Honor, both of these are sealed.

5 THE COURT: What do they purport to contain?

6 MR. MODICA: Your Honor, the number six, the one that
7 says number six containing possible hair recovered from the
8 1996 Dodge Ram truck recovered underneath the front passenger
9 seat.

10 THE COURT: And these were all testified that he
11 obtained?

12 MR. MODICA: Yes, sir.

13 THE COURT: Through this witness?

14 MR. MODICA: Yes, sir.

15 THE COURT: All right, well, they'll be opened, too,
16 and he can examine them.

17 MR. MODICA: Your Honor, then the record should reflect
18 that I'm cutting open number six and item seven. May the
19 record reflect that counsel is requesting that a trace
20 evidence item that has SLED tape all over it be opened up?

21 THE COURT: Go ahead and open it.

22 MR. MODICA: Let the record reflect that I'm complying.

23 MR. GOUDE: No objection to what's in that exhibit,
24 Judge.

25 THE COURT: All right, give me the number, counsel.

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1 MR. MODICA: The whole exhibit number is Three. They
2 are items numbered, two paper different bags, seven and six.

3 THE COURT: They're all into evidence then.

4 MR. MODICA: Yes.

5 (Whereupon, State's Number Exhibit Number Two, Three,
6 Four and Six [See Index for Description] admitted into
7 evidence and appropriately marked.)

8 THE COURT: All right, let's take a real quick
9 refresher break and then when we can get the jury back we can
10 ---

11 MR. MODICA: Can we talk about scheduling off the
12 record?

13 THE COURT: Sure, come on back after you ---

14 *****OFF THE RECORD*****

15 (On the record.)

16 (Whereupon, the following takes place outside the
17 presence of the jury.)

18 THE COURT: All right, let's get Mr. Parker in and
19 then we'll get the jury in.

20 All right, let's bring in the jury.

21 (Whereupon, the following takes place in the presence of
22 the jury.)

23 THE COURT: All right, members of the jury panel,
24 while you were out, all those items of evidence that were
25 offered by the State were admitted into the record without

1 objection.

2 DIRECT EXAMINATION (CONTINUED)

3 BY MR. MODICA:

4 Q Having gone to lot ■ of the BB's trailer park is there
5 any problem parking in the front?

6 A Of her particular residence?

7 Q Right.

8 A No.

9 Q And less room in the back?

10 A Yes.

11 Q Did you have occasion to see the photographs that the
12 Defense was flipping through from your seat?

13 A I couldn't see them great, no.

14 Q Let me just quickly show them to you, and while I'm
15 showing them to you, what I want you to do is tell us if
16 those photographs fairly depict or do they give a perception
17 about how close those trailers are? Do you understand that
18 question?

19 A Yes.

20 Q All right.

21 A I wouldn't say that you could get a fair depiction of
22 how close they are together just by these photographs.

23 Q Do they appear to be closer together than they are in
24 those photographs?

25 A Yes, they do.

1 Q Okay, all right, that was my question. So, the angle of
2 the photographs kind of makes you think they're closer?

3 A Yes, sir.

4 Q Thank you. Answer any questions counsel may have for
5 you.

6 THE COURT: Cross examination.

7 CROSS EXAMINATION

8 BY MR. GOUDE:

9 Q Is there a way to stand there and take photographs of
10 these trailers so you can see all the trailers or several of
11 them in a picture and do it in any fairer manner to show how
12 the trailers are located?

13 A No, I don't believe so.

14 Q On the exhibit that piece of duct tape was taken from
15 the floor of the garage apartment, which is your -- is that
16 Exhibit Three?

17 MR. MODICA: No, it wasn't those. That's Six and
18 Seven. Those are Six and Seven. Oh, I'm sorry. He's saying
19 three.

20 Q On Exhibit Three, which says piece of duct tape
21 containing possible hair recovered from the rear room of the
22 garage apartment at [REDACTED], this thing was sent to
23 SLED and SLED tested that hair to see if it was human hair or
24 not; didn't they?

25 A I do not know if they tested the hair or not.

1 Q You have not seen the SLED report that came back in on
2 that?

3 A I have seen it. I'm not sure if they did an analysis on
4 that particular piece of hair without looking at the report.

5 Q And the SLED tape is on the outside of this bag?

6 A That's right.

7 MR. GOUDE: That's the only questions I have, Judge.

8 THE COURT: All right any cross -- redirect.

9 MR. MODICA: No, sir.

10 THE COURT: All right, you can step down. Thank you.

11 Call your next witness.

12 MR. MODICA: Thank you, Your Honor. At this time, the
13 State would call Ila Simmons. Can you please get Ila
14 Simmons?

15 AT THIS TIME ILA SIMMONS WAS CALLED TO THE STAND, DULY SWORN
16 BY THE CLERK AND TESTIFIED AS FOLLOWS:

17 THE CLERK: Thank you. Please be seated and state
18 your name for the record, please.

19 MS. SIMMONS: My name is Ila Simmons.

20 DIRECT EXAMINATION

21 BY MR. MODICA:

22 Q Could you please tell us where you're employed, the
23 length of time you've been employed and in what capacity?

24 A I am employed at the South Carolina Law Enforcement
25 Division also known as SLED in the forensics laboratory in

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1 the area of trace evidence. I've been employed there for
2 approximately seven years.

3 Q Would you tell our jury a little bit about your
4 background and experience that led you to become a member of
5 SLED and in trace?

6 A Yes, I have a bachelors of science degree in chemistry.
7 After completing my degree in chemistry, I went to work at
8 SLED. It was my first place of employment. During my first
9 three years at SLED I worked with a qualified trace evidence
10 examiner who instructed me on how to analyze, collect and
11 prepare trace evidence for analysis. During that time I had
12 to take several competency examinations in all the different
13 disciplines of trace evidence and complete them successfully.

14 Q You did so?

15 A Yes, I did.

16 Q And tell our jury what it is to do trace evidence.

17 A Trace evidence encompasses several areas of forensics.
18 We analyze gunshot residue, gunpowder residues, we do fiber
19 comparisons, duct tape comparisons. We do paint comparisons
20 and analyze fire debris and explosives debris.

21 Q And have you been qualified as an expert in the states
22 here, in South Carolina as an expert in the field of trace
23 evidence?

24 A Yes, I have over 70 times.

25 Q Have you been qualified in federal court or out of state

1 as well?

2 A In federal court as well as civil courts here in the
3 State of South Carolina.

4 MR. MODICA: Your Honor, at this time I would ask that
5 this witness, Ila Simmons, be qualified as an expert in the
6 field of trace evidence.

7 THE COURT: Any voir dire?

8 MR. GOUDE: No, Your Honor, and no objection.

9 THE COURT: You, you ---

10 MR. GOUDE: No objection.

11 THE COURT: Okay, I find she is qualified. Members
12 of the jury panel, generally witnesses can only testify as to
13 something they've observed with one of their five senses,
14 they've seen something, heard it, smelled it, tasted it,
15 touched it. However, when individuals have certain
16 experience, knowledge, training in a certain area, those
17 individuals can testify as what we call experts and render
18 opinions. Now, opinions of experts are given to assist you.
19 They're not binding on you. They're witnesses just like any
20 other witness, and you look at their testimony just like I
21 talked to you earlier about any witness, plus, when assessing
22 an expert's testimony about an opinion you can also look at
23 their qualifications, that is their ability to render an
24 opinion and their reasons that they reached the opinion they
25 reached. So, generally, one cannot give opinions but someone

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1 who is an expert can give for your assistance, but not -- but
2 it's not binding on you, opinions about evidence. Thank you.
3 Yet you may proceed.

4 MR. MODICA: Thank you Your, Honor.

5 BY MR. MODICA:

6 Q Were you called upon to do some analysis in regard to
7 this case that bears SLED analysis number L0602232?

8 A Yes, I was.

9 Q And was it submitted to you by the Georgetown County
10 Sheriff's Office?

11 A Yes, it was originally, yes.

12 Q And was their case number 01062049?

13 A Yes, it was.

14 Q Were you aware, were you aware of the alleged incident
15 date as being January 29th of 2006?

16 A Yes, that was recorded on the paperwork they submitted.

17 Q Now, you were called upon to do an analysis on duct
18 tape?

19 A Yes, that's correct.

20 Q Can you tell our jury generally how you go about trying
21 to make comparisons as a trace expert when you have known and
22 unknown duct tape and, of course, explain what it means to be
23 known and unknown?

24 A A known sample is a sample that is collected and they
25 known the origins of the sample, where it came from, who was

1 in possession of it. An unknown sample is a sample that is
2 collected from an area where it is questionable as to who
3 placed it there or where it originated from, and in this, in
4 a duct tape case, duct tape is made up of several components.
5 It's not just a piece of tape. It has a silver backing that
6 you often see. When you tape something that's the part
7 that's facing you. On the back it has a very thick adhesive
8 that's usually a white or a cream color and it has fibers
9 that run the length of the tape and the width of the tape. We
10 compare all of these, all of these areas of duct tape, and we
11 also look for what is known as a fracture match. A fracture
12 match is like putting together a jigsaw puzzle. It's two
13 pieces that go together and fit back perfectly together, and
14 like in the pieces of a jigsaw puzzle where the edges would
15 be cut in a certain way and the two pieces fit back together
16 that would be what would be considered a fracture match.

17 Q I take it -- you mentioned silver duct tape. I take it
18 there's other duct tape, colored duct tape that you analyze.

19 A Yes, there, there can be.

20 Q Of course, you said, you said silver because you know it
21 was silver in this case?

22 A In this particular case it was, yes.

23 Q When you have a -- when you're attempting to match a
24 fracture piece what kind of things do you go about trying to
25 match a fracture?

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- 1 A We do a visual examination first to see if the two
2 pieces that we are comparing do appear to fit back together
3 like a jigsaw puzzle. Afterwards, I would put them under a
4 microscope that allows me to see down 400 times greater than
5 the human eye can see and look at these same areas. I would
6 look at the backing, make sure that the fibers line up as
7 well as any adhesive that may be protruding or indenting on
8 either side of the duct tape.
- 9 Q Let's start, if we might, in this case, did you have
10 occasion to look at a bed comforter?
- 11 A Yes, I did.
- 12 Q Okay, and did you remove anything from the bed
13 comforter?
- 14 A Yes, there was a piece of duct tape on the comforter.
- 15 Q I'm showing you what's been marked as State's Exhibit
16 Number Five. Can you see it there?
- 17 A Yes.
- 18 Q And it is now open as you can see?
- 19 A Yes.
- 20 Q But do you recognize, prior to my opening it, do you
21 recognize this in any fashion?
- 22 A Yes, it is marked with my initials, the item number, the
23 SLED lab number, it is also sealed with evidence tape. It
24 has my initials and the date that I sealed it.
- 25 Q I'm opening it now.

- 1 A Uh-huh (affirmative response).
- 2 Q If you need me to remove the comforter, you let me know,
3 but ---
- 4 A Uh-huh (affirmative response).
- 5 Q --- do you recognize that comforter?
- 6 A Yes, that is the comforter I analyzed to remove the duct
7 tape from.
- 8 Q Okay, I know we're close together ---
- 9 A Uh-huh (affirmative response).
- 10 Q --- but you have to try and talk into the microphone ---
- 11 A Okay.
- 12 Q --- and try and project your voice.
- 13 A Okay, yes, this is the ---
- 14 Q All right.
- 15 A --- comforter that I analyzed, uh-huh (affirmative
16 response).
- 17 Q And you, in fact, did remove a piece of duct tape from
18 it?
- 19 A Yes, I did.
- 20 Q And when you removed that piece of duct tape and you
21 placed it somewhere else I think?
- 22 A Yes, I took it into my custody and placed it in a
23 smaller heat-sealed pouch that is easier to maneuver since
24 that was the item that I was analyzing.
- 25 Q I'm showing you State's Exhibit Number Four.

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- 1 A Yes.
- 2 Q In evidence?
- 3 A Yes.
- 4 Q I'm going to hand it to you now and ask you if you
- 5 recognize that and how you recognize it?
- 6 A Yes, this is the piece of duct tape that I removed from
- 7 the comforter. I recognize it because it is marked with my
- 8 initials, the date that I took it into my custody and the
- 9 item number and the SLED lab number.
- 10 Q Did you heat seal that?
- 11 A Yes, I did and it's sealed here.
- 12 Q Okay, and when you heat seal it you put your initials on
- 13 it as well?
- 14 A Yes, and the date that it is sealed.
- 15 Q When you look in through the plastic bag you see a
- 16 number of items ---
- 17 A Uh-huh (affirmative response), yes
- 18 Q --- in there. Obviously you see what you described as a
- 19 piece of duct tape but there are some other items in there.
- 20 A Uh-huh (affirmative response).
- 21 Q Could you tell our jury what those other items are,
- 22 please?
- 23 A The other items would be samples of the fibers that I
- 24 collected from the duct tape have to be put on a micro-slide
- 25 so that we can analyze them under a stronger power of

1 microscope than just what the human eye can see, as well as
2 what is known as a particle lift. The adhesive is taken and
3 analyzed on a different instrument to look at its components,
4 the elements that are there, if there's lead there or carbon
5 or calcium and that's what's placed in the small plastic box
6 there.

7 Q And now, for a moment we're going to put this aside,
8 State's Exhibit Number Four, but we're going to get back to
9 it. By the way, so we're clear, you also, the comforter to
10 you was item number eight?

11 A Yes.

12 Q And you marked this what?

13 A That's 8.1 because it was an item coming off of the
14 comforter.

15 Q Now, I'm showing you State's Exhibit Number Two which is
16 in evidence and I'll show you number two?

17 A Yes, it is item number two.

18 Q And out of your presence but in the presence of the
19 Court and the jury we opened this box and you can that now
20 it's open.

21 A Yes.

22 Q Prior to it being opened did you secure it in some
23 fashion so that you knew that it was secure?

24 A Yes, I did. I also secured this with the same type of
25 evidence tape. I secured it here, here and every area that

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1 it could be, could have possibly been tampered with so that
2 all areas are covered. It is marked with my initials and the
3 date that I sealed it.

4 Q On the outside does some of your writing appear on here?

5 A Yes, some of it does, yes.

6 Q Okay, and it pertains to what it was and what you may
7 have done?

8 A Yes, and the item numbers that are present within the
9 box.

10 Q And that is part of the way that you are able to
11 identify it?

12 A That's correct.

13 Q And the item numbers that are contained within it are
14 item numbers what, even without looking inside, what item
15 numbers are contained therein?

16 A We place stickers that come from our computerized system
17 that have the item numbers through the computer. It's item
18 number 9, 10 and 10.1.

19 Q Okay, and 10.1 being a derivative of ten?

20 A Yes.

21 Q Okay, now I'm opening it up and we can see that there
22 are a number of items in here?

23 A Yes.

24 Q What I would like you to do if you would is take each
25 item out, let the jury see what you're holding ---

1 A Uh-huh (affirmative response).

2 Q --- and then explain what it is?

3 A Okay, I'll have to refer back to my notes to make sure

4 that I have the same item numbers that are ---

5 Q That's quite all right.

6 A Okay.

7 Q Would looking at your notes refresh your recollection?

8 A Yes, it will.

9 Q And give you certainty in your testimony?

10 A Yes, correct.

11 Q Okay, go right ahead.

12 A Okay, this is a roll of duct tape that was -- this is

13 going to be the item nine that I spoke about earlier, just a

14 roll of duct tape that was said to have, when it was

15 collected from a coffee table, that was the information I was

16 given. These are samples from item nine, that same roll of

17 duct tape, that I took off to use for analysis, and I had to

18 cut them and process them in certain lengths.

19 Q Did you give them item numbers?

20 A I did not. I just kept them as item nine since they

21 were all going to remain in the same container with the

22 original.

23 Q Okay, and the third piece that you just pulled out?

24 A Yes, this third piece is item number ten which was also

25 mentioned on the outside, and it was labeled to me as a piece

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1 of duct tape collected from a coffee table. So, this was the
2 roll of duct tape that came from the coffee table and a piece
3 of duct tape that came from the coffee table. Also included
4 in here are some more microscope slides that I used when
5 analyzing the fibers from the back of the duct tape and some
6 more particle lifts that I used when analyzing the adhesive
7 that is on the duct tape.

8 Q Now for a moment we're going to keep this exhibit,
9 Exhibit Number Two open and I'm going to ask you in regard to
10 State's Exhibit Number Four which you described for the jury
11 as a piece of tape coming from the comforter, what if any
12 comparisons did you make from item eight or a portion of it,
13 8.1, with Item Nine, the roll of duct tape?

14 A I analyzed the silver backing on both tapes. They were
15 consistent with one another. I analyzed the adhesives on
16 both type -- on both pieces -- on the piece of duct tape as
17 well as the roll of duct tape. They were also consistent
18 with one another. I analyzed the fibers that were running
19 the lengths of both pieces of duct tape, they were also
20 consistent, the fibers that were running the width of the
21 duct tape and the physical characteristics of the duct tape.
22 In physical characteristics we analyze the width of the
23 backing. We strip all of the fibers and the adhesive off,
24 look at the width of the backing using a monochromator or a
25 caliber and I also looked at the thickness of the duct tape

1 with the adhesive and fibers present and the width of the
2 duct tape that would have come off the roll. All of these
3 are consistent between item 8.1 and the roll of duct tape.

4 Q Can you tell our jury that the duct tape that came out
5 of the blanket, which is State's Exhibit Number Four, came
6 from item number nine?

7 A It is consistent with item number nine.

8 Q You can't say that that came from that?

9 A I cannot, I cannot say that it came from that. I can
10 say that it is consistent in all physical and chemical
11 characteristics.

12 Q As it would be consistent with other manufactured by the
13 same company of this duct tape?

14 A Right, at around the same time, yes.

15 Q Because the components change over time?

16 A They do.

17 Q Now I'm showing you State's Exhibit Number Three which
18 apparently at one point in time was a heat-sealed bag?

19 A Yes, it was.

20 Q By somebody.

21 A Yes, it was heat-sealed by me.

22 Q Okay.

23 A Uh-huh (affirmative response).

24 Q Just so you know, in the presence of the Court we cut
25 this open and removed the items, and now, what I would ask

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1 you to do is remove the two -- first of all, how do you
2 recognize State's Exhibit Number Three, the now cut heat-
3 sealed bag?

4 A It is also marked with our lab identification number, a
5 container number. It is marked with my initials and the date
6 on which I sealed it.

7 Q Can you remove both six and seven for me and those are,
8 for the record they are brown paper bags?

9 A Yes, they are.

10 Q Okay, and each of them have an item number on it?

11 A Yes.

12 Q And if we might start with item number seven.

13 A Okay.

14 Q Would that be all right with you?

15 A That's fine.

16 Q Okay, and I'm making a big bet here, and I bet you
17 Number Seven is cut open, too.

18 A Yes, it is.

19 Q Okay, and for your knowledge it was cut open in the
20 presence of the Court. Prior to it being cut open was it
21 sealed by you?

22 A Yes, it was. It has the same sort of evidence tape that
23 I put on the boxes. It's initialed and has the date that I
24 sealed it.

25 Q Okay, can you look at and remove the item that's

1 contained in item number seven, the brown paper bag. Okay,
2 you've removed two items. Could you explain both of those
3 items to our jury, please?

4 A Yes, this is ---

5 Q This being what?

6 A This is item seven, which, and 7.1 is also included in
7 here. It's a piece of silver duct tape that according to my
8 notes was recovered from the rear room of a garage apartment.
9 Thank you, and these are the microscope slides that I used in
10 analyzing the fibers of the duct tape, uh-huh (affirmative
11 response).

12 Q Would you place both of those items back in there?

13 A Yes.

14 Q Oh, before you do that ---

15 A Yes.

16 Q --- the bag that is marked Number Seven, the Ziploc bag,
17 clear Ziploc bag, can you tell us what if any comparisons you
18 did in regard to this piece of tape with number nine, the
19 roll of duct tape?

20 A Yes, I did the same types of analysis. I analyzed the
21 backing, both types of fibers, both horizontal and vertical
22 fibers, the adhesives, the thickness of the backing, the
23 thickness of the entire tape, the width of the tape, so all
24 physical and chemical characteristics and they are
25 consistent, the piece of duct tape from the garage apartment

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1 and the roll of duct tape.

2 Q And the same questions about being the exact same roll
3 and the consistency and the consistency over time would be
4 the same answers?

5 A Yes, that's correct.

6 Q Would you put -- place those two back in for me, please?

7 A Uh-huh (affirmative response).

8 Q And then would you do me one more favor ---

9 A Yes.

10 Q --- or hand them to me and I will place them both back
11 in.

12 A Okay.

13 Q Now, what I would like you to do is I think that you
14 mentioned in State's Exhibit Number Two, the box, that there
15 was number ten?

16 A Yes, there was.

17 Q I believe that I -- and where -- what's your indication
18 of where ten came from?

19 A It was collected from a coffee table according to the
20 notes that were submitted to me.

21 Q Okay, and in regard to number ten and number nine can
22 you tell our jury about the analysis you did?

23 A Yes, it was a piece of silver duct tape. I did all the
24 analysis that I had mentioned before, check the backing, the
25 types of fibers, the adhesives, all the physical

1 characteristics. This piece of duct tape that came from the
2 coffee table is consistent with the roll of duct tape as
3 well.

4 Q Now, out of State's Exhibit Number Three, we had
5 number six and we had number seven.

6 A Right.

7 Q Seven we dealt with. We are now at six.

8 A Yes.

9 Q See item six?

10 A Yes, that is item six.

11 Q Okay, was this sealed by you in the same fashion as the
12 other exhibits that you described?

13 A Yes, it was.

14 Q And do you note that it's open, it's been opened in the
15 presence of the Court. What I would ask you to do now is I
16 would ask you to remove the contents of State's Exhibit
17 Number Six.

18 A Okay, all right.

19 Q Explaining what's -- please explain for the jury what's
20 contained therein?

21 A Okay, this is a piece of silver duct tape that according
22 to my notes was collected from a 1996 Dodge Ram truck
23 underneath the front passenger seat, and I compared it back
24 to the roll of duct tape as well.

25 Q There's another item in there.

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- 1 A Yes, this is the microscope slides that I had using to
2 compare the fibers.
- 3 Q Now, when you got this piece that I'm referring to which
4 is, you have item six and it says end for fracture?
- 5 A Yes.
- 6 Q Okay, whose handwriting is that?
- 7 A That is mine.
- 8 Q Fracture meaning in laymen's term tear?
- 9 A Yes.
- 10 Q And when you received this was it in this kind of
11 condition or did you have to manipulate it to get it flat?
- 12 A It was slightly bent but it was basically in a flat
13 condition in this bag here.
- 14 Q Okay.
- 15 A Uh-huh (affirmative response).
- 16 Q And when I say manipulate I'm not saying that you
17 changed it. You just changed it from being potentially
18 scrunched up to ---
- 19 A Flattened out yes, sir.
- 20 Q And that assists you in your ability to make, among
21 other things, matches and fracture matches?
- 22 A Yes, it does.
- 23 Q And that's why you would do it?
- 24 A Yes.
- 25 Q Now, what I want you to do for a moment is did you have

1 occasion in regard to this piece of number six to match it to
2 anything in regard to a fracture match contained in State's
3 Exhibit Number Two?

4 A Yes, I did.

5 Q Which piece contained within number two did you match it
6 with? Can you take that piece out for me?

7 A I can. It would be this piece that was originally
8 attached to item number nine which is the roll of duct tape.
9 It was the last piece on this end of the duct tape.

10 Q So, so we understand, you took the last piece that is
11 reflected in what you're holding in your right hand now and
12 took it, cut it off this roll of duct tape, number nine ---

13 A Correct.

14 Q --- for purposes of making a fracture match?

15 A Yes.

16 Q Would you hold that for a moment ---

17 A Uh-huh (affirmative response).

18 Q --- from item seven. Now, after you made a fracture
19 match, did you take a photograph so that we could show the
20 jury the comparison of that fracture match?

21 A Yes, I did.

22 Q I'm showing you State's, first I will show it to
23 counsel, State's Exhibit Number 19, previously showed it to
24 counsel. I'm showing you State's Exhibit Number 19.

25 A Yes.

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1 Q And do you recognize this photograph?

2 A Yes, this is a photo that I had taken at SLED by our
3 photography department of the pieces of tape that I
4 aforementioned.

5 Q Okay, that were prepared on these items that you're
6 holding, that all they did was take a photograph.

7 A Correct.

8 Q Okay, and this photograph fairly and accurately depicts
9 your putting the two pieces together?

10 A Yes, it does.

11 MR. MODICA: Your Honor at this time I would move
12 State's Exhibit Number 19 into evidence.

13 MR. GOUDE: No objection, Your Honor.

14 THE COURT: Be received.

15 (Whereupon, State's Exhibit Number 19 [Photograph of
16 Duct Tape] admitted into evidence and appropriately marked.)

17 BY MR. MODICA:

18 Q Now what I'm going to ask you to do is I'm going to ask
19 you to step down. When you step down I'm going to have you
20 stand on that far end so you project your voice this way and
21 I want you to keep your voice up because you will be off
22 microphone so that everybody can hear you; okay?

23 A Okay.

24 Q And what we'll do is we'll start from this far end of
25 the jury here and first I'll take State's Exhibit Number 19

1 and we'll show it to the jury and would you describe for the
2 jury how you got a fracture match out of item number six and
3 item number ---

4 A Nine.

5 Q --- nine?

6 A What I did was I received the roll of duct tape so I
7 look at the end of the roll of duct tape which would be
8 indication of the last piece removed. I then went through
9 the unknown pieces of duct tape that I had and looked through
10 them and compared them to the end, last piece of duct tape
11 that was removed from the roll and compared these to one
12 another to see if they fit back together.

13 Q Does 19, although they're slightly apart, does that
14 demonstrate how you were able to make a fracture match?

15 A Yes.

16 Q Okay, and can you take number six and number nine and
17 show the jury how they match?

18 A Yes, I can.

19 Q Would you -- now, we're going to do this in sections
20 because those people down there, so, we'll go in thirds.

21 A Okay, now, this, this is item number nine ---

22 COURT REPORTER: I can't hear her, Judge.

23 THE COURT: All right, the court reporter can't
24 hear you, so.

25 A I'm sorry.

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1 This is item number nine, the end of the roll of the
2 duct tape and this is the unknown piece, the item number six
3 from the truck, and I just take the two pieces and just like
4 a jigsaw puzzle you can see as they come apart. When you fit
5 them back together, they fit together like a jigsaw puzzle.
6 This part's curved down here. You have a protrusion here.
7 It comes out this way. There's an indention there and they
8 match back together just like this.

9 Q Now, obviously, you can see that with your naked eye;
10 correct?

11 A Yes, you can.

12 Q After you did that with your naked eye, did you submit
13 it to another test?

14 A Yes, I did. I analyzed it under a microscope which
15 allowed me to look at the fibers and the backing of the duct
16 tape that goes down to 400 times what the human eye can see.

17 Q And what did that reveal?

18 A That was consistent with this, that they were a fracture
19 match.

20 Q So, you did it by the human eye and by a microscope that
21 sees 400 times better than we do.

22 A Correct.

23 Q Would you go towards the middle here and do the same
24 thing?

25 A This is the piece from ---

- 1 Q You're going to have to keep your voice real loud.
- 2 A Okay, this is the piece from the pickup truck here and
3 this is the piece from the end of the roll of duct tape and
4 we look at the two and you compare them together you see how
5 they fit back together, the curve here, the protrusion here,
6 the indention there and move the two back and forth together.
7 They work like a jigsaw.
- 8 Q Great, would you come down to this third of the
9 jury?
- 10 A This is the piece from the end of the duct tape roll.
11 This is the unknown piece from the pickup truck, once you get
12 them close together you can see ---
- 13 Q Got to keep your voice up.
- 14 A I'm sorry, and as they go back together you can see that
15 they look like a jigsaw puzzle, go together making a fracture
16 match.
- 17 Q Great. Thank you very much. Have a seat.
18 Now, if you would, let's put item number nine back where it
19 belongs and item number six back, and the record should
20 reflect the witness is complying.
- 21 A Uh-huh (affirmative response).
- 22 Q I'm closing State's Exhibit Number Two. Then I'm
23 placing number six back, item number six back in State's
24 Exhibit Number Three. I think I have just a few more
25 questions for you.

1 I take it from the demonstration that you just showed
2 our jury, they theoretically can go back and play with it,
3 put them together like you did in front of them?

4 A Yes, they can.

5 Q Okay, is there any question in your mind based upon your
6 expertise in the field of trace evidence that the item taken
7 from six originated from the roll of duct tape, nine?

8 A There is no doubt. They -- the one item number six
9 originated from the roll of duct tape.

10 Q Thank you very much. Answer any questions counsel might
11 have for you.

12 THE COURT: All right, cross.

13 CROSS EXAMINATION

14 BY MR. GOUDE:

15 Q Ms. Simmons, can I see the piece of duct tape that came
16 from the comforter?

17 A It's down there in the, looks like it's marked State's
18 Exhibit Four.

19 Q Is that the piece there?

20 A Yes, sir, it's 8.1 in my notes, yes, sir.

21 Q As I understand it in the piece that was found in the
22 garage apartment in Summerville which piece is that?

23 A That's going to be my item number 10. I believe it is,
24 it's in the box. I don't recall what the State's exhibit is.

25 MR. MODICA: Two.

- 1 A Oh, I'm sorry. It's in item number, it's in State's
2 Exhibit Number Two. It's ---
- 3 Q That's the box.
- 4 A No, I believe it's the -- one of the bags. Oh, I'm
5 sorry, it's in -- it's in the bag. I'm sorry, because it was
6 item number six and seven.
- 7 Q There's three.
- 8 MR. MODICA: That's it.
- 9 A That's it.
- 10 Q That's it.
- 11 A That'll be it, State's Exhibit Number Three, I'm sorry.
- 12 Q As I understand it, for this piece of duct tape it was
13 found in the garage apartment in Summerville, the piece of
14 duct tape and the roll of duct tape is where, in this box?
- 15 A In the box.
- 16 Q As I understand what you said, the piece of duct tape
17 that was found in the garage apartment in Summerville may
18 have come from this roll of duct tape or it may not have come
19 from this roll of duct tape; is that a fair statement?
- 20 A Yes, sir, it may have come from that duct tape or any
21 kind made from that brand with that same, those same
22 characteristics.
- 23 Q That's all I have.
- 24 THE COURT: Okay, recross, I mean, redirect?
- 25 MR. MODICA: I have nothing further.

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1 THE COURT: All right, you can step down, and be ---

2 MR. MODICA: I would ask that she be released from her
3 subpoena.

4 THE COURT: You can be excused. We appreciate your time.

5 A Thank you.

6 THE COURT: Thank you. Call your next witness.

7 MR. MODICA: The State calls Jennifer Clayton.

8 THE COURT: All right, ma'am, if you -- are you Ms.
9 Clayton? All right, if you'll come up here you'll see a
10 Bible. If you'll put your left hand on it and raise your
11 right.

12 AT THIS TIME JENNIFER LYNN CLAYTON WAS CALLED TO THE STAND,
13 DULY SWORN BY THE COURT AND TESTIFIED AS FOLLOWS:

14 THE COURT: All right, thank you. If you'll have a
15 seat up there and tell us your name.

16 MS. CLAYTON: Jennifer Lynn Clayton, C-L-A-Y-T-O-N.

17 DIRECT EXAMINATION

18 BY MR. MODICA:

19 Q Could you tell us where you're employed, the length of
20 time you've been so employed and in what capacity?

21 A Okay, I work for the South Carolina Law Enforcement
22 Division, also known as SLED. I've been there approximately
23 four and a half years and I'm currently a DNA analyst with
24 the DNA Department.

25 Q Did you have other responsibilities prior to joining DNA

1 at SLED?

2 A I was originally a forensic technician with the DNA
3 Department and then I moved from that position to a DNA
4 analyst position.

5 Q What I want you to do is a couple of things, and if you
6 forget something I'll remind you. First of all, tell the
7 SLED a -- tell the jury a little bit about your education,
8 background and experience that led you to become a DNA
9 analyst at SLED and let's start with that.

10 A Okay, I earned a bachelor of science from the University
11 of North Carolina at Chapel Hill. I've also taken classes at
12 NC State and USC. I completed an internship with the North
13 Carolina State Bureau of Investigation's molecular genetics
14 department. As I said earlier, I worked as a forensic
15 technician for a couple of years at the DNA department at
16 SLED before I got the DNA analyst position. After being
17 hired on as a DNA analyst I completed a one-year program
18 underneath, a training program under a qualified DNA analyst,
19 and that included working both trial samples and doing actual
20 case work under another analyst before I was allowed to go
21 online and do case work on my own.

22 Q We probably all watch too much CSI but why don't we hear
23 the skinny from somebody who actually knows. Could you tell
24 our jury what DNA is?

25 A Okay, I guess the short of it is is that DNA is a long

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1 chain chemical and it's found in essentially every cell in
2 the body with the exception of red blood cells, and it's the
3 same whether you look at the DNA from your skin or your blood
4 or your eye or whatever your DNA would come from it's going
5 to be the same and no two people have exactly the same DNA,
6 with the exception of identical twins, and that's what makes
7 it useful to forensics. It's basically considered, the --
8 it's kind of considered a blueprint for life. It determines
9 if you're tall, you're short, you're going to have blue eyes
10 or brown eyes or what color your hair is going to be but it
11 also has sections of DNA that don't code for any of these
12 things and that's what we look at. We look at 13 of these of
13 these locations and we test these locations, which gives us a
14 set of numbers to put it the simplest way, and we call this
15 set of numbers a DNA profile, and we're allowed -- we can
16 then take these DNA profiles that we develop both from
17 evidence and from standards that would come from, for
18 instance, a victim or a suspect, and determine if the DNA
19 profile from the evidence matches the DNA profile on our
20 known set of standards.

21 Q Have you been qualified as an expert in the field of
22 forensic DNA analysis previously in the State of South
23 Carolina?

24 A Yes, I have.

25 Q Okay, tell our jury a little bit about that.

1 A Basically that just establishes that I have both the
2 qualifications and the background, training to give an
3 opinion on DNA analysis.

4 Q About how many times in South Carolina?

5 A I've been qualified twice as an expert.

6 Q How about federal court or out of state?

7 A No, I have been not qualified in federal court or out of
8 state.

9 MR. MODICA: Your Honor, at this time I would ask that
10 this witness, Jennifer Clayton, be qualified as an expert in
11 the field of forensic DNA analysis.

12 THE COURT: Any voir dire?

13 MR. GOUDE: I have no questions and no objection,
14 Your Honor.

15 THE COURT: I find she's qualified.

16 BY MR. MODICA:

17 Q All right, in regard to this case, which is lab case
18 number L0602232, is that the case?

19 A That's correct.

20 Q And local police agency number 01062049?

21 A That's what I have on my paperwork, correct.

22 Q And an alleged incident date of January 29th of 2006?

23 A Correct.

24 Q Did you receive some evidence for purposes of analysis
25 in this case?

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1 A Yes, I did.

2 Q Can you tell our jury what evidence you received?

3 A Okay, I received a number of items. I received a buccal
4 swab standard, which is simply a swab from the inside of the
5 mouth, from Belinda Mitchum for a known DNA standard. I
6 received known head hairs from Belinda Mitchum. I received
7 swabs collected from a piece of duct tape. I also received a
8 Sirchie hinge lifter which contained possible hairs and fiber
9 samples collected from the rear floorboard. I received a
10 white envelope containing possible human hair collected from
11 the rear floorboard. I received a piece of silver duct tape
12 containing possible hair recovered from a 1996 Dodge Ram
13 truck underneath the front passenger seat. I also received
14 silver, a piece of silver duct tape containing possible hair
15 recovered from rear room of garage apartment, a roll of duct
16 tape collected from a coffee table, and a piece of silver
17 duct tape containing one strand of hair collected from a
18 coffee table.

19 Q When you got that piece of hair did you mark it as
20 another exhibit?

21 A I did, yes. There were several hairs that I removed
22 from the Sirchie hinge lifter, a piece of silver duct
23 tape and, oh, and a second piece of silver duct tape and
24 they received different lab -- different item
25 numbers.

1 Q Rather than take the time and energy in front of the
2 jury to go through each one of these pieces of evidence that
3 are already in evidence, say ones proved productive in terms
4 of your analysis versus ones that didn't, how about if you
5 tell us -- go through the ones that did not and then we'll
6 finish off with the ones that did, how about that?

7 A Okay.

8 Q And again, if you would reference it the way you did
9 four and compared to your DNA analysis that would be great.
10 So, for example, if you would, for example, number four, the
11 Sirchie hinge lifters containing hair.

12 A Okay, I did analysis on four different hairs from the
13 Sirchie hinge lifter. They were numbered 4.1 , 4.2, 4.3 and
14 4.4. No human DNA detected, was detected for item 4.4 one of
15 the hairs. I attempted DNA on 4.3 but was unable to develop
16 a DNA profile. There just wasn't enough DNA present for our
17 test to work.

18 Item 4.1 gave a DNA profile but it was too weak for any
19 type of reliable interpretation.

20 Q What does that mean?

21 A It basically means that there's not enough information
22 in the DNA profile to say anything that's really useful as
23 far as if it came from a male or a female or to be able to
24 match it to a particular individual. It just means that our
25 test worked, in this particular case it worked at amelogenin,

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1 which is the sex gene, it determines if it's a male or female
2 and that was the only place it worked. So, it didn't really
3 give us useful information.

4 Q Did it indicate whether it was a male or female?

5 A Again, it was at such low levels it said, it indicates
6 that it's from a male, possibly, but it's at such low levels
7 it should be that there was male and female DNA both on that,
8 on that hair from being on the tape or whatever. So, we
9 don't really draw any conclusions when there's that little
10 information present.

11 There was also ---

12 Q How about ---

13 A Oh, I'm sorry.

14 Q I'm sorry, go ahead. You go.

15 A Item 4.2, I was able to develop a little bit of
16 information. It was a partial profile that is from a, an
17 unidentified female individual and that was all that we were
18 able to determine, okay, and let's see, the other items ---

19 Q Did you, you finished with items from item four?

20 A Correct.

21 Q Okay, let me if I might direct you to item five, which
22 you described as a white envelope containing possibly human
23 hair collected from rear floorboard.

24 A Okay, for that one I determined that there was no hair
25 suitable for STR DNA analysis, which STR DNA analysis is just

1 simply the type of testing we do, and I looked at the hair
2 and it either didn't have a root or there wasn't enough, it
3 didn't look like there was enough of a root there to be able
4 to do DNA testing with it. So, nothing further was done with
5 that piece of evidence.

6 Q Presently at SLED your analysis of hair depends on,
7 among other things, how good the quality of hair is?

8 A Yes, basically what we do is we look under a
9 stereoscope, which doesn't magnify as much as a microscope,
10 but it does make it easier to look at the root and we look to
11 see, basically we determine does it look like there's enough
12 skin cells on that root to get a profile or not, and if it
13 looks like there may be or there may not be, we'll go ahead
14 and test it, but if we look at it and go, "No, there's
15 really not enough there," then we're not going to go to the
16 time to test it when we know it's very likely we won't get
17 any kind of a usable profile from it.

18 Q So, correct me if I'm wrong, SLED at least needs a
19 decent hair root in order to do a DNA analysis on hair?

20 A For the type of DNA testing we do, that's correct.

21 Q Okay, other agencies and private labs do DNA testing on
22 hair without concern about hair root but not SLED.

23 A That's, that's correct.

24 Q Item number seven.

25 A Okay, item ---

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1 Q I'm sorry. Hold on one second. Did we do six or did I
2 skip six?

3 A We did not, you skipped six.

4 Q I'm sorry. I'm skipping ahead of you.

5 A Okay.

6 Q Number six, a piece of silver duct tape containing
7 possible hair recovered from a 1996 Dodge Ram truck
8 underneath front passenger seat?

9 A Okay, again, I determined that there was no hair
10 suitable for STR DNA analysis in that case also. So, further
11 analysis was done with that duct tape, with -- in DNA no
12 further analysis was done.

13 Q Number seven, piece of silver duct tape containing
14 possible hair recovered from rear room of garage apartment.

15 A I recovered one hair from the piece of duct tape that I
16 felt might be able to give us a DNA profile and it was
17 labeled item 7.1. However, no human DNA was detected for
18 item 7.1 which means there just wasn't enough tissue there to
19 be able to develop a profile.

20 Q At some point in time you had the roll of silver duct
21 tape that was collected from the coffee table but you did not
22 do any analysis on it?

23 A That's correct.

24 Q Number ten, pieces of silver duct tape containing one
25 strand of hair collected from coffee table and you ---

- 1 A I ---
- 2 Q --- you subdivided that hair as 10.1.
- 3 A That's correct.
- 4 Q Okay, tell us about that please, ma'am.
- 5 A Okay, I attempted a DNA analysis on item 10.1, but
- 6 again, no human DNA was detected and that just meant that
- 7 there just wasn't enough tissue there to be able to do DNA
- 8 analysis or possibly -- we don't do trace. So, it's even
- 9 possible that it was an animal hair, but we can't, we can't
- 10 determine that in our department. We just know that there
- 11 wasn't enough human tissue present to do DNA analysis.
- 12 Q I'm showing you State's Exhibit Number Six and I will
- 13 tell you in advance that this box was opened in the presence
- 14 of the Court outside your presence but prior to being opened
- 15 was there some way that you made certain that this was not
- 16 tampered with?
- 17 A Yes, the -- of course, when I received it it was sealed
- 18 and initialed on the evidence tape and then when I was, when
- 19 I completed my analysis I resealed the box with tape and I
- 20 put my initials and the date on the box.
- 21 Q And absent it being opened that's the way you would know
- 22 that it hadn't been opened or tampered with.
- 23 A Correct.
- 24 Q Okay, the record should reflect that I'm opening up
- 25 State's Exhibit Number Six and removing a number of items

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1 from that, and if you would count along with me, one, two,
2 three, four, five, six items contained therein.

3 A Okay, correct.

4 Q Let's start with this item here. Can you tell us what
5 this item is and it's small as compared to the others.

6 A Okay.

7 Q A smaller manila envelope.

8 A Okay.

9 Q True?

10 A That's correct. It is a smaller manila envelope. This
11 is our DNA extracts and the reason this is in here is
12 whenever we consume all of the sample that's submitted, any
13 DNA that we have remaining in our test tubes we spin it down
14 till it's dry and return it with the evidence so that there's
15 at least some type of DNA evidence remaining in that case.

16 Q Thank you. Let the record reflect that I'm returning
17 that to the box.

18 We talked about some of these items before, item two ---

19 A Correct.

20 Q --- item four, item five.

21 A Correct.

22 Q I'm returning those to the box.

23 A Okay.

24 Q It's almost looking like we brought you down here for
25 nothing whatsoever; isn't it? But now I'm going to direct

1 your attention to what's marked as item one.

2 A Okay.

3 Q And item three.

4 A Okay.

5 Q If we could start for a moment with item one.

6 A Okay.

7 Q When you received this was it sealed?

8 A It was sealed, correct.

9 Q And you're the person who broke the seal?

10 A I am the person that broke the seal.

11 Q You did not reseal it because you resealed it in State's

12 Exhibit Number Six?

13 A That's correct.

14 Q Okay, can you remove the contents of State's Exhibit

15 Number One and tell our jury if you recognize it.

16 A Okay. I do recognize this. This is SLED's

17 item number one and I know that because I wrote the lab

18 number, the item number and my initials on both of the boxes.

19 It's two swabs and each in a separate box and this is the

20 buccal standard that was collected from Belinda Mitchum.

21 Q Okay, what's a buccal standard?

22 A That's a swab that's taken from the cheek area inside

23 the mouth, just to collect skin cells. We can then extract

24 the DNA from those skin cells and get the DNA profile that I

25 was telling you about earlier so that it can be compared to

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- 1 DNA profiles developed from evidence.
- 2 Q Okay, would you place those back into item number one.
- 3 A Okay.
- 4 Q And I'm going to switch with you and give you item
- 5 number three and ask you when you initially received item
- 6 three was it sealed?
- 7 A Yes, it was.
- 8 Q Are you the person who unsealed it?
- 9 A Yes, I am.
- 10 Q Did you reseal it?
- 11 A I believe I resealed it in that box.
- 12 Q Okay, the same thing, you didn't seal it back, you put
- 13 it in six, then you sealed.
- 14 A Correct.
- 15 Q Six being State's Exhibit.
- 16 A Six, State's Exhibit Six, correct.
- 17 Q Okay. Can you remove the contents of the manila
- 18 envelope that says item three?
- 19 A Okay, okay.
- 20 Q Do you recognize what's in there?
- 21 A I do. This is SLED item number three, and again, it has
- 22 the lab number, the item number and my initials on the box.
- 23 This is swabs, it was submitted as swabs collected from a
- 24 piece of duct tape.
- 25 Q Can you place that back into manila envelope number

1 three? Let the record reflect I'm returning one and three
2 back into six and the indication that number three was
3 obtained from a piece of duct tape from a coffee table?
4 A My report simply says that it was a piece of -- swabs
5 collected from a piece of duct tape.
6 Q Okay.
7 A It doesn't indicate where ---
8 Q All right.
9 A --- the tape was collected from.
10 Q Now, did you in fact, starting with item number three,
11 did you -- I take it you analyzed that first because arguably
12 the other is a known?
13 A Yeah, we -- yes, we always do the standards and the
14 evidence separately, we analyze them separately so that
15 there's -- we eliminate the possibility of contamination
16 between the two.
17 Q Cross contamination.
18 A Correct.
19 Q All right, out of those two, one and three, which did you
20 analyze first, if you know?
21 A Usually what we do is we analyze the evidence first. We
22 look at it and determine if there's anything usable. We cut
23 it so that it can be extracted and then after that's all
24 packaged up and put away then we pull out our standards and we
25 cut our standards so that they're separated at all times.

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1 Q And more specifically as it relates to item number three,
2 the swabs from the piece of duct tape, did you analyze it and
3 determine whether or not there was sufficient DNA there to be
4 analyzed?

5 A Yes, I did perform DNA analysis on item three and I was
6 able to develop a profile.

7 Q Profile means that you had enough there to make a
8 potential comparison?

9 A That's correct.

10 Q All right, and a profile is what you explained to the
11 jury before about breaking it down and the things you said at
12 the beginning.

13 A Correct.

14 Q All right, all right, after you know what you have or
15 believe, I should say, after you've developed a profile from
16 State's item number three did you compare it with the known
17 item number one, which was again the buccal swabs of Belinda
18 Mitchum?

19 A That's correct. I did compare the two.

20 Q Okay, could you tell our jury within a reasonable degree
21 of scientific certainty what your results were and how were
22 you able to reach those results?

23 A Okay, okay, I determined that the DNA profile from item
24 three matches the DNA profile of Belinda Mitchum and the
25 probability of randomly selecting an unrelated individual from

1 the population having a DNA profile matching this item is
2 approximately one in 660 trillion.

3 Q Wow, well, then, there is -- is there any question that
4 the DNA from three, item three matched the DNA of the victim?

5 A No, in my expert opinion the DNA profile developed from
6 item three came from Belinda Mitchum.

7 Q Thank you very much. Answer any questions counsel might
8 have for you.

9 CROSS EXAMINATION

10 BY MR. GOUDE:

11 Q Ma'am, did you say all of the DNA in a person's body is
12 the, is the same?

13 A That's correct.

14 Q If it comes from the bottom of your foot or the top of
15 your head is it all the same DNA?

16 A That's correct.

17 Q And as I understand it, you could get DNA from somebody's
18 blood?

19 A That's correct.

20 Q And you get it if you cut a piece of skin off of their
21 body, can you get DNA out of it?

22 A That's correct, generally so, yes.

23 Q If they spit can you get DNA out of that?

24 A It would depend on how many skin cells were present in
25 the spit because it's actually the cells we develop the

1 profile from not the spit itself.

2 Q If a person urinates can you get DNA from that?

3 A If they urinate, if there's enough cells present in the
4 urine we could, yes.

5 Q And if the hairs have little, what is it, pieces of skin
6 or meat at the end of the hair that's what you all are
7 checking for the DNA in?

8 A Correct, if there's sufficient amount of DNA present we
9 can develop a DNA profile from the hair also, yes.

10 Q What about the skin of your body, can you get DNA from
11 that?

12 A Yes, we do slough off dead skin cells and sometimes the
13 DNA is still intact and sometimes it's been dead too long and
14 we can't, but generally speaking, yes, you can get a DNA
15 profile from skin cells.

16 Q Can you get DNA from your fingernails?

17 A That's a little harder to do. Sometimes -- we get it
18 from fingernail scrapings quite often. The fingernail itself
19 towards the end of your fingernail is actually dead cells, and
20 again, we may be able to get a DNA profile from the cells
21 depending on how much DNA is still left intact in the cells,
22 but sometimes it may not be possible to get it just from the
23 fingernails because that is dead skin cells or dead cells.

24 Q Can you get DNA from a person's sweat?

25 A Not from the sweat itself. We need some type of cell

1 present to be able to get a DNA profile, but it is common for
2 instance with shirts or something where someone sweats and
3 that causes friction and their skin cells will rub off, but we
4 don't get it from the sweat itself. We get it from skin cells
5 in that particular case.

6 Q And you get, you get DNA out of semen?

7 A That's correct. We can also get DNA out of semen for two
8 reasons. There's often just regular skin cells or other type
9 of cells present and there's also oftentimes sperm cells
10 present and we can get DNA profile from the sperm cells also.

11 Q Can you get DNA from vaginal fluids from a woman, a
12 female?

13 A That's correct, we can get DNA profiles from a vaginal
14 fluid usually because there's usually skin cells present in
15 that also.

16 Q Can you get DNA from feces, from human feces?

17 A We can. Our success with that is not as great as with
18 other tissues, again, because you need skin cells and
19 oftentimes there's not as much -- there aren't as many skin
20 cells present in feces as in other fluids, body fluids and
21 things.

22 Q I think this is my last question. Can you get DNA from
23 snot that comes out of people's noses?

24 A That's -- I've never tried it myself, but theoretically
25 it's possible because, again, there would more than likely be

1 skin cells present or possibly, you know, blood cells or
2 whatever.

3 Q Thank you. That's all I have.

4 THE COURT: Redirect.

5 MR. MODICA: No, sir, thank you.

6 THE COURT: All right, thank you. You can step down
7 and be excused. We appreciate your time.

8 A Thank you.

9 MR. MODICA: Thank you, Your Honor.

10 THE COURT: All right, members of the jury panel we're
11 going to stop for the day. We'll start back at 9:30. Keep in
12 mind that you're not positioned yet to make up your mind or
13 discuss the case. We haven't received all the evidence, you
14 haven't heard my charge on the law. You haven't heard the
15 summations of the attorneys. Don't try to discuss the case.
16 Don't try to make up your own mind. Don't let anyone discuss
17 the case with you outside of the courtroom, and if there is
18 any news coverage don't let yourself be exposed to it. We'll
19 see you at 9:30 in the morning.

20 (Whereupon, the following takes place outside the
21 presence of the jury.)

22 THE COURT: Anything from the State before we stop
23 for the evening?

24 MR. MODICA: No, thank you, Your Honor.

25 THE COURT: Anything from the Defense?

1 MR. GOUDE: No, sir.

2 THE COURT: All right.

3 *****OFF THE RECORD*****

4 (On the record, February 1, 2007.)

5 (Whereupon, the following takes places outside the presence of

6 the jury.)

7 THE COURT: All right, take your seats.

8 The State ready?

9 MR. MODICA: Yes Sir.

10 THE COURT: The Defense?

11 MR. GOUDE: Yes, Sir.

12 THE COURT: All right, we want to start with the

13 motion to suppress the confession, the alleged confession.

14 MR. MODICA: Yes, Your Honor, for purposes of the

15 hearing the State would call Paul Glover to the witness

16 stand.

17 THE COURT: Please come up and be sworn in.

18 WHEREUPON, PAUL GLOVER WAS CALLED TO THE STAND, DULY SWORN BY

19 THE CLERK AND TESTIFIED AS FOLLOWS:

20 THE CLERK: Please be seated and state your name for

21 the record, please.

22 MR. GLOVER: Paul Glover.

23 EXAMINATION

24 BY MR. MODICA:

25 Q Could you please tell our court where you're employed

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1 presently?

2 A I'm presently employed with International Paper, Sampit
3 Lumber.

4 Q And do you hold any affiliation with the Georgetown
5 County Sheriff's Office presently?.

6 A Yes, I am currently a reserve deputy sheriff.

7 Q And that means you're allowed to carry a badge and a
8 gun?

9 A Yes.

10 Q Back in March of 2006 were you employed as a member of
11 the Georgetown County Sheriff's Office?

12 A Yes.

13 Q In what capacity?

14 A I was a criminal investigator.

15 Q Were you assigned to a division?

16 A Yes, investigations. I was assigned to property crimes.

17 Q Now, on March 9th of 2006 approximately 11, sometime
18 shortly after 11, 11:30, I'm sorry, 11:15 or so were you
19 called upon to have contact with the Defendant, Nicholas
20 Parker in this case?

21 A Yes.

22 Q And just for the record do you see him here in the
23 courtroom?

24 A Yes, sir.

25 Q Can you identify him to the court and indicate an

1 article of clothing that he's wearing?

2 A Okay, he's wearing a dark colored blazer with a white
3 shirt and a blue striped tie.

4 Q Can you point towards him?

5 A He's over here.

6 Q Prior to meeting with Mr. Parker were you given a heads
7 up by somebody about what was going on?

8 A Yes, sir.

9 Q Can you tell our court about that, please?

10 A I received a telephone call from the lead investigator,
11 Dustin Morris and he advised me of the case and he just told
12 me that Sergeant James Hayward, he's over the warrants
13 division, apparently was going to be bringing in Mr. Parker,
14 he was going to turn himself in and he just wanted me to talk
15 to him and interview him at that time.

16 Q Okay, did you have any investigative function in regard
17 to the allegations against Nicholas Parker up to this point?

18 A No, sir.

19 Q So, you hadn't worked on the case?

20 A No.

21 Q Did Investigator Morris fill you in a little bit on the
22 background of the case?

23 A Yes, briefly he did.

24 Q And did you have portions of the case file with you at
25 some point prior to interviewing the Defendant?

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1 A Yes. What I did I just printed a copy of the initial
2 report and some of the investigative reports and documents.

3 Q Prior to speaking to the Defendant had you had enough
4 time, had it been your case, to prepare yourself for that
5 investigation, I should say for that interview?

6 A I would say not.

7 Q Now, where is it that you met the Defendant?

8 A I met the Defendant downstairs of the Sheriff's Office
9 on the first floor. When Sergeant Hayward brought him in and
10 I met them downstairs and that's where we introduced -- I
11 introduced myself to him.

12 Q And what if anything did you tell him at that point?

13 A I told him I was the investigator on call and basically
14 I had spoke with Investigator Morris and I was just going to
15 interview him at that time and I just wanted him to go
16 upstairs with me so I can interview him.

17 Q Okay, and did you go upstairs?

18 A Yes.

19 Q Prior to going into the interview room tell the Court
20 what if anything you said to the Defendant.

21 A I told him that -- I was standing right in front of the
22 door of the interview room and I just told him, I said,
23 "Mr. Parker, we need to go in here and as soon as this door
24 opens taping is going to start, audio and video," and I
25 just needed him to tell me the truth exactly what happened,

- 1 just get everything behind him and just go on from there.
- 2 Q Then you went in?
- 3 A Yes..
- 4 Q And the rest of what transpired between you and
- 5 Mr. Parker was video and audio recorded?
- 6 A Yes.
- 7 Q I'm showing you State's Exhibit Number 20. I'm showing
- 8 you State's Exhibit Number 20 for identification and I ask
- 9 you if you recognize that.
- 10 A Yes, I do.
- 11 Q What do you recognize that as being.
- 12 A This is the Miranda Warning and I signed it and Mr.
- 13 Parker signed it and the actual date and time is also listed,
- 14 also the case number.
- 15 Q Did you see him sign it?
- 16 A Yes, sir.
- 17 Q And is these Miranda warnings that you gave to him are
- 18 they on a video recording?
- 19 A Yes.
- 20 Q For the record please state what you said to him in
- 21 regard to the Miranda warnings and what transpired?
- 22 A Okay, before I started to talk to -- before the
- 23 interview actually started I just advised Mr. Parker of the
- 24 Miranda warnings, and you want me to read it?
- 25 Q Yes.

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- 1 A Okay, on the first, number one I said ---
- 2 Q Just ---
- 3 A The way I did it?
- 4 Q Okay.
- 5 A You have the right to remain silent, anything you say
6 can and will be used against you in a court of law, you have
7 the right to talk to your lawyer and have him present with
8 you while you're being questioned, if you cannot afford to
9 hire a lawyer one will be appointed to represent you before
10 any questioning, if you wish one, if you desire to make a
11 statement or answer questions you have the right to stop at
12 any time during the statement or questioning, and "this is
13 to, this is to certify that the above rights have been
14 explained to me and that I have" -- well, that's the part
15 that he has to read.
- 16 Q What if anything did you do with that?
- 17 A At that time after I finished reading, advising him of
18 the Miranda warnings I handed the paper to -- the copy to him
19 and he signed it.
- 20 Q And did you give him a copy?
- 21 A Yes.
- 22 Q I'm showing you State's Exhibit Number 21 for
23 identification. Have you had occasion to review that?
- 24 A Yes.
- 25 Q Is it, in fact, an audio and video recording except

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1 momentary, I don't mean to say blackout but blue-out but the
2 audio continues?

3 A Yes.

4 Q Is that a full and complete recording of your interview
5 with the Defendant?

6 A Yes, it is.

7 Q Who, if anyone else was present with you when you gave
8 the Defendant his Miranda warnings and interviewed the
9 Defendant?

10 A Sergeant Hayward, he's the sergeant and the supervisor
11 of the warrants division for the Georgetown Sheriff's Office.

12 Q Other than sitting there did he participate in the
13 interview by asking questions or showing any documents to the
14 Defendant?

15 A No, he didn't.

16 Q Did you or anyone in your presence threaten, coerce,
17 force or intimidate the Defendant in an effort to get him to
18 sign and waive his Miranda warnings as indicated in State's
19 Exhibit Number 20?

20 A No.

21 Q Did you promise him, you or anyone in your presence,
22 promise him anything in an effort to get him to waive his
23 Miranda warnings and sign State's Exhibit Number 20?

24 A No, sir.

25 Q Now, as far as the audio and video recording did you or

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1 anyone in your presence threaten, coerce, force or intimidate
2 the Defendant in an effort to get him to speak with you?

3 A No, sir.

4 Q Did anyone in your presence promise the Defendant
5 anything in an effort to get him to speak with you during the
6 course of that interview?

7 A No.

8 MR. MODICA: Your Honor, at this time I would move
9 State's Exhibit Number 20 and 21 in evidence for purposes of
10 this hearing.

11 THE COURT: Counsel for the Defense, Mr. Goude?

12 EXAMINATION

13 BY MR. GOUDE:

14 Q Mr. Glover, why did you leave the Sheriff's Office?

15 A Could you repeat that, please?

16 Q Why did you leave the Sheriff's Office?

17 A I left because it was a career move.

18 Q Did you tell Mr. ---

19 MR. GOUDE: Judge, we have no other questions at this
20 time.

21 THE COURT: All right, any other questions?

22 MR. MODICA: No, sir.

23 THE COURT: All right, you can step down. Thanks.

24 All right, Mr. Goude, your motion is to suppress. You want
25 to tell me the grounds?

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1 MR. GOUDE: We have nothing else to present on that
2 motion, Judge.

3 THE COURT: All right, well, I have considered the
4 evidence offered by the State. The Defendant has not offered
5 any and I'm convinced by a preponderance of the evidence that
6 before this alleged incriminating statement or confession was
7 obtained -- well let me ask you, you don't have any other
8 witness; do you?

9 MR. MODICA: No, sir.

10 THE COURT: That before the statement or confession
11 was obtained from Mr. Parker he was fully advised of his
12 rights under the Fifth and Sixth Amendments to the
13 Constitution of the United States and the safeguards afforded
14 an individual by the case of Miranda versus Arizona.
15 Specifically he was advised that he had the right to remain
16 silent, that if he waived that right that any statement could
17 be used against him in a court of law, that he had the right
18 to talk with an attorney and have an attorney present during
19 any interrogation, that if he could not afford one the State
20 would be appointing him an attorney at no expense to him. He
21 was advised he had the right to consult with -- I just said
22 that he had the right to talk with an attorney. He was
23 advised that he had the right to stop any statement once he
24 had commenced giving a statement if he determined he wished
25 to stop, that he had the right to terminate the interrogation

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1 at any time and stop answering questions at any time. I find
2 that the Defendant Mr. Parker knowingly and intelligently
3 waived his rights under the Fifth and Sixth Amendments to the
4 Constitution of the United States and the safeguards of
5 Miranda. I find that the alleged incriminating statement or
6 confession was voluntarily given. There's no evidence of
7 duress, coercion, undue influence. There's no evidence of
8 any hope for reward or promise for reward or promise or hope
9 of reward, there is no promise of leniency, there's no
10 evidence of any threat of injury and that the statement was
11 given without compulsion or inducement of any kind and that
12 said statement was the voluntary product of the free and
13 unconstrained will of Mr. Parker. I find that again by a
14 preponderance of the evidence. Now, of course, the jury will
15 consider -- before they can consider the statement, the
16 voluntariness, also.

17 Anything further from the State?

18 MR. MODICA: I'm sorry.

19 THE COURT: Anything further from the state?

20 MR. MODICA: No, sir.

21 THE COURT: Anything further from the Defense?

22 MR. GOUDE: No, sir.

23 THE COURT: All right, the State ready to proceed?

24 MR. MODICA: May I have just one moment, Your Honor?

25 THE COURT: Well, let -- other than, other than a

1 case they have two submit it to me as sealed and then I take
2 it in the way that they gave it to me or dropped it to me
3 and I store it back in my back evidence room until court
4 time.

5 Q I'm showing you State's Exhibit Number Seven in evidence
6 and ask if you recognize this?

7 A Yes, I do.

8 Q How is it that you recognize it?

9 A This is a piece of evidence, it's a pair of gray
10 pants. It was filled out by Investigator Morris. It was
11 sealed by the back where Investigator Morris initialed it
12 and put the case number and it was dropped into my evidence
13 bin.

14 Q And once it got into your evidence bin what happens to
15 it?

16 A I took it out and I enter it into the computer as
17 logging it and then it goes into my back room where it is
18 secure and nobody can tamper with.

19 Q At the time that you had received it it was
20 sealed?

21 A Yes, it was.

22 Q You didn't reseal it or tamper with the seal at
23 all?

24 A No, sir, not at that time, no, sir. It's still
25 intact.

Joyce Phillips - Direct by State

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- 1 Q Right, or at any time?
- 2 A No, sir.
- 3 Q Was this item taken to SLED?
- 4 A No, sir, that was not.
- 5 Q I'm going to show you a number of exhibits and
6 maybe it would be easier if you moved down and looked
7 at them rather than me keep handing them to you. Let's
8 start if we might with the bottom one, State's Exhibit
9 Number Five?
- 10 A Yes, sir.
- 11 Q State's Exhibit Number Six?
- 12 A Yes, sir.
- 13 Q The smaller box, State's Exhibit Number Four?
- 14 A Yes, sir.
- 15 Q State's Exhibit Number Two?
- 16 A Yes, sir.
- 17 Q And State's Exhibit Number Three?
- 18 A Yes, sir.
- 19 Q You can have a seat. In regard to each of these items,
20 did you have occasion to take them in as evidence?
- 21 A Yes, I did.
- 22 Q And were they -- when you took them in as evidence were
23 they secure?
- 24 A Yes, they were.
- 25 Q From what you could observe, who were they secured

1 by?

2 A Investigator Dustin Morris.

3 Q Did you in any way un-secure them when they came into
4 your possession?

5 A No, sir.

6 Q When they came into your possession did you at some
7 point in time hold them in the back room as you described it
8 as evidence?

9 A Yes, sir.

10 Q Logged it in as you would in your normal
11 procedure?

12 A Yes, sir, I did.

13 Q Now in regard to these exhibits which include Five,
14 Four, Six, Three and Two did you have occasion to take them
15 up to SLED?

16 A Yes, I did.

17 Q And when was that?

18 A Can I look at my notes?

19 Q Certainly. Would that refresh your recollection?

20 A Yes, sir, it would. I took all those evidence on
21 February the 15th of '06.

22 Q Okay, now, did there come a time that in regard to all
23 this evidence you have occasion to take it back from SLED
24 back to the Sheriff's Office?

25 A Yes, sir, I did.

Joyce Phillips - Direct by State

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- 1 Q Let me see if I can ask you about specific items, Number
2 Three, Number Two, Number Four and Number Five, the bigger of
3 the box, those items, can you tell us when you took them
4 back from SLED and brought them back to the Sheriff's
5 Office?
- 6 A I brought them back from SLED on January the 18th of
7 2007.
- 8 Q And when you got them back were they, in fact,
9 sealed?
- 10 A Yes, sir.
- 11 Q And did you open them?
- 12 A Yes, sir, at some point to review for court.
- 13 Q Okay, you opened all of them or some of them?
14 Other than the ones we opened, I should say, some were opened
15 here in the courtroom in your presence?
- 16 A Yes, sir.
- 17 Q For the first time?
- 18 A Yes, sir.
- 19 Q And some you had opened for me?
- 20 A Yes, sir.
- 21 Q To review for this case?
- 22 A Yes, sir.
- 23 Q Okay, other than that were they opened at all from the
24 time you took them to SLED till the time that they were
25 brought here to the courtroom?

Joyce Phillips - Direct by State

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1 A No, sir, they were not.

2 Q When they were opened in your presence with me and other
3 members of my office did you stay there to observe that
4 there wasn't any tampering?

5 A Yes, sir, I did.

6 Q Was there any tampering?

7 A No, sir, there was none.

8 Q Now, in regard to State's Exhibit Number Six can you
9 tell our jury when this item came back from SLED?

10 A Yes, sir, that item was brought back from SLED on
11 January the 26th of 2007.

12 Q And did you have occasion to open that -- well when you
13 got it back was it sealed?

14 A Yes, sir, it was.

15 Q And did you have occasion to open that up prior to the
16 court proceeding?

17 A Yes, sir.

18 Q Okay, and was that again with me in order for me to look
19 at the items?

20 A Yes, sir, that was.

21 Q In regard to State's Exhibit Number Six did you stay
22 there and watch as it was being reviewed, the evidence was
23 being reviewed?

24 A Yes, I did.

25 Q And was it tampered with?

Joyce Phillips - Direct by State

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1 A No, sir, it was not.

2 Q When -- in regard to all the evidence, including Six, of
3 all the items that were opened in your presence by me or
4 members of my office or while they were present, did you
5 reseal all the items?

6 A Yes, sir, I did.

7 Q Okay, and then they were unsealed, some of them or all
8 of them were unsealed here in the courtroom in your
9 presence?

10 A Yes, sir.

11 Q Thank you. Answer any questions that counsel might have
12 for you.

13 MR. GOUDE: No questions, Judge.

14 THE COURT: All right, you can step down. Thank
15 you.

16 Call your next witness.

17 MR. MODICA: Thank you. The State would call Paul
18 Glover.

19 AT THIS TIME PAUL GLOVER WAS CALLED TO THE STAND, DULY SWORN
20 BY THE CLERK AND TESTIFIED AS FOLLOWS:

21 THE CLERK: Thank you. Please be seated and state
22 your name for the record, please.

23 MR. GLOVER: Paul Glover.

24 DIRECT EXAMINATION

25 BY MR. MODICA:

- 1 Q Could you tell our jury where you're presently working?
- 2 A International Paper, Sampit Lumber.
- 3 Q And back in March of 2006 were you working somewhere
- 4 else?
- 5 A I was employed with the Georgetown County Sheriff's
- 6 Office.
- 7 Q As what?
- 8 A Criminal investigator.
- 9 Q Were you assigned to particular types of crimes?
- 10 A I was assigned to the property crimes unit.
- 11 Q Presently now are you affiliated with the Georgetown
- 12 County Sheriff's Office even though you're working in the
- 13 private sector?
- 14 A Yes, I am. I am a reserve deputy.
- 15 Q And can you tell our jury approximately when you left the
- 16 Sheriff's Department?
- 17 A I left the Sheriff's Office in May of 2006.
- 18 Q Why is it that you left the Sheriff's Department?
- 19 A It was a career move.
- 20 Q Are you authorized as a reserve officer to carry a weapon
- 21 and a badge?
- 22 A Yes, I am.
- 23 Q And make arrests?
- 24 A Yes.
- 25 Q When you're actually working with members of the

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1 Sheriff's Office?

2 A Correct.

3 Q I want to direct your attention to March 9th of 2006,
4 shortly after 11 p.m. Did you have occasion to meet Nicholas
5 Parker, the Defendant, in this case?

6 A Yes, I did.

7 Q Do you see that person here in the courtroom?

8 A Yes, I do.

9 Q For our jury could you point to him and describe an
10 article of clothing, please?

11 A He's sitting over here, he has a blue blazer, a white
12 shirt and a blue print tie.

13 Q Now, in regard to the allegations against the Defendant
14 in this case, did you have, prior to March 9th, did you have
15 any investigative dealings with those allegations?

16 A No, I didn't.

17 Q So, in other words in laymen's terms you didn't work on
18 that case.

19 A No.

20 Q There is a thing called being on call; correct?

21 A Could you repeat that?

22 Q There's a thing when you're working as an investigator of
23 being on call.

24 A Yes.

25 Q Okay, could you tell our jury what it means to be on

1 call?

2 A On call means I am an investigator and for one week out
3 of the month an investigator is assigned to work after hours.
4 You come in at, come in at four and you go in at 12 o'clock,
5 12 a.m. that night, and if anything happens that an
6 investigator needs to be called out on I am assigned to come
7 out that night only after hours.

8 Q Or the, or the on-call investigator.

9 A Yes.

10 Q And did you have occasion on March 9th of 2006 as the on-
11 call investigator to have occasion to meet the Defendant
12 shortly after 11 p.m. on March 9th?

13 A Yes.

14 Q And what were the circumstances?

15 A The circumstances were I received a telephone call from
16 the lead investigator on this particular case, which was
17 Dustin Morris, and he just told me that the Defendant did not
18 want to speak with him. So he, in turn, asked me since I was
19 on call to just go out and talk to him, bring him in and
20 interview him. So, I said I didn't have any problem with
21 that. So, that's what I did.

22 Q Okay, did you become aware that he was coming in?

23 A Yes. Sergeant Hayward, he's over the warrants division,
24 he informed me that Nicholas Parker was about to turn himself
25 in, and at that time he was going to bring him in and that's

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1 when I was going to interview him.

2 Q Now, did you have, without saying what it was, in other
3 words the content of the conversation, did you have a short
4 conversation with Investigator Morris about the case so he
5 could give you a little bit of a background?

6 A Yes, I did.

7 Q But you were not infinitely familiar with the facts and
8 circumstances.

9 A Not at all.

10 Q And had this been your case would you have become
11 acquainted with the facts and circumstances better prior to
12 interviewing this Defendant?

13 A Yes, I would have been more prepared.

14 Q Now, where was it that you met the Defendant
15 specifically?

16 A I met the Defendant downstairs on the first floor of the
17 Sheriff's Office when Sergeant Hayward brought him in, called
18 me and told me that he has Mr. Parker in his possession, come
19 on downstairs and that's when I came down and I met,
20 introduced myself as an investigator with the Sheriff's Office
21 and we went from there.

22 Q Okay, and where did you go from there?

23 A We went, we went upstairs to the Sheriff's Office
24 interview room.

25 Q Did you tell him that was where you were going to go?

1 A Yes.

2 Q Tell our jury about that.

3 A I told Mr. Parker that we're going to go upstairs and
4 we're going to go into the interview room and that's where I
5 was going to interview him at.

6 Q Now, prior to going into the interview room what did you
7 tell Mr. Parker?

8 A I told Mr. Parker that -- I referred -- I spoke with him
9 on the first name. I said, ``Now, Nicholas,'' I said, ``Look,
10 we're going to go inside this interview room here and as soon
11 as this door opens the interview is going to actually start,
12 the interview as far as the audio and the video is going to
13 actually switch on as soon as this door opens,'' and I just
14 told him, I said, ``I need you to tell me the truth exactly
15 what happened, get this thing all behind you and we'll just
16 go from there,'' and he said he didn't have any problem with
17 that.

18 Q All right, when you were in the interview room did you
19 give the Defendant what's commonly referred to as Miranda
20 warnings?

21 A Yes, I did.

22 Q How did you accomplish that? Did you do it from memory
23 or something else?

24 A Repeat that.

25 Q Did you do it from memory or from something

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- 1 Else, giving him his Miranda warning?
- 2 A I read it. I read it to him.
- 3 Q Off of what, forms?
- 4 A Off the form, a Miranda form.
- 5 Q Okay, I'm showing you what has been marked as State's
- 6 Exhibit Number 20 for identification and ask you if you
- 7 recognize that.
- 8 A Yes, I do.
- 9 Q What do you recognize that as being?
- 10 A This is the Miranda warning and these are -- they're
- 11 just a warning that I would advise the Defendant of ---
- 12 Q Okay.
- 13 A --- before we start any questioning or any interviewing,
- 14 the interviewing process.
- 15 Q Is it specific to this case?
- 16 A Yes, it is.
- 17 Q How so?
- 18 A The actual case number is on here and his signature as
- 19 well as mine, the actual date and the actual time is also
- 20 signed on here.
- 21 Q Did you witness his signature?
- 22 A Yes, I did.
- 23 Q So, in other words you signed it as well.
- 24 A Yes.
- 25 Q What time was that Miranda warning accomplished?

1 A It was 11:24 p.m.

2 Q On March 9th?

3 A March 9th, 2006.

4 Q And you said that when you walked into that room the

5 audio and visual started; correct?

6 A Correct.

7 Q Is the audio and visual of the Miranda warnings on that

8 recording?

9 A Yes, it is.

10 Q Now, can you tell -- did you, in fact, interview the

11 Defendant ---

12 A Yes.

13 Q --- about these events?

14 A Yes, I did.

15 Q And except for a few times when the screen goes not blank

16 but blue ---

17 A Right.

18 Q --- is there -- is it an accurate and fair -- I should.

19 Let me back that up. I'm showing you State's Exhibit Number

20 21. Do you recognize that?

21 A Yes, I do.

22 Q I know it's a silly question. How do you recognize it?

23 A Well, I recognize the actual case number here and the

24 Defendant name, the actual date of the interview, and ---

25 Q Well, let me see if I can make it more basic. Have you

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1 had a chance to watch it?

2 A Yes.

3 Q Okay, is it, in fact, an exact, except for one or two
4 times when the screen goes blue, is it, in fact, an audio and
5 visual recording of your interview with the Defendant?

6 A Yes, it is.

7 MR. MODICA: Your Honor, at this time I would move
8 State's Exhibit Number 20 and 21 into evidence showing it to
9 counsel.

10 MR. GOUDE: No objection, Your Honor.

11 THE COURT: All right, be received without objection.
12 (Whereupon, State's Exhibit Number 20 [Miranda Warning] and 21
13 [Taped Statement] admitted into evidence and appropriately
14 marked.)

15 BY MR. MODICA:

16 Q Just a couple of other question, who was with you when
17 you did the interview?

18 A Sergeant Hayward, he's the sergeant and the supervisor
19 with the warrants division..

20 Q Did he ask any questions during the interview?

21 A He didn't say one word.

22 Q Did you or anyone with you threaten, force, coerce or
23 intimidate Nicholas Parker in an effort to get him to waive
24 his Miranda warnings and sign State's Exhibit Number 20?

25 A No.

1 Q Did you or anyone in your presence promise him anything
2 in an effort to get him to waive his Miranda warnings and sign
3 State's Exhibit Number 20?

4 A No.

5 Q Did you or anyone in your presence in regard to the
6 interview which is contained in State's Exhibit Number 21
7 threaten, force, coerce or intimidate Mr. Parker, Nicholas
8 Parker, the Defendant, in an effort to get him to speak with
9 you?

10 A No.

11 Q Did you or anyone in your presence in regard to the
12 interview that's contained on State's Exhibit Number 21
13 promise him anything in an effort to get him to speak with
14 you?

15 A No, sir.

16 MR. MODICA: Your Honor, at this time I would like to
17 publish it.

18 THE COURT: You may.

19 MR. MODICA: The record will reflect it's State's
20 Exhibit Number 21.

21 (Whereupon, State's Exhibit Number 21 played in open
22 court.)

23 BY MR. MODICA:

24 Q During the course of the interview you spoke to the
25 Defendant about DNA. Did you have any idea that DNA was going

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1 to be tried to be gotten or that there was a DNA test or
2 results or anything like that?

3 A No.

4 Q In fact, the DNA you're aware that came back months
5 later, months and months and months later.

6 A Months later.

7 Q After you spoke.

8 A Yes.

9 Q The two telephone calls that you get are they in any way
10 whatsoever related to your interview or the investigation
11 regarding the case against the Defendant?

12 A Not at all.

13 Q And those are the on-call calls?

14 A On-call calls that I got about an incident that was going
15 on.

16 Q Thank you. I have no further questions.

17 THE COURT: Cross.

18 MR. GOUDE: No, no, no questions, Your Honor.

19 THE COURT: All right, you can step down.

20 Thank you. You can be excused. We appreciate your time
21 and this is probably a good time for us to take a morning
22 break. So, I'm going to let the bailiff take you to the jury
23 room.

24 (Whereupon, the following takes place outside the
25 presence of the jury.)

1 THE COURT: Take about a 10-minute break.

2 MR. MODICA: Your Honor.

3 THE COURT: Yes, sir.

4 All right.

5 MR. MODICA: I'm going to rest. So, if you want to do
6 the motions now or when you come back prior to the jury
7 bringing them back, but I figured I would let you know that.

8 THE COURT: Well, we won't do the motions at this
9 point. I'll -- we'll take a break except I will talk to the
10 Defendant just a minute.

11 All right, Mr. Parker, can you hear me?

12 MR. PARKER: Yes, sir.

13 THE COURT: All right, the State is resting. That is
14 the State is telling us it's presented its evidence. You have
15 a right now to present evidence if you wish. You don't have
16 to. The State is required to prove your guilt beyond a
17 reasonable doubt. You are presumed innocent and you don't
18 have to prove your innocence. You can present a defense but
19 you do not have to, but you have the right to call witnesses
20 on your behalf who would testify under oath, be subject to
21 cross examination by the State.

22 You personally have a right to testify. You personally
23 have a right to remain silent. You have a constitutional
24 right to remain silent. If you exercise that right to remain
25 silent I will tell the jury that you have done that, that they

Questioning Re: Rights

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1 cannot hold that against you, that they cannot discuss in the
2 jury room that you have exercised your constitutional right to
3 remain silent. I will remind them that you are presumed
4 innocent of the charges, and that they cannot factor into
5 their determination of whether they find you guilty or not
6 guilty the fact that you have chosen to exercise your
7 constitutional right to remain silent. If you do testify the
8 State will be able to cross examine you, you will be under
9 oath, you'll have to answer questions. They can ask you about
10 certain offenses. Which are the offenses, Mr. Modica, what,
11 what -- I believe we went over it the other day, but I want to
12 make sure.

13 MR. MODICA: Yes, sir. Aggravated, assault and
14 battery of a high and aggravated nature in 1999, use of a
15 motor vehicle without permission in 2001, and that's all I'm
16 aware of. I'm aware that he has a hit and run with minor
17 personal injury in 1999, but I wouldn't, I wouldn't question
18 him about that.

19 THE COURT: The State can ask you about the two ---

20 MR. MODICA: Actually I should -- I stand corrected
21 because he did get four years probation. So, it must have
22 been a General Sessions level offense because you can't get
23 probation in magistrate's court. So, that's in 1999 as well.
24 So, hit and run '99, assault and battery of a high and
25 aggravated nature in '99 and use of a motor vehicle

1 without permission in 2001.

2 THE COURT: Mr. Parker, you understand that the State
3 can ask you about those prior offenses.

4 MR. PARKER: Yes, sir.

5 THE COURT: And they can ask you about those prior
6 offenses solely regarding your believability and I will tell
7 the jury that, that is I will tell the jury that they cannot
8 consider your past criminal conduct as being any evidence that
9 you committed this offense, but rather they can only use your
10 prior criminal conduct to assess your credibility, that is
11 your believability. You understand that?

12 MR. PARKER: Yes, sir.

13 THE COURT: You have any questions about that?

14 MR. PARKER: No, sir.

15 THE COURT: I advise you that it's solely your
16 decision to make as to testify or not. You can get advice
17 from your attorney, from anybody else you wish, but it is not
18 the State's, it's not mine, it's not even your attorney's.
19 It's Mr. Parker's decision. Do you understand that? Do you
20 have any questions about any of that?

21 MR. PARKER: No, sir.

22 THE COURT: All right, we're going to take a break and
23 you can talk to your attorney. I am going to ask that, a
24 couple of things, one, that the State double-check on that hit
25 and run with bodily injury as to what that carries, we'll take

1 a look at that.

2 MR. PARKER: And that one there was concurrent with ---

3 THE COURT: Well, well, let your lawyer talk to him.
4 We'll take a look at that, and Mr. Goude, I have one other, if
5 you'll, if you'll -- I'll let you get back to your book in
6 just a minute. I notice that Shirley Ward is listed as a
7 witness. I don't know whether she will testify or not. I
8 think from the testimony that that's the grandmother who was
9 also charged.

10 MR. GOUDE: Yes, Your Honor.

11 THE COURT: Well, if she has counsel I would suggest
12 that if she's going to testify her counsel needs to be alerted
13 and be present.

14 MR. MODICA: He's present, Your Honor.

15 THE COURT: Okay, all right.

16 MR. COLVIN: I am her lawyer.

17 THE COURT: Okay, fine, well, ahead of us. That's
18 good. Thank you. We'll take a break.

19 MR. MODICA: Your Honor, actually the hit and run
20 doesn't carry more than one year. So, I would not ask about
21 that.

22 THE COURT: All right, well, I knew hit and run
23 usually didn't, but I thought you said great bodily injury.
24 So, I couldn't remember whether that might carry six months or
25 something like that.

1 MR. MODICA: I would, I would not ask about it.

2 THE COURT: You understand that, Mr. Parker, not
3 going to ask you about that.

4 MR. PARKER: Yes, sir.

5 MR. MODICA: Thank you, Your Honor.

6 ***** OFF THE RECORD *****

7 (On the record.)

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 THE COURT: Thank you. Take your seats.

11 All right, Mr. Goude, is Mr. Parker going to testify or
12 exercise the right to remain silent?

13 MR. GOUDE: Testify, Judge.

14 THE COURT: All right, is that correct, Mr. Parker?

15 MR. PARKER: Yes, sir.

16 THE COURT: Okay, now, before we get too far just for
17 logistics, if -- I don't know your order and if you intend to
18 call Ms. Ward it might be good if we could get her in just a
19 moment and let me tell her about her rights and then we won't
20 have to stop when we call him.

21 MR. GOUDE: I intend to call her, Judge.

22 THE COURT: I figured you did. I don't know the
23 order but I want to -- does she have any impeachable offenses?

24 MR. MODICA: No, sir.

25 THE COURT: All right.

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1 MR. MODICA: Other than the ones charged.

2 THE COURT: Well.

3 MR. MODICA: Your Honor, I don't know if the Defense

4 has any motions at the conclusion of the State's case.

5 THE COURT: Okay, yeah, we -- I don't want to preempt

6 that. I'm going to let you make your motions. Why don't you

7 go ahead and do that while Mrs. Ward is coming in.

8 MR. GOUDE: I would move for a directed verdict of

9 not guilty on all the charges, Judge, on the insufficiency of

10 the evidence on all the charges.

11 THE COURT: That motion would be denied. There's no

12 question that the quantum of evidence is sufficient from which

13 a jury could determine that Mr. Parker was guilty of either

14 one or both of these offenses. I find that there -- it's a

15 pretty direct evidence case. I guess there is some

16 circumstantial evidence. I find -- I deny the motion.

17 (Shirley Ward enters courtroom.)

18 THE COURT: All right, Mrs. Ward, you can just stand

19 right there. Can you hear me?

20 MRS. WARD: Yes, sir.

21 THE COURT: All right, well, I haven't met you yet.

22 I'm John Hayes. Actually I think we did ride up on the

23 elevator today. So, we did kind of meet. I'm the Judge

24 handling this case, and your grandson, I understand, Mr.

25 Parker is on trial and I understand you've been charged in

1 this offense, too, and your name has popped up quite a bit to
2 be right candid, but you have an attorney, Mr. Colvin,
3 represents you and he's standing there with you and he has
4 indicated to me earlier that he has advised you concerning
5 your constitutional right to remain silent, that is I'm told
6 by your grandson's attorney, Mr. Goude, that you intend to
7 take the stand and testify. Well, that's fine. You have
8 absolute right to do that, although you have a right to remain
9 silent since you also have charges pending from this event,
10 also. So, you can choose to testify if you wish or you can
11 remain silent. That's your right. I want you to be aware
12 that all that I'm saying right now, everything you're saying,
13 everything that's happened while you're testifying will be
14 taken down by a court reporter, and if and when you go to
15 trial, or if you go to trial, the State could use whatever you
16 say today against you then, that is there would be a record,
17 it would be under oath, it would be as lawyers call it
18 memorialized, that is it will be something that if you go to
19 trial later they could pull out and perhaps use against you.
20 You understand that?

21 MRS. WARD: Yes, sir.

22 THE COURT: You have any questions about any of that?

23 MRS. WARD: No, sir.

24 THE COURT: All right, Mr. Colvin has indicated to me
25 he's told you all that; is that correct?

Motions

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1 MRS. WARD: Yes.

2 THE COURT: Okay, all right, well, it's up to you
3 whether to testify or not, but you understand that you have a
4 right to remain silent and that the State can use anything you
5 say at a later time against you. You understand that?

6 MRS. WARD: Yes, sir.

7 THE COURT: Okay.

8 MR. MODICA: Your Honor, I would, obviously Mr. Goude
9 intends to call her. I would ask if she's going to exercise
10 her Fifth Amendment because there is some case law that say
11 that a person is not to be called just to exercise their Fifth
12 Amendment and Sixth Amendment Rights.

13 THE COURT: Mr. Colvin, having talked to Mrs. Ward,
14 let me ask you this, Mrs. Ward, do you intend to testify or
15 exercise your right to remain silent?

16 MRS. WARD: Testify.

17 THE COURT: Okay, all right, thank you.

18 MR. MODICA: Thank you, Your Honor. Your Honor, may I
19 approach on an unrelated business matter?

20 THE COURT: All right.

21 You can, you all can go on, you can take her on back.
22 No, unless she's going to be the first witness, no, you can go
23 on back wherever they ---

24 MR. COLVIN: Judge, do you know about how long we're
25 going to be here?

1 MR. GOUDE: Just his will take probably two hours I
2 guess.

3 (Whereupon, a Bench conference was held.)

4 THE COURT: All right, the State ready?

5 MR. MODICA: Yes.

6 THE COURT: Mr. Goude, Mr. Goude, ready?

7 MR. GOUDE: Yes.

8 THE COURT: All right, bring in the jury.

9 While they're bringing in the jury, I think my clerk has
10 given you copies of my charge. It's got some hand scratching
11 on it but I think it's -- it flows pretty good and we can --
12 we'll talk about that later, but at least you all have an
13 opportunity to take a look at it before.

14 (Whereupon, the following takes place in the presence of
15 the jury.)

16 THE COURT: Members of the jury panel, the State has
17 rested, that is while you were out, the State tells me that --
18 tells us, and they can do it formally on the record, if they
19 wish in your presence, the State has presented their case.
20 You've basically heard all the State's evidence. I say
21 basically because you've heard it all with the exception that
22 under certain circumstances at a later time in the trial the
23 State could perhaps present what we call reply testimony, but
24 you've basically heard the State's case. So, now the Defense,
25 Mr. Parker and his counsel, Mr. Goude, have a right if they

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1 wish, but there's no obligation, to proceed. All right, Mr.
2 Goude.

3 MR. GOUDE: Thank you. We would call Mr. Nicholas
4 Parker to the stand at this time.

5 THE COURT: All right, Mr. Parker, please come up and
6 be sworn.

7 AT THIS TIME NICHOLAS LEE PARKER WAS CALLED TO THE STAND, DULY
8 SWORN BY THE CLERK AND TESTIFIED AS FOLLOWS:

9 THE CLERK: Please be seated and state your full name
10 for the record.

11 MR. PARKER: Nicholas Parker, Nicholas Lee Parker.

12 DIRECT EXAMINATION

13 BY MR. GOUDE:

14 Q Mr. Parker, if you would, please tell the jury your
15 address, where do you live?

16 A [REDACTED], Summerville.

17 Q What county is that in?

18 A It's in Berkeley County.

19 Q And about how old are you?

20 A Right now I'm 24.

21 Q What's your date of birth?

22 A [REDACTED]. I'll be 25 next -- month after next.

23 Q What kind of education do you have?

24 A Tenth grade.

25 Q Who are your parents?

1 A Sherry Ward and Dale Parker or Sherry Parker because they
2 got married, but they separated now.

3 Q All right, and your address [REDACTED] Lane, who do you
4 live with there?

5 A My grandparents, James Ward and Shirley Ward.

6 Q Speak up loud as you can, please, so I can hear you.

7 THE COURT: Yeah, I think you need -- please speak up
8 a little bit. You have a soft voice.

9 A James Ward and Shirley Ward.

10 Q And how old are those two persons?

11 A Around 70.

12 Q And are they working or retired or what?

13 A My grandfather is retired and my grandmother she don't
14 work.

15 Q Your grandfather, what kind of medical condition is he
16 in?

17 A He's disabled.

18 Q What's wrong with him?

19 A He got in a car accident in '81 and he broke three
20 vertebrae in his neck. So, he's kind of immobile right now.

21 Q All right, on January the 29th of 2006, the date in
22 question that we're talking about, who was living there in
23 that house at that time?

24 A Well, it was me; my grandmother, Shirley Ward; and my
25 grandfather, James Ward; and my mom, Sherry Ward; my cousin,

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- 1 Roland Ward; and my brother, Josh Parker; and his girlfriend,
2 Debbie Vacruzi [spelled phonetically].
- 3 Q Your cousin, Roland, approximately how old was he at that
4 time?
- 5 A I think 16 or 17.
- 6 Q And your brother, Josh Parker, how old was he at that
7 time?
- 8 A He was 20, 21, 22.
- 9 Q And his girlfriend Debbie what was her last name?
- 10 A Vacruzi.
- 11 Q Say that again.
- 12 A Vacruzi.
- 13 Q Vacruzi.
- 14 A Yes, sir.
- 15 Q How old was she at that time, January of '06?
- 16 A She was, I think, a year younger than Josh, so, 20, 21.
- 17 Q All right, now, how long have you lived there with your
18 grandparents in Summerville?
- 19 A All my life.
- 20 Q Your mother and you have lived there basically your whole
21 life?
- 22 A Yes, sir.
- 23 Q And your brother's lived there his whole life, too?
- 24 A Yes, sir.
- 25 Q And what type of a house is that? Is it a brick house,

1 mobile home, a frame house?

2 A Right, it's a Jim Walters Home.

3 Q A wood house?

4 A It's -- yes, sir.

5 Q And you have heard the prosecution witnesses testify
6 earlier in the week that the general layout of the house is
7 and what road is this close to? Is this close to a main
8 highway or a country road or what?

9 A Yes, sir, 176.

10 Q 176?

11 A Yes, sir.

12 Q How far off of 176 is your house that you live in?

13 A Maybe 200 yards.

14 Q Two hundred yards?

15 A Yes, sir.

16 Q Is there just a driveway that goes to you all's house or
17 is there other people on the driveway or what?

18 A Well, it's a dirt road and somebody lives in front of me
19 and somebody also lives behind me.

20 Q And the dirt road is approximately 200 yards from the
21 main highway?

22 A Nah, that's where my house is from the highway, but the
23 dirt road goes past my house into a little court set in the
24 back.

25 Q All right, and 200 yards from your house to the main

1 highway?

2 A Yes, sir.

3 Q That highway goes from what town to what town?

4 A It goes I think all the way to Holly Hill past Goose

5 Creek all the way up towards almost Charleston.

6 Q If you -- if you all are at your house and you come out

7 in the dirt road say your house is back here behind me, you

8 come out of the dirt road to the highway, if you turn right,

9 what's the closest big town that we would have heard of on

10 your right as we're going out on 76 did you say or ---

11 A Yes, sir, I think like Eutawville.

12 Q Eutawville?

13 A Yes, sir.

14 Q How about if you go to the left, what's the town on the

15 left?

16 A Goose Creek.

17 Q Goose Creek?

18 A Yes, sir.

19 Q Well, which way would you come to come to Georgetown when

20 you're coming out of your driveway, your dirt road where you

21 live?

22 A You would take a right and then go down Black Tom and

23 that would bring you to 17.

24 Q Speak up loud, loud.

25 A You would take a right and then you go to -- down to

1 Black Tom Road and that brings you to 17, 17A.

2 Q Highway 17?

3 A 17A, yes, sir.

4 Q That's the same 17A that's over here in Lambertown
5 Section?

6 A Yes, sir.

7 Q How far is 17A from you all's house?

8 A Probably ten minutes, maybe 15.

9 Q All right, so, you come out of your dirt road, take a
10 right, drive about 8 or 10 miles and you hit 17.

11 A No, you drive a mile and then you, then you take a right
12 and go down that road and that road is probably about eight
13 miles long and then you'd be on 17 then.

14 Q When you get to 17 you'll be coming north toward
15 Georgetown County?

16 A Yeah, when you come out the road you take a left and go
17 through Moncks Corner.

18 Q All right, okay, all right, so, now, if the highway let's
19 say is the back of this courtroom to get sort of a visual
20 picture of the house so we'll know what we're sort of talking
21 about here, let's say the back wall of this courtroom is the
22 Highway 76 and this would be a dirt road coming off to go to
23 you all's house?

24 A Yes, sir.

25 Q So, if you all's house is sitting back there in the front

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1 of the courtroom?

2 A To the left-hand side.

3 Q To the what?

4 A To the left-hand side.

5 Q On the left side of the dirt road?

6 A Yes, sir, because the right side is a field.

7 Q All right, well, let's say that we have driven down the
8 dirt road and now we're turning into the yard in front of you
9 all's house so that your house -- would your house be, once
10 you turn off the dirt road into your house, would it be
11 sitting like across this courtroom, the right-hand side of the
12 house on the right side of the courtroom and the left side on
13 the left?

14 A Nah, the larger house is this way like the dirt road this
15 way it's parallel with the dirt road and the other house is
16 like at a right, a 90 degree angle to the, to the main house.

17 Q All right, what I want to do is get a general idea of the
18 house. If we at the front of the house is the front door of
19 the house roughly in the center of the house?

20 A Yes, sir.

21 Q All right, we walk in the front door of the house the
22 witness that testified before, the prosecution witness said as
23 you walk in the front door you've got basically a living room
24 over to the left and a kitchen behind that; is that correct?

25 A Yes, sir.

1 Q And then off to the right you've got three bedrooms and a
2 bathroom; is that roughly correct?

3 A Yes, sir, down a little hallway.

4 Q Down a little hallway.

5 A Yeah.

6 Q And the garage apartment is if you're standing in the
7 front door of the house, where is the garage apartment? Would
8 that be off to your right as you're looking into the house?

9 A Yeah, if you're going in the house it would be to the
10 right.

11 Q And what's that made out of, what kind of materials?

12 A Brick, like cinder blocks.

13 Q And in January of '06 what was the storage room or the
14 garage apartment what was that actually being used for at that
15 time?

16 A Everybody that had stuff that, that we, that we didn't
17 put in our rooms like our extra things and all we all pack in
18 boxes and put in there.

19 Q Pull your chair up closer to that microphone.

20 A We would put everything that we had in boxes out there
21 like a storage room.

22 Q How many rooms were in that storage building?

23 A It's a living room, a kitchen, a bedroom and a bathroom.

24 Q Well, were you using it at that time for a bedroom, a
25 living room, a kitchen?

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- 1 A No, sir.
- 2 Q So, it was a storage building at that time?
- 3 A Yes, sir.
- 4 Q So, it had three rooms and a little bathroom in it?
- 5 A Yeah.
- 6 Q Was the power on in the building?
- 7 A No, sir, it's been shut off for about three or four
- 8 years.
- 9 Q All right, during that, during that January of '06 where
- 10 were you employed at that time?
- 11 A I was working at American Custom Body Shop.
- 12 Q And what town is that in?
- 13 A That's right there in Moncks Corner right off of 17A.
- 14 Q How far is you all's house from Moncks Corner?
- 15 A About 20 miles, maybe 25, yes, sir.
- 16 Q Twenty-five, you have to drive 20 miles each way going
- 17 back and forth to work?
- 18 A Yeah. No, if I had to drive maybe 15 miles maybe back
- 19 and forth to work because it wasn't in the middle of Moncks
- 20 Corner. It's right when you come in Moncks Corner. It's
- 21 right when you come into Moncks Corner.
- 22 Q Coming in from your direction?
- 23 A Yes, sir.
- 24 Q All right, okay, all right, now, when did you first meet
- 25 the prosecution witness in this case as far as did you know

- 1 her before -- long before you started dating her
2 or when you first met her did you start dating her or what?
3 A No, when I first met her it was two, maybe three years
4 when I -- I met her before I dated her.
5 Q And when did you first start dating her approximately?
6 A I think it was after Valentine's Day of '04.
7 Q About two years before this incident occurred?
8 A Yes, sir.
9 Q And where was she staying at that time?
10 A She was living right there on 17 with her aunt right
11 across the street from Hot Spot.
12 Q And what town is that in?
13 A That's going towards Summerville.
14 Q How far was that from your home where you lived with your
15 Grandparents and your mother?
16 A About 10, 15 miles.
17 Q All right, and when you started dating her how long did
18 you all date before you all started living together?
19 A Maybe three days and then we moved in -- she moved -- we
20 was going to live in her trailer but she got kicked out. So,
21 she moved in with me.
22 Q Was she living in a trailer alone or with somebody else
23 when you started dating her?
24 A She was living with someone else.
25 Q That was her aunt did you say?

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1 A No, not that trailer. She had her own trailer prior to
2 that or at -- see, I met her at her aunt's but before me and
3 her got together she done -- she was living with her other
4 boyfriend at another trailer right there in Windwood. That's
5 like ten miles from my house.

6 Q And then after you and she started dating she was living
7 in a trailer and a few days after you all started dating you
8 all moved in together?

9 A Yes, sir.

10 Q Where did you all move in together at?

11 A At my grandmother's house.

12 Q Isn't that kind of a quick move in to know somebody just
13 a few days and start living together?

14 A I mean, I knew her prior to this, you know, and me and
15 her was pretty good friends then and when we met, you know, it
16 just, I guess we just developed from there.

17 Q All right, now, when you met her and started dating her
18 and she started staying with you this would have been sometime
19 in 2004?

20 A Yes, sir, after Valentine's Day.

21 Q Which is February, the month of February?

22 A Yes, sir.

23 Q Did she have her two children with her? She has
24 testified that she's got a daughter that is now nine years old
25 and a son that's now seven. Did she have those children

- 1 living with her when you started dating her?
- 2 A Yeah, yes, sir.
- 3 Q Those two children started staying with you and your
- 4 family when the prosecution witness moved in with you?
- 5 A Yes, sir.
- 6 Q So, if it's in '05 when you all started living together
- 7 at your grandparents' house at some point after that did you
- 8 and the prosecution witness move out of your grandparents'
- 9 house and start staying somewhere else together?
- 10 A Yes, sir, we moved to almost Summerville on College Park
- 11 Road in Summer Creek.
- 12 Q Speak up kind of plain.
- 13 A We moved down College Park Road. It's almost towards
- 14 Summerville, right there in Summer Creek is the name of the
- 15 trailer park.
- 16 Q About how far was that from your home that you lived in
- 17 with your grandparents and mother?
- 18 A About a 15, 20 minute ride, maybe 15, maybe not even that
- 19 much.
- 20 Q And what kind of dwelling was that?
- 21 A A mobile home park, we lived in a mobile home.
- 22 Q How many bedrooms?
- 23 A Two bedrooms.
- 24 Q Did the prosecution witness's children move there with
- 25 you?

1 A Yes, sir.

2 Q Do you remember approximately when it was you started
3 staying in that mobile home in Summer Creek mobile home park?

4 A I think around March, if I'm not mistaken.

5 Q March of what year?

6 A '05.

7 Q All right, and you stayed there in that trailer in Summer
8 Creek mobile home park until approximately what date, what
9 month and what year?

10 A Probably around October of '05.

11 Q And did the prosecution witness's two children continue
12 to live with you all there in that trailer from March until
13 October, since March is the third month, October is the 10th,
14 that's about seven months you all stayed there?

15 A Yes, sir.

16 Q Did the prosecution witness's two children stay there
17 with you all the whole time?

18 A Yes, sir.

19 Q Were they going to school over in the Summerville area?

20 A Yes, sir.

21 Q Were both of you working while you were living in the
22 trailer there?

23 A No, both of us don't work. She would work or either I
24 would work off and on because somebody had to stay home and
25 watch the kids.

1 Q All right, now, from the time period that you and she
2 lived with your grandparents and your mother did the
3 prosecution witness help contribute to utilities or pay rent
4 to your grandparents or anything like that?

5 A No, the agreement was that she provided food for the
6 house, and that's all she had to do.

7 Q And she did that by her food stamps?

8 A Yes, sir.

9 Q Why did you and she move out of your grandparents' house
10 where you were staying basically rent free, as I understand
11 it, you were staying rent free there?

12 A Yes, sir, but ---

13 Q Why did you move out of there and move into a
14 trailer? Who paid the rent on the trailer?

15 A Well, first her mamma helped us get it and then after
16 that she had a job when we got there and then she went from
17 that job and she quit that job and I went to work somewhere
18 else because I was making more money working with my uncle.

19 Q Who was paying the monthly payments on the trailer?

20 A I think the first month she paid it and then after that I
21 did or maybe the first two months she paid.

22 Q Was she still receiving food stamps while you all were
23 living there?

24 A Yes, sir.

25 Q Now, during that time period, March to October of '05,

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1 did some of your family members live there for a period with
2 you?

3 A My cousin moved in with me for about, I'd say, three,
4 maybe four months, and then towards the end of it my mom moved
5 in with me and my cousin left.

6 Q All right, now, at some point did you and the prosecution
7 witness move out of the trailer there at Summer Creek mobile
8 home park?

9 A Yes, sir, we moved from there to Georgetown.

10 Q And why did you move out of that trailer?

11 A Because her mamma told her if you come up here that she
12 would help us out and plus the rent would be a lot cheaper.

13 Q Had the prosecution witness told you that she was having
14 to come back to this area for any other reason?

15 MR. MODICA: Objection.

16 THE COURT: I overrule the objection. Go ahead.

17 A Nah, no, sir.

18 Q When you all moved from Summer Creek mobile home park
19 where did you move to?

20 A When we moved from there we moved to Sampit right there
21 behind BB's Grocery.

22 Q That's the BB Smith trailer park that we've been talking
23 about previously?

24 A Yes, sir.

25 Q And the photographs that are labeled as Defense Exhibits

1 3 through 12 are these the photographs of the trailer that you
2 and the prosecution witness lived in, this being the one
3 that's in Exhibit 3A is the first trailer on the right there?

4 A Yes, sir.

5 Q It's got the little steps or stoop with no top on it on
6 the front?

7 A Yes, sir.

8 Q And at the time you all were staying there did it have a
9 little similar stoop or step on the back door, too?

10 A Yes, sir.

11 Q And I think the prosecution witness said at the time you
12 all were staying there there were five little trailers in this
13 area, whereas in these photographs there are now six little
14 trailers in this area, correct?

15 A Right, that one in the middle wasn't there. It was an
16 empty lot.

17 Q Okay, all right, now, so, when you moved there how many
18 bedrooms in that trailer?

19 A It was just two bedrooms.

20 Q And when you moved there in approximately October of '05
21 who moved into that trailer?

22 A Me, her and her two kids.

23 Q Were the utilities on in the trailer when you moved
24 there?

25 A Her mom agreed to cut them on for the first month but

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1 after that we would have to take care of them.

2 Q And did you have, did you have a water bill at that
3 trailer?

4 A I don't know.

5 Q Did you have a light bill at that trailer?

6 A Yeah, a light bill and lot, and lot payment.

7 Q Lot payment?

8 A Yes, sir.

9 Q Was there a phone bill at the trailer?

10 A No, there was no phone there.

11 Q Was there any debt owed on the trailer to anybody?

12 A Not that I know of.

13 Q All right, so, when you moved in there, you all moved in
14 there, did you all pack up your stuff in the Summer Creek
15 Mobile home park before you came to Georgetown?

16 A Yeah, we packed all the big things like the chest of
17 drawers and the beds and all that and we used a u-haul to
18 bring them up there.

19 Q Did you bring everything from your trailer in Summer
20 Creek in Summerville to Georgetown or did you not bring
21 everything?

22 A No, sir, not everything.

23 Q And what did you do with your stuff that you left in
24 Summerville? Did you pack it up or did you leave it unpacked?

25 A We left it in the shed and my grandmother went and packed

- 1 it up and put it in the little house.
- 2 Q And what sort of stuff was it that you left over there?
- 3 A Stuff of sentimental value to her.
- 4 Q Like what?
- 5 A Like something her father had given us, her kids first
- 6 items like shoes, clothes, little special things that she,
- 7 that she wanted to keep.
- 8 Q Approximately how many boxes say, let's see, two feet by
- 9 two feet by two feet boxes would it have taken to pack that
- 10 stuff up?
- 11 A Probably about 15 maybe 20.
- 12 Q And were you all renting that trailer in Summerville or
- 13 buying that trailer?
- 14 A We was renting it.
- 15 Q All right, so, you moved to Georgetown and while you were
- 16 there in Summerville did you and the prosecution witness have
- 17 a vehicle at you all's disposal while you were living at the
- 18 trailer in Summerville?
- 19 A Yes, sir, we had a '95 Oldsmobile Aurora and later on
- 20 I gave her, I think it was a '92 or might be older than that,
- 21 '89 Cavalier.
- 22 Q Whose Oldsmobile was it?
- 23 A I drove the Oldsmobile and she drove the Cavalier.
- 24 Q Whose was it? Whose name was on the title?
- 25 A Oh, the title for the Cavalier was my uncle's and the one

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1 for the Oldsmobile was in her name.

2 Q Did those cars, vehicles have payments on them or not
3 payments?

4 A Yes, sir, they had payments.

5 Q Who was paying the monthly payments?

6 A Well, the Oldsmobile had payments but we paid the -- I
7 paid the first month. It was \$75 for the first month payment
8 and after that we didn't pay no more on it.

9 Q After that what?

10 A We didn't pay no more on it.

11 Q You didn't owe any more?

12 A No, we didn't pay no more.

13 Q You owed but you didn't pay?

14 A Yes, sir.

15 Q After that you got a Cavalier. You say you got that from
16 your uncle?

17 A Yes, sir, I paid \$300 for that.

18 Q That was the total purchase price?

19 A Yes, sir, because he was looking out for me because we
20 couldn't drive that other car because it didn't have tags or
21 insurance.

22 Q Which one, the Oldsmobile?

23 A Yes, sir.

24 Q How did you all get around if you had -- while you had
25 the Oldsmobile if you had a car with no tags and no insurance?

- 1 A We drove illegally.
- 2 Q You drove what?
- 3 A Illegally.
- 4 Q When you came to Georgetown to BB Smith's trailer park
- 5 what kind of vehicle did you have when you moved over here?
- 6 A Well, we had no vehicle because the Oldsmobile got towed
- 7 because we had too many cars in the parking spot, but her mom
- 8 let her use the Ford Escape.
- 9 Q Is that the way you brought your stuff from Summerville?
- 10 A No, we got the majority like the big things in the u-haul
- 11 truck but the things that -- it was like boxes, stuff like
- 12 that we used that truck to go back and forth to get it during
- 13 that whole week.
- 14 Q That truck being her mother's white Ford Escape vehicle?
- 15 A The Escape, yes, sir.
- 16 Q That's the SUV?
- 17 A Yes, sir.
- 18 Q Were you using that SUV while you all were living in the
- 19 trailer park in Summerville?
- 20 A No, sir.
- 21 Q All right, when you all moved down here to BB Smith's
- 22 trailer park in October, November of '05 what kind of vehicle
- 23 did you all have at you all's disposal living in the trailer
- 24 park down here ---
- 25 A In Summerville?

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- 1 Q In Georgetown?
- 2 A Oh, that's all we had was the Ford Escape. That was it.
- 3 Q Were you all having to pay payments on that?
- 4 A No, sir. Her mom let her use it.
- 5 Q And how long did you stay here in the trailer at BB
- 6 Smith's trailer park in Lambertown?
- 7 A Not even a week.
- 8 Q And were you planning on living down here?
- 9 A That was the plan from the beginning, yes, sir.
- 10 Q Why were you planning on coming from where you lived all
- 11 your life to the woods out here in the Georgetown County?
- 12 A Because me and her really it'd probably be better, plus
- 13 the kids could be close to their grandmother and, you know,
- 14 the rent would be a lot cheaper, too.
- 15 Q How far down the road did their grandma, the grandma
- 16 you're talking about is the prosecution witness's mother; is
- 17 that correct?
- 18 A Yes, sir.
- 19 Q How far down the road from you all's trailer did the
- 20 prosecution witness's mother live?
- 21 A Probably 10, 15 minute drive.
- 22 Q All right, so, when you got down here to the trailer, the
- 23 two-bedroom trailer did you have beds and all that stuff in
- 24 it?
- 25 A It was -- the -- we brought that from Summer Creek from

1 our trailer in Summerville.

2 Q You brought the beds and you brought the linens for the
3 bed.

4 A Brought chest of drawers. There might have been one bed
5 in there already, but we brought the rest of it, and then I
6 think we brought the kids' bed, chest of drawers, stuff like
7 that.

8 Q Okay, why did you only stay there a week?

9 A Because soon as we got all our stuff moved in me and her
10 got in a little confrontation because we was trying to unpack
11 the boxes and she didn't want to unpack the boxes.

12 Q She who?

13 A Belinda.

14 Q Didn't want to unpack the boxes?

15 A Right.

16 Q What happened?

17 A So, me and her, me and her just got in an argument about
18 it.

19 Q What kind of argument did you get into of any consequence
20 over not unpacking the box?

21 A Because she, she just don't -- she just wanted to lay
22 down. I mean we was on -- we had drugs at the same time; and
23 so, she just wanted to do drugs instead of unpack the boxes
24 and I was ready to sit down and just be able to relax because
25 I been moving back and forth all week.

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1 MR. MODICA: Objection, Your Honor.

2 THE COURT: What's your objection?

3 MR. MODICA: One, the topic, and two, it's not
4 answering the question and it's not -- and three, it's not
5 relevant.

6 THE COURT: All right, I'll overrule the objection at
7 this time, but go ahead.

8 Q Why did -- well, after, after you argued what did you
9 decide to do?

10 A Well, see, we was arguing and her mom had called and then
11 her mom was coming over there and her mom come over there and
12 got -- she got in my face and tried to swing on me and I said,
13 "Well, I ain't putting up with this. I'm going back to where
14 I come from." So, I started walking down, I think it was, 41.

15 Q And you mean the road, the main highway out there at
16 Lambertown?

17 A Yes, sir.

18 Q Which may be 17A, and so, you started walking down that
19 road and where did you end up?

20 A I walked all the way to the stop sign to where the other
21 -- it might either 41 crosses or 17, wherever they meet going
22 towards Moncks Corner.

23 Q Okay.

24 A I walked that far.

25 Q What happened then?

1 A When I got that far it was freezing cold that night and
2 somebody picked me up and I asked them if they'd bring me back
3 because I needed to call my grandmother, tell her to come get
4 me.

5 Q So, the person picked you up and what happened after they
6 picked you up?

7 A They brought me back to the trailer in BB Smith's trailer
8 park but no one was there.

9 Q And how did you eventually move out and leave?

10 A Belinda's mom come the next morning and she found me
11 there and she let me use her cell phone and I called my
12 grandmother and told her to come pick me up.

13 Q And did your grandmother come pick you up?

14 A Yes, sir.

15 Q Did anybody come with her?

16 A My mother did.

17 Q All right, and when they picked you up you had been
18 staying there in that trailer about how long?

19 A Approximately a week. All we did was stay the night but
20 during the daytime we'd go to Summerville to get what -- the
21 rest of our things. We made trips back and forth all day.

22 Q All right, and so, this would have been approximately
23 what month and what year that you were moving out of your
24 trailer at BB Smith's?

25 A November.

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- 1 Q And so, from there you moved back to where?
- 2 A Summerville, in my grandmother's house.
- 3 Q Did you have any real big items or big boxes to take with
- 4 you out of the trailer at BB Smith's back to your
- 5 grandparents', your mom's house in Summerville?
- 6 A Not -- no, sir, just like personal things and things like
- 7 that, I mean, maybe six or seven boxes.
- 8 Q Did you move back in with your grandparents and your
- 9 mother you said November of '05. How long after that passed
- 10 before you again saw the prosecution witness?
- 11 A Approximately maybe a week, maybe two weeks after that.
- 12 Q And how long after you moved out of BB Smith's place
- 13 before you had any telephone contact with the prosecution
- 14 witness?
- 15 A Two days after I moved back she called.
- 16 Q And what was the topic of that conversation?
- 17 A We just -- we was talking about how she want -- she asked
- 18 me if I would move back up there and I said, "No, I'm not
- 19 moving up there because I'm not getting in it with your mom
- 20 again." She's like, "Well, all right," and then she said,
- 21 "I'll just come see you whenever I can."
- 22 Q And so, did you and she continue to have telephone
- 23 contact after that day?
- 24 A Yes, sir.
- 25 Q And how often would you have telephone contact?

1 A It was like three days after that first phone call. Then
2 after that I moved from there back to Summer Creek with one of
3 my, one of my friends that lived in the back part of the
4 trailer park.

5 Q How long did you stay in Summer Creek in the trailer with
6 your friend after you moved into that trailer?

7 A The second week after I moved out of -- from BB's.

8 Q How long did you stay there in Summer Creek?

9 A That whole week.

10 Q Just one week?

11 A Yes, sir.

12 Q Then where did you go after that one week?

13 A After that week she come knocked on the door one
14 morning like early in the morning and me and her we discussed
15 things and all and then we end up moving.

16 Q She who?

17 A Me, me and Belinda, me and Belinda.

18 Q She came and knocked on what door where?

19 A The house I was staying at with my friend in Summer
20 Creek.

21 Q That's the trailer park?

22 A Yes, sir.

23 Q That's the same trailer park you moved in before?

24 A Right, but I moved to the back street this time.

25 Q You were not in the same trailer that you and the

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1 prosecution witness had lived in?

2 A No, sir.

3 Q All right, so, you're there, this is, what, November of
4 '05?

5 A Yes, sir. No, it was beginning December by then.

6 Q Okay, and you say the prosecution witness come and knocks
7 on your door one morning.

8 A Yes, sir.

9 Q What happens then?

10 A Me and her start talking and she asked us -- she, she
11 just -- when I opened the door my grandmother had knocked on
12 the door because she went to my house first and my grandmother
13 brought her over there and she knocked on the door and she was
14 crying when I opened the door and she told me she loved me and
15 she just wanted to be with me. So, I said, ``Well, let's go
16 in nanna's house and talk,`` because see my homeboy, he didn't
17 -- my friend he didn't like her because all the stuff that me
18 and her had been through in the past. He told me she was
19 doing me wrong and all, but I wouldn't listen to him. So, you
20 know what I'm saying, we couldn't stay there and talk because
21 he didn't like her around. So, we got in her brother's truck
22 and we went back to my house and right there at my
23 grandmother's.

24 Q What vehicle did the prosecution witness and your
25 grandmother use to drive to the trailer you were in that

- 1 morning?
- 2 A It was an old Isuzu truck.
- 3 Q Whose was that?
- 4 A It was her brother's.
- 5 Q Whose brother's?
- 6 A Belinda's brother's.
- 7 Q All right, and then you all went back to your grandma's
- 8 that day?
- 9 A Yes, sir.
- 10 Q And what did you all talk about or decide to do?
- 11 A Well, she, she decided to stay with me. She moved in
- 12 with me and her brother had to come get the truck.
- 13 Q She didn't bring his truck back?
- 14 A No, sir.
- 15 Q This is in December of 2005?
- 16 A Yes, sir.
- 17 Q Had she brought anything with her in the truck to live
- 18 with like clothes and stuff like that?
- 19 A No, sir.
- 20 Q Did she bring her children with her?
- 21 A No, sir.
- 22 Q Where were her two children staying?
- 23 A They was staying with either with her brother or her
- 24 mamma.
- 25 Q Does her brother live in Georgetown County also?

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- 1 A Yes, sir.
- 2 Q All right, so, this is you said early December of 2005.
- 3 A Yes, sir.
- 4 Q So, you and she, where do you all stay from then on?
- 5 A We stayed with my grandmother. Well, she stayed there
- 6 about two months and then her mom called and said she needed
- 7 to come back to Georgetown and take care of her kids.
- 8 MR. MODICA: Objection.
- 9 THE COURT: I sustain the objection. He can't
- 10 testify to what her mother said in a telephone conversation.
- 11 A All right.
- 12 THE COURT: So, just disregard what he said somebody
- 13 else said.
- 14 A All right.
- 15 Q Now, when you all were staying in -- with your grandma's
- 16 December '05 till January of '06 did the prosecution witness
- 17 have a vehicle at her disposal during that time?
- 18 A No, sir.
- 19 Q Did you have a vehicle at your disposal during that time?
- 20 A No, I had a truck in the garage but it wasn't fixed, and
- 21 I was working on fixing it but until then we used the red
- 22 Dodge Ram, my granddaddy's truck.
- 23 Q You say you had a truck you were fixing on -- in the
- 24 garage. Is the garage and the outbuilding the same building?
- 25 A No, there's a garage behind the house also.

1 Q Behind your house, the big house?

2 A Yes, sir, in the back yard.

3 Q All right, now, during December and January while you
4 and the prosecution witness are living together do you have a
5 job during that time, are you working somewhere?

6 A Yeah, I worked at American Custom Body off and on because
7 my boss he didn't pay me because he said enough work wasn't
8 going through because it was just me and him doing all the
9 work. So, I mean, I would get my paycheck, sometimes I get
10 them Friday, sometimes I get them on Thursday of the following
11 week. So, I quit going. I told him I -- if he can't pay me
12 on time then I can't work for him.

13 Q Was the prosecution witness working anywhere December to
14 January?

15 A No, sir.

16 Q Did the prosecution witness's children come over and stay
17 with you all during that December to January period?

18 A I think one weekend they did.

19 Q How would they have gotten over there?

20 A I think her mom and my grandmother met Belinda's mom.

21 Q They met somewhere and exchanged the children?

22 A Yeah, they went halfway, like she come to Jamestown and
23 my grandmother did Jamestown. Her mother come to Jamestown.

24 Q Would the prosecution witness be -- would she talk with
25 her mother on the telephone whenever she wanted to during that

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1 time period?

2 A Yeah, pretty much when her mother would call, I mean, her
3 mother would talk, talk to me like I wasn't nothing and me and
4 her mother would get in an argument, and you know, I hang up
5 on her. She call back and hang up on me, but eventually,
6 yeah, she did talk to her.

7 Q All right, now, at some point in January did the
8 prosecution witness move out of this house in Summerville?

9 A Yes, sir, she moved back to her mom's house on 521.

10 Q And how did she leave the house in Summerville where you
11 all were staying?

12 A She had a mental health appointment that morning and she
13 woke me and told me that she was going to mental health, and I
14 asked her, I said, "Do you want me to go with you?" She was
15 like, "Nah, I don't need you to go. You can go or stay here
16 if you want." I said, "All right, I will stay here and work
17 on my truck and then I'll see you when you get back," and she
18 give me a kiss and then she left.

19 Q And did she tell you she was moving out?

20 A No, sir.

21 Q Why did she move out without telling you?

22 A I guess because she had to take care of her kids.

23 MR. MODICA: Objection.

24 THE COURT: Whoa, whoa, I sustain the objection.

25 Ask another question.

1 Q And at some point after that when she moved out did you
2 and the prosecution witness talk on the phone or something?
3 A Yes, sir, that same day she had left we talked on the
4 phone.
5 Q Did you call her or did she call you?
6 A She called -- I called her but her mother said that
7 she'll call me back. So, I waited and she called me back.
8 Q And so, did you ask her why did she move out of the house
9 you all were living in?
10 A Yes, sir.
11 Q And did she tell you?
12 A She told me.
13 MR. MODICA: Objection.
14 Q What did she say?
15 MR. MODICA: Objection.
16 THE COURT: I overrule the objection. Go ahead.
17 Q What did the girl say the reason why she was moving out
18 of the house?
19 A Because she had to take care of her kids.
20 Q Why didn't she just take them to you all's house in
21 Summerville, take the children with her?
22 MR. MODICA: Objection.
23 THE COURT: I sustain the objection.
24 A Because ---
25 THE COURT: I sustain the objection. He's going to

1 ask you another question.

2 Q All right, so, the prosecution witness said that was
3 approximately January the 17th of 2006 when she moved out,
4 which would have been like a Tuesday, a week and a half before
5 this Sunday, January the 29th incident. Does that sound
6 approximately the correct date that the prosecution witness
7 moved out?

8 A Yes, sir, it's been a while, but yes, sir.

9 Q All right, now, between then and -- well, between then
10 and Sunday morning when this incident occurred, January the
11 29th, did you talk to the prosecution witness anymore on the
12 telephone after you talked to her that day and she said she
13 had moved out to take care of her kids? Did you talk with her
14 anymore between then and that Sunday morning?

15 A Yes, sir.

16 Q And approximately how many times?

17 A We talked, at first we talked every night because she
18 told me to call at 11 o'clock because she couldn't call my
19 house because her phone didn't have long distance.

20 Q What kind of phone did the prosecution witness have?

21 A That she was using the house phone, but sometimes she
22 would get to use her mother's cell phone.

23 Q Who was the prosecution witness living with?

24 A Her mother.

25 Q And she couldn't use her mother's house phone for the

1 long distance to Summerville?

2 A That's right.

3 Q All right, how would she call you? You say she told you,

4 "You can call me at 11 o'clock p.m. at night," or she was

5 going to call you at 11 p.m.?

6 A I had to call her because I have long distance, but

7 sometimes she would use her mom's cell phone, Belinda would

8 use her mom's cell phone to call me and we would talk

9 sometimes during the day but most of the time we talked about
10 around 11 o'clock at night.

11 Q And what kind of conversation did you have during that
12 time period?

13 A Just regular conversations about we was trying to plan
14 what we going to do in the future, how we was going to, you
15 know, get, get our life right because we had problems and we
16 just was trying, you know, to fix all our problems.

17 Q During that time did she tell you that she never wanted
18 to see you again or the relationship was totally ---

19 MR. MODICA: Objection.

20 THE COURT: I sustain the objection. That's a leading
21 question.

22 Q Did you and she discuss whether you were going to get
23 back together in the future or not get back together in the
24 future or did you discuss your future at all with each other?

25 A Yes, sir.

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1 Q What kind of discussions did you have?

2 A She said once we got everything back together and I got a
3 job, she got a job and we saved up money we could get another
4 trailer or whatever. We could move to Georgetown or we could
5 move to my side, Summerville. I told her I wasn't coming back
6 to Georgetown.

7 Q You and she had never been married; is that correct?

8 A No, sir.

9 Q Did you all ever have any children together?

10 A No, sir.

11 Q Did she ever get pregnant by you?

12 A No, sir.

13 Q All right, from this day, January the 17th, Tuesday, when
14 the prosecution witness moved out of your house until Sunday
15 morning, January the 29th, did you see her any or did she see
16 you any during that time period?

17 A Yeah, because I went back to work at the body shop and
18 she would come to see me, I think twice that first week
19 because she come down once in the middle of the week and she
20 come once on the, on Friday.

21 Q Was that the first Friday after she moved out on Tuesday
22 or was that the Friday, the second Friday after she moved out
23 which would have been the weekend of the incident or the
24 kidnapping?

25 A Well, she come down one time the first week during the

1 middle of the week and then the Friday before all this
2 happened she come down.
3 Q That would have been two days before all this happened?
4 A Yes, sir.
5 Q Or a week before all this happened?
6 A Two days.
7 Q All right, well, when she came down during the middle of
8 the week where did she come to see you at?
9 A She come to see me at my grandmother's house.
10 Q And did -- what did you all do while she was there?
11 A We just chilled and talked, you know, did things
12 boyfriends, girlfriends do.
13 Q Did -- was that in the daytime or in the nighttime?
14 A It was, it was during the daytime.
15 Q You were not working that day?
16 A No, sir, because I ain't got my job back yet.
17 Q Did the prosecution witness on that first occasion, the
18 week after she had moved out, she had moved out and came back
19 to Summerville during the day, did the prosecution witness
20 stay the night there that night?
21 A She stayed one night but then she went back the next, the
22 next day.
23 Q Was that -- the night that she stayed, is that this night
24 the first time that she came over there after she had moved
25 out or was it the second time?

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1 A It was, it was the, it was the first time.

2 Q All right, she stayed the night there in your
3 grandmother's house with you?

4 A Yes, sir.

5 Q In the house you would have stayed in that you all had a
6 -- basically three bedrooms. If you're at the front door of
7 your house and the house goes, let's say, across the courtroom
8 here. So, if you've got the three bedrooms on the right-hand
9 side inside your house, which bedroom and are they just like
10 one, two, three or how are the bedrooms situated?

11 A There's, there's a bedroom, a bathroom, a bedroom, then
12 a ----

13 Q Speak up loud and just point. Pretend this courtroom is
14 the house.

15 A There's a bedroom, a bathroom, a bedroom and then across
16 the hall is another bedroom.

17 Q A bedroom here, a bathroom, a bedroom, then across the
18 hall from that second bedroom would be another bedroom?

19 A Yes, sir.

20 Q Is there a little hall going down between the bathroom
21 and the second two bedrooms?

22 A Yes, sir.

23 Q So, I guess you would say we would have -- I guess we
24 could say we would have like a bedroom over here?

25 A Yes, sir.

- 1 Q Since you at the front door and then you'd have a
2 bathroom like over here where my grocery cart is?
- 3 A Yes, sir.
- 4 Q And then another bedroom back here on this end of the
5 courtroom?
- 6 A Yes, sir.
- 7 Q And then the other bedroom over here on this end of the
8 courtroom?
- 9 A Yes, sir.
- 10 Q And which bedroom was your bedroom that you would sleep
11 in?
- 12 A The far corner on that side.
- 13 Q The one down here in this end?
- 14 A Yes, sir.
- 15 Q And across from your bedroom was whose bedroom?
- 16 A It was my mother's bedroom and my little cousin. My
17 mother would sleep on the bottom bunk bed and my cousin would
18 sleep on the top.
- 19 Q Your cousin Roland?
- 20 A Sir?
- 21 Q Your cousin Roland?
- 22 A Yes, sir.
- 23 Q Is that his name?
- 24 A Yes, sir.
- 25 Q You've got a bathroom here and who slept in this bedroom?

- 1 A My brother Josh and his girlfriend, Debbie.
- 2 Q How many beds in their bedroom?
- 3 A Just one bed.
- 4 Q How many beds in your bedroom?
- 5 A Just one bed.
- 6 Q Is it like a double or a queen or a king?
- 7 A Yeah, about like a queen.
- 8 Q And how many beds in your mamma and Roland's bedroom?
- 9 A It was a bunk bed.
- 10 Q Bunk on top, bunk on the bottom.
- 11 A Yes, sir.
- 12 Q Where did your granddaddy and your grandmamma sleep?
- 13 A Towards in the front in the living room. They sleep --
- 14 they slept ---
- 15 Q The living room is over here where the jury is. Where
- 16 did your granddaddy and grandma sleep?
- 17 A They slept in the living room because they, they made
- 18 that their bedroom. We never went in there. We, you know,
- 19 nobody never went in the living room because that's where they
- 20 stayed at.
- 21 Q Did they have a television or something in there?
- 22 A Yes, sir.
- 23 Q Did they have some kind of, come in the front door, some
- 24 kind of tall entertainment center or something here?
- 25 A Yes, sir.

- 1 Q That actually blocked the ---
- 2 A The view of the, of the living room.
- 3 Q From the bedrooms and stuff?
- 4 A Yes, sir.
- 5 Q And the kitchen is back in there?
- 6 A The kitchen is around, yes, sir.
- 7 Q All right, over here where this end of the courtroom is?
- 8 A Right.
- 9 Q Where is the house phone located?
- 10 A It's right there as soon as you come in the door you can
- 11 see it. It's right there, right where the living room and the
- 12 kitchen meet.
- 13 Q That would be right over in here where the kitchen is.
- 14 A Yeah, right there on that wall that goes in.
- 15 Q All right, okay, so, when the prosecution witness comes
- 16 back to see you a few days after she left approximately
- 17 January the 17th you say she stayed there the night there with
- 18 you at your grandma's house?
- 19 A Yes, sir.
- 20 Q And you all stayed in your bedroom over there on the far
- 21 right corner?
- 22 A Yes, sir.
- 23 Q Did you all have sexual relations?
- 24 A Yes, sir.
- 25 Q All right, now, that's the week of Tuesday I think it was

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1 January the 17th. So, the next week did you say the
2 prosecution witness came back to see you a second time the
3 next week, also?

4 A Yes, sir.

5 Q And where did she see you at that time?

6 A She, she was at my job. She, she come to my job and I
7 was on the way to my work, and when I got there me and her met
8 and then we left again.

9 Q You and she left or she left?

10 A Me and her left.

11 Q Where did you all leave to go?

12 A Went back to my house and my grandma's house.

13 Q And was this during the day or the evening or morning or
14 what?

15 A It was around 11, 12 o'clock.

16 Q Why did you all go back to your grandmamma's if there's
17 work. Would you be missing work?

18 A Yes, sir, but I didn't come to work till then anyway
19 because he wasn't paying me on time. So, he just told me
20 whenever I could because he'd pay me by the hours.

21 Q All right, so, why did you all go back to your
22 grandmamma's house?

23 A We went back there, we had sex and then we went back, she
24 dropped me back at work and then she went home.

25 Q What kind of vehicle was the prosecution witness driving?

- 1 A A Ford Escape.
- 2 Q What were you driving when you drove to work?
- 3 A My grandmother dropped me off.
- 4 Q Was there any -- anybody back at your house that day when
- 5 you all went back there?
- 6 A Who, my grandmother's?
- 7 Q At your grandmamma's house, was anybody there when you
- 8 and the prosecution witness went there in the middle of the
- 9 day that day?
- 10 A Yes, sir.
- 11 Q Who was there?
- 12 A My grandfather, my grandmother. I think my brother was
- 13 working and maybe my mom.
- 14 Q Maybe your mom was working, maybe your mom was at the
- 15 house?
- 16 A Maybe my mom was in the house but maybe my brother was
- 17 working.
- 18 Q All right, now, your granddaddy you said is 70 years old.
- 19 His name is what?
- 20 A James Ward.
- 21 Q And does he get out, does he ever walk and get around or
- 22 is he bedridden pretty much?
- 23 A I mean, pretty much bedridden, but he can, he can walk a
- 24 little bit. He's got like a little scooter and he rides
- 25 around.

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1 Q He generally stay in what section of the house?

2 A In the living room.

3 Q And where does your grandmother and your grandfather
4 sleep if they stay in the living room?

5 A My grandfather sleeps on one couch and she sleeps on the
6 other couch across from him.

7 Q Do they keep their bed linen on the couches all the time
8 or do they clean them up during the daytime?

9 A They keep them on all the time because, see, none of us
10 go in the living room at all unless we go talk to my
11 granddaddy. We'll sit in the chair and talk to him or
12 whatever but that's their bedroom, you know what I mean?

13 Q Okay, all right, so, the girl's left, you see her twice
14 before January the 29th, Sunday, January the 29th, 2006, well,
15 let's say Saturday to make it easy to work our way in there.
16 Saturday, was you and the girl talking during that day
17 Saturday or Saturday evening?

18 A Well, we talked on the phone that Friday after she went
19 back and then I didn't talk to her no more.

20 Q Did you talk to her on Saturday?

21 A No, sir.

22 Q Did she call your house on Saturday?

23 A No, sir.

24 Q Did you talk with her on Saturday?

25 A No, sir.

- 1 Q Did you call her house or a number or anything?
- 2 A I called her number looking for her but her mom said she
3 wasn't there.
- 4 Q Did the prosecution witness have a cell phone at that
5 time, January the 28th through January the 29th that you could
6 call her directly?
- 7 A Not, not, not, not as I know of. I thought she had her
8 mom's, but I tried to call her mom's cell phone, but her mom
9 it just went straight to the answering machine. So, I don't
10 know if she had it or what.
- 11 Q Did you know her mother's cell phone number?
- 12 A Yes, sir.
- 13 Q Since there have been some phone records put into
14 evidence, what was her mother's cell phone number?
- 15 A [REDACTED].
- 16 Q 4140 did you say?
- 17 A Yes, sir, and that Friday was not the week before or ---
- 18 THE COURT: Wait, wait, he's going to ask you a
19 question. You just don't blurt stuff out.
- 20 A All right, all right.
- 21 Q Do you want me to re-ask you something about Friday?
22 What were you going to say about Friday?
- 23 A The Friday was -- it wasn't the week before that or the
24 Friday before that Sunday it was a week before that.
- 25 Q I don't understand what you're saying.

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1 A Well, she, she come like it was two weeks that she was
2 gone and the first week she come in the middle of the week and
3 then she come back that Friday and then there was a whole
4 'nother week before I even seen her.

5 Q So, it wasn't the second Friday after she left that you
6 stayed together.

7 A No, sir, it was the first Friday.

8 Q But it was the first Friday.

9 A Right.

10 Q All right, I understand. All right, on Saturday, which
11 would have been January the 28th, how many calls do you see
12 from say six p.m. Saturday evening, January the 28th, that are
13 on this page one, two, three of the phone records to [REDACTED]
14 -- you say that's the mamma's cell phone, the prosecution
15 witness's mamma's cell phone?

16 A Yes, sir.

17 Q How many calls you see from six p.m., which is 1800 on
18 this thing, military time, says -- how many you see [REDACTED]?
19 How many of those you see on that page from six o'clock on
20 down?

21 A Just one.

22 Q And what time was that?

23 A When I called that number?

24 Q Yes.

25 A 19, that's 7:49 p.m.

1 Q 7:49 p.m. and there's some other calls to Georgetown at
2 seven and eight p.m., which is [REDACTED]. Whose number is
3 that?

4 A I think that's a number she had called me from a previous
5 time before and I tried to call it and see if I can reach her
6 at that number.

7 Q Did you have any luck reaching her there?

8 A No, sir.

9 Q And there's some calls to a [REDACTED] to Georgetown. Did
10 you call that number, too?

11 A Yes, sir.

12 Q Do you know whose that is now?

13 A No, sir.

14 Q How did you know to call that number?

15 A Because she, she had called me previous from that number,
16 too.

17 Q And there's a [REDACTED] made about ten p.m. to Georgetown.
18 Did you call that number, too?

19 A Yes, sir.

20 Q And whose number was that?

21 A That was her mom's house. I figure she, if she didn't
22 answer those numbers she probably be back at her mom's house
23 around that time because she, she told me to call around ten
24 or 11 o'clock.

25 Q That was the house number of her mamma's phone?

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1 A Yes, sir.

2 Q All right, on the next date or page, which is page one,
3 two, three, four, page five of the phone records that start on
4 January 29th at 036 a.m., which is like 12:30 midnight,
5 Saturday night, early Saturday morning, then there's some
6 calls to Georgetown to [REDACTED]. That's the mamma's house
7 phone did you say?

8 A Yes, sir.

9 Q And then the [REDACTED].

10 A That was, that was ---

11 Q --- [REDACTED]?

12 A That was the other number I had that she called me from
13 before that.

14 Q It looks like there were approximately between midnight
15 and two o'clock in the morning there was about how many calls
16 made between midnight and two o'clock in the morning?

17 A About eight.

18 Q And did you make all those calls?

19 A Yes, sir.

20 Q And were you able to reach her at any of those numbers
21 you called?

22 A I didn't talk to nobody.

23 Q Well, why would you keep calling somebody if they don't
24 call you, they leave you, they don't want nothing to do with
25 you, why would you even fool with somebody like that anymore?

1 A Because I just wanted to talk to her.

2 Q Why would you want to talk to somebody if they want to
3 leave you, don't want to be with you?

4 A Well, it wasn't like that because she never told me she
5 didn't want to leave me -- she didn't want to be with me. She
6 just told me that if she didn't be able to get in touch with
7 me is because she couldn't be around her mom and her mom
8 didn't want me talking to her.

9 Q All right, so, then did you go to sleep any that Saturday
10 night or did you stay awake the whole night?

11 A I stayed awake pretty much the whole night because I was
12 worried about her, but then I finally fell asleep.

13 Q All right, there is a call here at 5:17 a.m. Sunday
14 morning, January the 29th, two minutes and 54 seconds,
15 basically a three-minute call which has an in, an "I" beside
16 it meaning in call from [REDACTED]. Do you know whose number,
17 whose phone that was?

18 A I don't know whose phone it was but that's when she
19 called me.

20 Q The prosecution witness called you?

21 A Yes, sir.

22 Q And the prosecution witness said that some guy named
23 Johnson had came there and told her that you were calling him
24 and for her to call you.

25 A Right.

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1 MR. MODICA: Objection to pitting.
2 THE COURT: I sustain the objection.
3 Q What was the topic of your conversation between you and
4 the girl at that 5:17 a.m. phone call she made to your house?
5 A Well, she asked why I was calling and looking for her and
6 I told her because I was worried about her, and she said,
7 well, she was just off with some friends right now and she had
8 to get away from her mom.
9 Q She said she was what?
10 A She was off with some friends, she had to get away from
11 her mom, she wasn't staying at her mom's house no more.
12 Q All right, well, did the prosecution witness tell you
13 where she was at that morning, where she was at at 5:17 a.m.
14 A She just said, "At my friend's house."
15 Q All right, now, at some point did you and the prosecution
16 witness or you and your grandmother discuss getting the
17 prosecution witness from BB Smith's or coming to BB Smith's or
18 something?
19 A Yes, sir, she -- we said ---
20 Q Who, use the name, not she.
21 A Belinda, Belinda, she told me that she did want to see me
22 but she couldn't come my, my side because her mamma was
23 checking her mileage on the vehicle, on the Escape.
24 Q Was that at this 5:17 a.m. call?
25 A Yes, sir, that was later on in the conversation.

1 Q Did you and she discuss whether you were coming to BB
2 Smith's trailer park and whether she was going to go to your
3 house or whether she was going to ---

4 MR. MODICA: Objection as to leading.

5 THE COURT: Yeah, I sustain the objection.

6 Q What, what did you all discuss in the telephone
7 conversation?

8 A Well, she told me that she wasn't at her trailer, she was
9 staying with a friend, but me and her could meet at the
10 trailer.

11 Q Why were you going to meet there?

12 A I guess she didn't want her friends to know -- let her
13 mamma know that I was seeing her because ---

14 MR. MODICA: Objection, non-responsive.

15 THE COURT: Yeah, I sustain the objection. He can't
16 go into someone's else mind and determine why they made some
17 statement.

18 Q All right, now, did you discuss with your grandmother,
19 even though this is five or six o'clock in the morning, did
20 you discuss with your grandmother anything?

21 MR. MODICA: Your Honor, how, how can he be on the
22 phone call with her and talking?

23 THE COURT: Well, well ---

24 MR. MODICA: Objection to the form.

25 THE COURT: I overrule the objection.

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1 Q Well, let me make it simple for us who didn't go to
2 Pleasant Hill High School or Elementary School. After you
3 hung up the telephone talking with the girl, the prosecution
4 witness, at some point thereafter that morning did you have a
5 conversation with your grandmother that you lived in the house
6 with?

7 A She answered the phone and woke me up. That's how,
8 that's how she knew Belinda was the one on the phone.

9 Q She who?

10 A My grandmother and then after I hung up I talked to her
11 and told her what Belinda said and asked her if she would take
12 me up there.

13 Q Take you up to where?

14 A Georgetown.

15 Q And why did you want to come to Georgetown at 5:30 in the
16 morning on a Sunday morning?

17 A Because Belinda asked me to come see her and I told her
18 that -- she wanted me to bring her stuff up there because we
19 had, we had talked about that on the phone and I was like,
20 ``Well, I don't know what's your stuff and because you got
21 so much stuff here I don't know what you want to keep and what
22 you gave to nanna or my grandmother, so, you know what I'm
23 saying, you have to come back down here and show me what you
24 want.'' She said, ``Well, come up here and we'll talk.''

25 Q Prior to this Sunday morning had the prosecution witness

1 made arrangements to come to you all's house and get the rest
2 of her stuff that was there?

3 A Not with me, not that I knew of, but I found out later on
4 that she had.

5 Q That she was supposed to come up, and she testified, you
6 heard her testify earlier in this trial; right?

7 A Yes, sir.

8 Q That she had made arrangements through her grandmother to
9 go get her stuff on Tuesday.

10 A Yes, sir.

11 Q All right, now, did your grandmother and you discuss
12 coming to Georgetown after you got off the phone with the
13 prosecution witness?

14 A Yes, sir, she said it would be better if we did it today
15 because I had to work next week.

16 Q You'd be working on Tuesday.

17 A Yes, sir, and she didn't want me to take off work.

18 Q Okay, so, whose idea was it to drive to Georgetown at
19 5:30 Sunday morning, January the 29th, your idea or your
20 grandmother's?

21 A My idea, my -- both of ours really. We, we agreed on it.

22 Q All right, now, so, did you notify the prosecution
23 witness that you were going to come?

24 A She knew I was going to come.

25 Q How did she know?

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1 A That's what -- because she told me to meet her at that
2 trailer in Georgetown at BB Smith's trailer park.

3 Q Had you and the prosecution witness discussed whether she
4 would drive to Summerville that Sunday and get her stuff while
5 you were off and not working on Tuesday or had she ---

6 MR. MODICA: Objection.

7 Q --- or had you ---

8 THE COURT: I sustain. Don't ask leading questions.
9 Rephrase your question.

10 MR. GOUDE: All right, sir.

11 BY MR. GOUDE:

12 Q Had you and the prosecution witness discussed how her
13 stuff would get moved from Summerville to Georgetown that day,
14 that Sunday?

15 A See, I was supposed to bring it up there to her but on
16 the phone I told her I didn't know what was her stuff and what
17 wasn't her stuff, and she told me, "Well, come up here to
18 Georgetown and we'll talk."

19 Q Well, why wouldn't you know what was her stuff and what
20 was not?

21 A Because she gave some stuff to my grandmother because my
22 grandmother she likes to collect things like collectibles,
23 stuff like that, and the other things was just sentimental
24 value stuff that she had wanted to keep.

25 Q And how did the stuff -- where was this stuff located?

- 1 A It was in the garage house, the little, the little shed
2 where we store everything at.
- 3 Q And how did the stuff originally get into the garage
4 apartment? Where did it come from?
- 5 A It come from our house from Summerville, Summer Creek
6 when we moved out.
- 7 Q That's the trailer you all moved out of in October?
- 8 A Yes, sir.
- 9 Q And who had brought it to the garage apartment there
10 where you lived?
- 11 A My grandmother had.
- 12 Q Did anybody help her do that?
- 13 A I think my mother might have helped her.
- 14 Q And approximately how much -- what kind of containers was
15 that stuff in that was in your garage apartment?
- 16 A It was in boxes.
- 17 Q Cardboard boxes?
- 18 A Yes, sir.
- 19 Q Approximately how many cardboard boxes?
- 20 A I mean, it was two very large ones and then the rest of
21 them was little small ones like I'd say about two foot by two
22 foot by two foot, maybe a little bigger.
- 23 Q Approximately how many boxes were there?
- 24 A About ten.
- 25 Q Was everything there that the prosecution witness was to

1 get was everything already in boxes?

2 A Yeah, that was, that was her, hers, what she wanted was
3 about ten boxes and it was more, it was a lot more boxes than
4 that.

5 Q But I mean, her boxes, the stuff in her boxes was it more
6 than ten boxes, she only wanted ten or did she have only have
7 ten boxes in the garage apartment or explain that.

8 A Oh, it was more than ten boxes but all she wanted was
9 about ten.

10 Q There was more than ten that was hers or just more than
11 ten in the apartment?

12 A Yeah, it was more than ten that we had brought from the
13 trailer, but the only -- she only wanted ten of it because the
14 ten of it was sentimental value. The other stuff she had give
15 to my grandmother.

16 Q About how many other boxes of stuff above the ten that
17 she didn't want was there there?

18 A About 15.

19 Q Did anybody besides this prosecution witness have stuff
20 stored in that outbuilding?

21 A Yes, sir.

22 Q Who else had stuff stored in that outbuilding?

23 A Everyone that lives at the house, my cousin Roland, my
24 mother, Sherry and my grand, my grandmother and even her son
25 got some stuff over there because he don't got room in his

1 trailer for it.

2 Q Were there other boxes that was in that garage apartment
3 that morning other than the prosecution witness's boxes?

4 A Yes, sir.

5 Q Was the prosecution witness's boxes wrapped up in any
6 manner?

7 A Yeah, they was taped up.

8 Q With what kind of tape was it taped up?

9 A With duct tape.

10 Q Was there any other boxes in the garage apartment not
11 belonging to the prosecution witness that was boxed up in
12 cardboard boxes?

13 A Yes, sir.

14 Q Was any of those boxes wrapped up in any manner?

15 A It was in duct tape and regular box tape.

16 Q Approximately how many other boxes not belonging to the
17 prosecution witness were there in the garage apartment that
18 morning?

19 A There was so many I can't count. I mean, probably maybe
20 50, 60, maybe more than that because, I mean, it's all through
21 the house. There's some in the bedroom, some in the kitchen,
22 some in the living room. It's all through the ---

23 Q You're talking about the three rooms in the garage
24 apartment at one time or living room at one time or a bedroom
25 at one time or kitchen.

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1 A Yes, sir; yes, sir.

2 Q Now it's a storage building.

3 A That's right.

4 Q All right, so, you and your grandmother decided to come
5 to Summerville ---

6 A Yes, sir.

7 Q --- or come to BB Smith's trailer park.

8 A Yeah, we ---

9 Q And why are you coming to BB Smith's trailer park six
10 o'clock on a Sunday morning?

11 MR. MODICA: Objection, previously asked and answered.

12 THE COURT: I overrule the objection.

13 A So, so, we could get all this cleared up so I wouldn't
14 have to take off work to give her her things.

15 Q How would coming to BB Smith's trailer park clear up
16 anything?

17 A So we could pick her up and bring her back so she could
18 determine what was hers and what she wanted and then bring,
19 bring her back with the stuff.

20 Q All right, and so, did you and your grandmother leave
21 your house that morning?

22 A Yes, sir.

23 Q Approximately what time did you leave your house?

24 A About six o'clock, maybe 6:15.

25 Q Anybody else come with you and your grandmother?

1 A No, sir, just me and her.

2 Q Did you bring a roll of duct tape with you down to
3 Georgetown?

4 A No, sir.

5 Q All right, so, you all left 6:30 from Summerville and you
6 would have got -- about how many miles and how many minutes of
7 driving is it from your house in Summerville to the trailer
8 park here in Georgetown County?

9 A About a hour and a half drive.

10 Q So, if you left at 6:30 you would have gotten to
11 Georgetown trailer park over there approximately what time?

12 A About seven o'clock, 7:30, somewhere around in there.

13 Q Let's pretend you did go to Pleasant Hill School now, and
14 you said that's how long a drive?

15 MR. MODICA: Objection.

16 A About seven. It's an hour, hour and a half drive.

17 THE COURT: Wait, wait, wait, wait, wait. I don't
18 think it matters where he went to school. So, let's don't go
19 back into anything like that. You ask him just straight
20 questions.

21 Q You left about what time from Summerville?

22 A Around 6, 6:15.

23 Q And it's about how long a drive to ---

24 MR. MODICA: Objection, asked and answered like a
25 minute ago.

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1 THE COURT: Well, I overrule the objection, but let's
2 move along. You did ask that and you got an answer.

3 Q You left Summerville about 6:15 or 6:30, somewhere in
4 there?

5 A Six, 6:15.

6 Q All right, 6:15, and it takes how long for you to drive
7 from Summerville?

8 MR. MODICA: Objection.

9 THE COURT: I sustain the objection. He's already
10 testified to that one time.

11 Q All right, it takes an hour and 15 minutes.

12 MR. MODICA: Objection.

13 THE COURT: Now, wait, wait, wait, wait, wait, let's

14 ---

15 Q So, an hour and 15 minutes ---

16 THE COURT: Wait, wait, wait, wait, wait, wait, wait,
17 wait, let's go back and see what his answer was. I don't
18 think it was an hour and 15 minutes, but let's see what he
19 said.

20 A I said an hour, an hour and a half.

21 THE COURT: Okay.

22 Q Okay, how many miles is it; do you know?

23 A I have no clue.

24 Q All right, it takes an hour, or an hour and a half let's
25 say, an average of an hour and an hour and a half would be how

1 long? What we're trying to figure out is approximately what
2 time you got to BB Smith's trailer park.

3 MR. MODICA: Why doesn't he ask that question?

4 THE COURT: No, just ask the question. You don't --
5 just ask questions. You know how we -- we do this.

6 A We got there around 7, 7:15, 7:30.

7 Q All right, and when you got to BB Smith's trailer park
8 was there any vehicles parked outside of the prosecution
9 witness's trailer?

10 A There was a white Ford Escape.

11 Q And were there any other vehicles at the other trailers
12 around the trailer park?

13 A Yes, sir.

14 Q Were there lights on in the prosecution witness's trailer
15 when you got to the trailer?

16 A No, sir.

17 Q Can you see lights outside of the trailer if they're on
18 in the trailer?

19 A No, sir, I mean, through a window, but I doubt it.

20 Q Now, when you got to the trailer park and who drove from
21 Summerville to the trailer?

22 A My grandmother.

23 Q And when you all got to the trailer, what did you all do
24 when you got to the trailer in the trailer park?

25 A We pulled around the back because she had told me to pull

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1 around back just in case her mom comes, that her -- she didn't
2 want her mother to see me there.

3 MR. MODICA: Objection.

4 THE COURT: Well, no, she -- he's saying what the
5 prosecutrix said.

6 MR. MODICA: Which is hearsay.

7 THE COURT: I overrule the objection.

8 A Well, I was told to drive around back.

9 THE COURT: You've already answered the question.
10 Now he's going to ask you another question.

11 Q If a vehicle is parked in front of the prosecution
12 witness's trailer could a vehicle driving by on the paved
13 highway out there see that vehicle in front of the prosecution
14 witness's trailer?

15 A Yes, sir.

16 Q And so, the prosecution witness told you to drive around
17 to the back of the trailer?

18 MR. MODICA: Objection, asked and answered.

19 THE COURT: Let's don't go over things two or three
20 times, but I'm going to allow the question this time, but ---

21 MR. GOUDE: It's a lot easier for a witness to know
22 what he's said a million times than a jury that's never heard
23 it in their life, Judge. That's my point in doing this, not
24 to argue with the Court but just to give you my reasons for
25 asking something two or three times.

1 THE COURT: All right, well, well, let's just ask it
2 once. I think the jury, I think the jury has got pretty good
3 retention value, retention ability.

4 BY MR. GOUDE:

5 Q So, you all pulled, you and your grandmother pulled
6 around to the back door of the garage apartment?

7 A Yes, sir.

8 Q Or to the mobile home rather?

9 A Yes, sir.

10 Q And who got out of the truck?

11 A I did.

12 Q And is this now, when you get out of the truck where do
13 you go?

14 A I, first I went to the back door and I tried to go in,
15 but it was locked; and so, I went around to the front door.

16 Q Did you knock on the back door?

17 A No, sir, because she said she was sleeping on the couch.

18 Q That's what she told you that on the telephone?

19 MR. MODICA: Objection, is non-responsive.

20 THE COURT: Yeah, I sustain the objection. Just go
21 -- that was a leading question. Just ---

22 A Answer it?

23 THE COURT: No, he, he ---

24 A All right.

25 THE COURT: Go ahead.

1 Q And so, the back door was locked?

2 A Yes, sir.

3 Q Well, if you were there to kidnap her why didn't you just
4 kick in the door?

5 MR. MODICA: Objection.

6 THE COURT: Well, I overrule the objection.

7 Q Why didn't you just kick in the back door and go in if
8 you wanted to kidnap her?

9 A Because on the phone conversation she told me that she
10 would leave the front unlocked for me.

11 Q And so, where did you go when you found out the back door
12 was locked?

13 A I walked around to the front door.

14 Q And what did you do when you got to the front door?

15 A I knocked on the front door two or three times and nobody
16 answered, and I walked in.

17 Q If she told you just to come in why didn't you just open
18 the door to start with and go in?

19 A I just, just a habit I got.

20 Q Okay, and you knocked on the door and no one came.

21 A No, sir.

22 Q What did you do?

23 A I walked in and she was sleeping on the couch.

24 Q Now, where is the couch located there in this trailer?

25 A As soon as you open the door it's right there in front

1 the door.

2 Q Is that the living room?

3 A Yes, sir.

4 Q You walk in the living room through the front door.

5 A Yes, sir.

6 Q If you come in through the back door of the trailer you

7 said you had lived there a week; right?

8 A Yes, sir.

9 Q When you come in the back door of the trailer what room

10 of the trailer is in the back door or is at the back door?

11 A Well, to the right soon as you walk in the back door

12 there's a bedroom and then right across from where the back

13 door is at it's the bathroom. It's a hallway goes into the

14 living room or the kitchen into the living room.

15 Q You come in the back door you're in a hallway?

16 A Yes, sir.

17 Q All right, now, and so, the prosecution witness was on

18 the couch in the living room asleep when you got there?

19 A Yes, sir.

20 Q How was the prosecution witness dressed?

21 A She had a pair of pants on and a shirt but she was, she

22 was under the covers, under a -- but she was sleeping.

23 Q What kind of covers?

24 A A comforter, the same comforter they got in evidence.

25 Q That's the comforter here we talked about?

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1 A Yes, sir.

2 Q And was there a pillow there under the person's head?

3 A Yes, sir.

4 Q Was it a bed pillow or just a little toss?

5 MR. MODICA: Objection as to the leading questions.

6 THE COURT: I overrule the objection. Be careful
7 about your questions, counsel.

8 Q What kind of pillow was under the prosecution witness's
9 head?

10 A A regular pillow that you would sleep with, it's not, not
11 no throw pillow, a regular pillow, like a ---

12 Q A bed pillow?

13 A Yes, sir.

14 Q When you walked into the living room and saw the
15 prosecution witness what did you do?

16 A Well, first of all I seen her I tried to wake her up and
17 she wouldn't wake up, and then I remember her telling me that
18 she usually sleep beside my picture, and at the time I thought
19 she was trying -- that she had lived in that trailer because I
20 went and looked in the back bedroom and I didn't see -- I see
21 the bed wasn't made up and I didn't see my picture nowhere
22 around. When I come back I tried to wake her up again. She
23 wouldn't wake up.

24 Q What kind of picture of yours did you say she sleeps
25 beside?

- 1 A That what she told me on the phone. It was like a
2 picture probably like this big, you know what I'm saying, like
3 a big size photograph.
- 4 Q Twelve by 14?
- 5 A Yeah, something like that.
- 6 Q Of you?
- 7 A Yes, sir.
- 8 Q Okay, and the prosecution witness you checked the bedroom
9 and she's still asleep on the couch?
- 10 A Yes, sir.
- 11 Q Did she have her shoes on or socks or ---
- 12 A No, sir.
- 13 Q Could you tell that or did she have the comforter on that
14 part of her body?
- 15 A She had -- her feet was hanging out but I didn't notice
16 that till after I come back looking for my picture.
- 17 Q And how was she -- did she have items on her feet or no
18 items on her feet?
- 19 A Nothing.
- 20 Q Barefooted?
- 21 A Barefooted, yes, sir.
- 22 Q Were there heaters on in the trailer?
- 23 A Not that I know of.
- 24 Q Were there lights on?
- 25 A No, sir.

1 Q And did you see anything there near the prosecution
2 witness in the trailer?

3 A There was a roll of duct tape on the table.

4 Q Anything else besides duct tape?

5 A I seen a half a joint in the ashtray, coke residue on the
6 table and beer cans all in the kitchen, all in the living
7 room, empty beer cans.

8 Q You say coke residue on the table.

9 A Yes, sir.

10 Q What does coke residue look like?

11 A It's like a white powder form, it was residue. You could
12 tell it had been cut in lines.

13 Q What's a line?

14 A When you just -- it spreads out, well, you make a line
15 like you make a line with a pencil and you could see the
16 residue where they had been on the table before that and the
17 straw was laying right beside that.

18 Q What kind of straw?

19 A Like a McDonald's straw but it was a little short straw.
20 It was cut short..

21 Q Of what use is a cut down short straw? How would you
22 drink a Coca-Cola out of the cup with a cut off McDonald's
23 straw.

24 A It's not used for drinking. It's used for putting
25 cocaine in your nose.

1 Q How you get the cocaine from the coffee table into your
2 nose?

3 A You sniff it.

4 Q Sniff it through what?

5 A Your nose, through the straw.

6 Q And had you seen the prosecution witness on previous
7 occasions while you all lived together do that type of thing?

8 A Yes.

9 MR. MODICA: Objection.

10 THE COURT: I sustain the objection.

11 Q And approximately how many alcoholic beverage containers
12 did you see in the room, in the trailer?

13 A I never counted, but it was a lot. It was strung all
14 through the trailer from ---

15 Q Approximately if you had to give a rough estimate.

16 A Probably like 20, 25.

17 Q What kind of containers were they?

18 A Cans, some bottles.

19 Q Do you remember the brand of cans?

20 A It was Budweiser or Bud Light either one.

21 Q Do you remember the size of the cans, were they 12 ounce
22 20, 36 or what?

23 A It was 12 ounce.

24 MR. MODICA: Objection.

25 THE COURT: I overrule the objection.

1 Q So, all right, so, now what did you do now after having
2 and did your grandmother come in with you at this point or not
3 come in?

4 A She, she didn't never come in.

5 Q Okay, so, what do you do now?

6 A Well, I, I was, I was kind of upset. I didn't see my
7 picture. So, I reached down and I grabbed the tape and I put
8 tape on her foot.

9 Q And what was the purpose of putting duct tape on the
10 person's feet?

11 A I couldn't tell you. I just, I lost my mind. I didn't
12 know what I was doing at the time.

13 Q Well, I agree with that statement.

14 MR. MODICA: Objection.

15 THE COURT: Well, wait, wait, whoa, whoa, whoa.

16 Members of the jury panel whether he agrees with the statement
17 or not is of no value whatsoever. So, don't do that. That's
18 all I can say.

19 Q Was there inkling in your brain of the purpose of putting
20 duct tape on another person's feet?

21 A Not at that time, no, sir. I didn't, I didn't realize
22 what I was doing.

23 Q How could you not realize what you were doing when you
24 were the one doing it?

25 A Because I, I mean, my mind was just -- it was going a

1 hundred miles a minute. I didn't, I didn't know what was
2 happening till later on probably about 30 or 45 minutes after
3 that when I realized she had tape around her feet. That's why
4 I took it off.

5 Q All right, so, you tape the feet and what happened then?

6 A I taped her foot and then I went to go to her hands and
7 tape her hands and she woke up, and she woke up and she asked
8 me what am I doing, and I said, "We just need to go," and I
9 was like, "Man, what am I doing?" I say, "You just need to
10 come with me and we need to get your stuff because I'm tired
11 of being stressed out over you," because I been stressed out
12 about two weeks prior to that.

13 Q What did the prosecution witness say to you?

14 A She asked me what I was doing and I said, "Because we
15 going to get your stuff and then I'm bringing you back and
16 that's all."

17 Q And what did you do then?

18 A I carried her to the back door and we walked out and I
19 unlocked the back door and I walked out.

20 Q Were you -- the back door that you unlocked what kind of
21 lock was on that back door?

22 A Just a slide lock, like a chain, a slide chain lock and
23 the lock on the door handle itself.

24 Q There was a button that you turn or something?

25 A Yes, sir.

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1 Q And you had to unlock that?

2 A That's right.

3 Q Now, when you were -- how was the prosecution witness
4 getting from the couch to the back door? How did she get
5 there?

6 A I was carrying her. When I got to the door though I
7 leaned against the wall and unlocked it.

8 Q And you were carrying her in what way? Was her whole
9 body up off the floor or ---

10 MR. MODICA: Your Honor, objection.

11 THE COURT: Just ask how he was carrying her. Don't,
12 don't ---

13 Q How were you carrying her?

14 THE COURT: Well, wait, wait, wait just a minute.
15 Don't suggest answers. That's called leading and you know
16 that.

17 A Like you would carry somebody through like a threshold or
18 something, like her whole body I had her head on this side and
19 her legs on this side.

20 Q Where was the comforter at this time?

21 A It was wrapped around her because she -- when she slept,
22 after I did, I just picked her up with the comforter and all
23 on her.

24 Q And was the Plaintiff awake or not awake at this time?

25 A She was groggy, but she -- but I could -- I seen stuff in

1 her nose and I figured she was -- and I smelled alcohol on her
2 breath.

3 MR. MODICA: Objection, it's non-responsive.

4 Q What did you see in ---

5 THE COURT: I overrule the objection. Go ahead.

6 Q What did you see in the prosecution witness's nose?

7 A It looked like cocaine residue.

8 Q What color was it?

9 A Like a yellowish color.

10 Q I thought you said cocaine is white.

11 A Right, but once you sniff it it turns kind of like a
12 yellow beige color.

13 Q When you sniff cocaine does it have any effect on your
14 sinuses or throat?

15 A Yes, sir.

16 Q What effect does it have?

17 A It eats your lining up, it eats your nose cartilage and
18 all kind of other things like that.

19 Q And if you're talking to somebody whose cartilage is
20 eaten, their throat lining is eaten, do they talk differently?

21 MR. MODICA: Objection, objection, Your Honor.

22 THE COURT: I overrule your objection. Go ahead.

23 Q How does a person talk that they're throat or nose lining
24 is eaten out by cocaine, how does it change their voice?

25 A Kind of raspy, like, almost like you're sick sounding,

1 you know, sound like, like you got a cold or you got a sore
2 throat.

3 Q All right, so, you get to the back door and you unlock
4 the back door and what happens then?

5 A I carry her out the -- go to carry her down the steps and
6 me and her both fall down the steps.

7 Q How were you carrying her when you go out the back door?

8 A The same way I been carrying with her feet in one hand
9 and her body in the other.

10 Q All right, and you say what happened when you go out the
11 back door?

12 A When I walked out the door I fell down the steps because
13 I couldn't see the steps because she -- I had the comforter
14 and all. I might have tripped over the comforter but I fell
15 down the steps and me and her both fell down.

16 Q What did you all fall onto?

17 A To the ground.

18 Q What happened then?

19 A I got back up and picked her back up and asked her if she
20 was okay. She was like, "Yeah, yeah, just what are you
21 doing, what are you doing?" And I said, "Well, we about to
22 the truck now. I'm going to put you in the truck and then
23 we'll be all right."

24 Q And so, what did you do from there?

25 A I put her in the back seat of the truck. Well, it wasn't

1 the seat, it was on the floorboard part.

2 Q How did the door of the truck get open?

3 A Well, my grandma seen me drop her. She got out to help

4 me because she didn't -- she thought I just dropped her

5 because she seen us fall down the steps. So, when I picked

6 her up I told her, "I got it," and the door was already

7 open. So, I put her in the truck like that.

8 Q And this is a what type of vehicle?

9 A A king cab Dodge Ram.

10 Q How many doors on it?

11 A I think the -- four doors, no, two, there's two doors in

12 the front, the back doors don't open.

13 Q Say that again now.

14 A It's two doors, only the front doors, just this type, the

15 back doors don't open.

16 Q Well, if the back doors don't open then there are no back

17 doors, would that be true?

18 A Right, yeah, that's right.

19 Q All right, which side of the truck do you put the girl

20 into?

21 A Well, I start -- I put her in the driver's side head

22 first. Me and her both crawled over the seat and I was still

23 holding her.

24 Q What about the back seat, the crew cab back seat that you

25 sit on, was that up at that time or down or how?

1 A No, it was up.

2 Q Who put that up?

3 A Well, we ride with up when nobody is sitting back there.

4 Q What would you do pull it or you have to have a knob or a
5 lever or something?

6 A It's just a lever underneath there and you just push it
7 up and it latches.

8 Q All right, so, where do you place the prosecution
9 witness?

10 A Placed her on the floor with her head toward the
11 passenger seat.

12 Q And what do you do then?

13 A Then I get in the truck, no, her head was towards the
14 driver seat and I get in the truck and I got -- I crawled over
15 her to the passenger side.

16 Q Which side of the truck is her head behind?

17 A The driver's, the driver's seat.

18 Q Driver's or passenger's?

19 A The driver's seat.

20 Q Which side did you get in from?

21 A I got in from the driver's side. Me and her got in
22 together. When we was getting in I was carrying her. But she
23 -- I said she went head first but it was might have been feet
24 first. I don't -- I'm not sure because my mind was so
25 distraught. I didn't, I didn't realize what was going on.

1 Q All right, what did you do after you put the girl in the
2 back seat?

3 A I sat down and we started talking and she asked me,
4 ``Where are we going?'' I said, ``We're going to the house and
5 get your things and we're going to bring you back.''

6 Q Now, is this before you've already -- is this before the
7 truck had cranked up and you're driving away or is this while
8 it was cranked up and you're driving away?

9 A This is before.

10 Q Where's your grandma at this time?

11 A She just get -- she was getting in the truck while we was
12 talking.

13 Q All right, now, did you or your grandmother go back to
14 get anything else from the trailer?

15 A I might have went back in and got a pillow before I
16 crawled into the truck.

17 Q What did you get the pillow for?

18 A Because I figured she might want that because she was
19 sleeping. I figured she could sleep on the way back and then
20 when we got to the house she could get everything and then I'd
21 bring her back with all her boxes and stuff.

22 Q Okay, all right, so, now, while you were in the trailer
23 did you put any tape on the person, any duct tape on the
24 person other than the duct tape around the person's feet and
25 ankles?

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1 A No, sir, I mean, I put it on her hand but I never
2 finished taping. It was just hanging off her arm.

3 Q What happened to the duct tape that went around her feet
4 to start with?

5 A The first, the first one I put it, I put it on, then I
6 took it off, and then I put another one on. I threw the, the
7 first one that I took back off on the floor.

8 Q On the floor there in the trailer?

9 A Yes, sir, it should have been under the couch.

10 Q The tape that was wrapped around her feet you left it
11 there in the trailer?

12 A Yes, sir.

13 Q And when she went into the truck did she have a piece
14 wrapped around her hands?

15 A Well, it, it was just wrapped around. It wasn't even
16 wrapped all the way around one hand. It was just hanging off.

17 Q And what about a piece of tape on her mouth, did you put
18 a piece of tape on her mouth, too, in the trailer?

19 A No, sir.

20 Q Did you ever put a piece of tape on her mouth?

21 A No, sir.

22 Q All right, so, you all are in the truck, the three of you
23 and who drives as you all leave the trailer park?

24 A My grandmother.

25 Q And where do you all go to?

1 A We went to Summerville.

2 Q All right, during any of that time was there any
3 screaming going on in the back seat?

4 A We was arguing but there was, there was no outrageous
5 screaming, just, you now, we weren't hollering at each other.
6 We was just arguing back and forth.

7 Q At some point driving back to Summerville did you and the
8 prosecution witness say anything to your grandmother about
9 the prosecution witness's children?

10 A She was talking about that ---

11 Q Use names.

12 A Belinda was talking about she need -- her ma -- she needs
13 to be back in Georgetown by 8:30 to pick up her kids and I
14 said we might could be back by that time. She said, "If it
15 takes a hour to get your house we can't be back at the same
16 time." I said, "All right, when we get there I'll just get
17 nanna to call and have your mom pick them up," and we agreed
18 on that. She was like that -- okay, and we can, we can do
19 that then.

20 Q All right, now, at some point in route to Summerville to
21 your house did your grandmother indicate that she would go to
22 the police station somewhere up there?

23 A That's when we got right in Moncks Corner.

24 Q And what happened there?

25 A She started crying and we -- see, we both was upset

1 already and we was crying off and on and then when she said
2 that she started crying again and says, "No, nanna, no, we
3 don't got to go there," and I say, "Nanna, I don't want to go
4 to jail," and Belinda say, "I don't want to go jail neither."
5 So, I said, "Well, what are we going to do then," and nanna
6 said, "I'm going to take you all to jail," and we was like,
7 "Nah, just please, just go get the boxes and we can bring
8 them back and then we'll leave it alone like that. We'll
9 leave each other alone and everything will be all right." We
10 was pleading with her, with my grandmother.

11 Q Okay, you all -- where did you all end up that morning on
12 that drive?

13 A We went all the way back to the house in Summerville.

14 Q And do you know approximately what time you got back
15 there? Just think about how long -- what time you left, how
16 long it took you to drive.

17 A Probably around I'd say 8:45, nine o'clock.

18 Q And when you got back to Summerville what did your
19 grandmother do when she was there at the truck? What did she
20 do?

21 A She just got out the truck. She said, "You all crazy.
22 You all, you all get the boxes ready and when you all get them
23 ready just let me know."

24 Q Where did she go?

25 A She walked into the house.

1 Q What did you and the prosecution witness do?

2 A We got out the truck and we walked to the little house
3 and me and her -- we sat on the couch and began talking, and
4 she said it was cold. So, I went and got the comforter back
5 out the truck and gave it to her.

6 Q How did the prosecution witness get from the truck to the
7 garage apartment?

8 A Because before I even -- we even left -- before we even
9 got to Jamestown, I -- she walked.

10 Q She walked.

11 A Yeah.

12 Q What had happened to -- what had happened to the duct
13 tape that had been on the prosecution witness's wrist?

14 A It was, it was just still hanging, I guess, or maybe she
15 took it off on -- during the ride home to the, to the house in
16 Summerville.

17 Q All right, now, and when you went to the outbuilding what
18 did you and the prosecution witness do in the outbuilding?

19 A We, we was bickering back and forth because I was asking
20 her well, why hadn't -- why hasn't she been where I can call
21 her and why she hadn't called me and this and that, and I
22 said, "Well, I'm just tired of living like this because I
23 been stressed for this whole week and I can't live like this
24 no more. So, I don't know if we be together or not, but if we
25 can it's going to take a lot of working to fix it, but if not

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1 then we just have to go our separate ways."

2 Q What tape was on the prosecution witness while the
3 prosecution witness was in the garage apartment?

4 A None.

5 Q What did you all do in the garage apartment?

6 A We argued for a minute, then we started packing up the
7 boxes and put them in the truck.

8 Q And how did you pack up the boxes?

9 A Me and her would carry them.

10 Q Did you put the boxes inside any containers?

11 A First we put them in the back of the truck, then it,
12 then it started sprinkling and when it started sprinkling I
13 said, "Well your stuff is going to get wet so we need to put
14 it in bags," and she was like, "Well, we'll just put them in
15 the back part of the truck until we fill that up and then
16 anything left over we just put in bags after that." So, I
17 say, "Yeah, we can do it like that." So, we started loading
18 the truck up with the bags, with boxes, and then the ones we
19 didn't fit in the back king cab of the truck we put in the
20 back in garbage bags.

21 Q How many boxes did you have in the back bed of the truck?

22 A It was a few. It was a bunch of -- it was two big ones
23 and then the rest of them was kind of little. So, we filled
24 the back of the -- maybe ten, maybe a little more.

25 Q Put some inside the cab of the truck and then the rest in

1 more, I'm not sure.

2 Q You all stay awake the whole time or did you all ---

3 A No, she fell asleep, but I, I wasn't staying there the
4 whole time. I would walk back and forth, in and out.

5 Q At some point did you all leave the house that day?

6 A Yes, sir.

7 Q And about what time did you all leave the house in
8 Summerville?

9 A About 1:30.

10 Q Where did you all go from there?

11 A We went from there to the Speedway in Moncks Corner.

12 Q Where were you headed when you left?

13 A Oh, we was headed back to Georgetown.

14 Q And who was, who was coming in the truck?

15 A It was me, my grandmother and Belinda.

16 Q Who was driving?

17 A My grandmother.

18 Q All right, now, did you make any stops in route back to
19 Georgetown County?

20 A We stopped at the Speedway to get gas and my grandmother
21 went in to pay and buy a pack of cigarettes because I didn't
22 have no ID. So, I pumped the gas while she paid.

23 Q Where did the Plaintiff stay, the prosecution witness
24 stay during that time?

25 A In the, in the truck.

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- 1 Q Did you all stop and make another stop?
- 2 A From there we left and we -- on the way going back to
- 3 Georgetown I asked her if she was hungry and she said yes. I
- 4 said, "Where you want to eat at?" I said, "We got
- 5 McDonald's. We got Burger King or we got Arby's," and she
- 6 said, "Arby's."
- 7 Q So, did you all stop at Arby's?
- 8 A Yes, sir.
- 9 Q Did you all go inside or through the drive through?
- 10 A Because I asked her if she wanted to go inside. She said
- 11 she wasn't in no state to go inside because she ain't had no
- 12 makeup on and the clothes she was wearing.
- 13 MR. MODICA: Objection, non-responsive.
- 14 THE COURT: Just ask -- the question was did you go
- 15 inside or did you go outside?
- 16 Q: No, sir, we went through the drive through.
- 17 Q Did all of you get something to eat?
- 18 A Me and her got something to eat and my grandmother got
- 19 something to drink.
- 20 Q And from there where did you all go, Mr. Parker?
- 21 A We went back to BB Smith's trailer park.
- 22 Q You all would have gotten back there approximately what
- 23 time?
- 24 A Around about three o'clock.
- 25 Q What did you do when you got there?

1 the back bed of the truck?

2 A Yes, sir, the ones that wouldn't fit in the inside.

3 Q You had the big black garbage bags holding the boxes? Is
4 that what you said?

5 A Yes, sir.

6 Q All right, now, at some point during the day did -- well,
7 did the prosecution witness ask your grandmother to call the
8 prosecution witness's mother?

9 A On, on the way ---

10 MR. MODICA: Objection. It's calling for hearsay.

11 THE COURT: Well, ask the question again.

12 Q Did the prosecution witness ask your grandmother to call
13 the prosecution witness's mother?

14 THE COURT: I'll allow the question.

15 A Yes, sir, on the way -- before we even got to Jamestown
16 she asked for that.

17 Q At some point during the day after you loaded the stuff
18 in the truck did you and the prosecution witness go into any
19 other building other than the garage apartment?

20 A After we packed the boxes up we went into the big house.

21 Q Why did you go in the big house?

22 A To tell my grandmother that everything was ready, that we
23 was ready to go.

24 Q Did you all immediately go after you packed up the truck?

25 A No, sir, she asked me if she could lay down for a minute.

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- 1 So, I let her lay down.
- 2 Q Who was that asking you that?
- 3 A Belinda.
- 4 Q So, did the prosecution witness lay down?
- 5 A Yes, sir.
- 6 Q Where did she lay down?
- 7 A In my room.
- 8 Q In your bedroom?
- 9 A Yes, sir.
- 10 Q That's the bedroom in the back side of courtroom over
- 11 here we talked about a while ago?
- 12 A Yes, sir.
- 13 Q And did anybody lay down with her in the bedroom?
- 14 A I laid down at first because the TV was on. I laid down
- 15 beside her watching TV and then I got up and started talking
- 16 to my grandmother. She asked me what was I thinking. I said,
- 17 "I don't know what I was thinking. I just, I just went
- 18 crazy," and she said, "Well, we need to take her back." I
- 19 said, "Well, that's cool, but she is tired. Can she sleep
- 20 for a minute?" She said, "Yeah, whenever you all ready just
- 21 let me know," and then she went back in the living room and
- 22 talked to my grandfather.
- 23 Q All right, so, you all, you and the prosecution witness
- 24 would have stayed in your bedroom approximately how long?
- 25 A Maybe an hour, maybe not even that long, maybe a little

1 A We unpacked the boxes. See, we was going to put them in
2 the trailer but the trailer was locked because her mom done
3 come while we was gone and locked the trailer up.

4 Q Which door did you check to see if the trailer was locked
5 or not?

6 A The front and back.

7 Q So, where did you end up unpacking the stuff?

8 A On the back porch.

9 Q And okay, you unpacked the stuff on the back porch and
10 what did you all do then?

11 A Then we went to the store and called her mom off the pay
12 phone or she called her mom off the pay phone.

13 Q Whose store was that?

14 A BB Smith's.

15 Q And then what did you do from there?

16 A Then we took her back to the trailer and asked her did
17 she want me to wait until her mom got there to help her put
18 the boxes in the house and she was like, no, that her mom
19 could do it just, you know what I'm saying, go ahead and leave
20 because her mom don't want me around because she didn't know I
21 was talking about -- her, her mom didn't know that me and her
22 was still talking.

23 Q And did you and the prosecution witness exchange any type
24 of greeting or anything when you left?

25 A Yeah, we hugged and kissed each other, then we left.

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- 1 Q Did you say anything to each other?
- 2 A Yeah, I told her I loved her and she said, "I love you,
3 too," and she said she would call me later on that afternoon.
- 4 Q So, did you talk with her, with the prosecution witness
5 anymore after that?
- 6 A No, because she didn't call me that afternoon. I figured
7 because she was tired. So, I called the next morning to make
8 sure she was all right. When I called back the next morning
9 I talked to her mom. I didn't get to talk to her.
- 10 Q That would have been Monday morning?
- 11 A Yes, sir..
- 12 Q So, after that Monday, did you talk with the prosecution
13 witness after that Monday morning?
- 14 A Yes, sir, I talked to her I think it was that Wednesday,
15 that Thursday, and then later on as time went by.
- 16 Q And when you talked to her that Wednesday and Thursday
17 what kind of conversation did you all have, what were you all
18 talking about?
- 19 A She just asked me why I did what I did, and I said, "I
20 don't, I don't know what I was doing." I said, "I didn't
21 mean to hurt you or nothing, and I had no intention of hurting
22 you. It was just I just saw -- I went crazy. That's all I
23 could think of." She was like, "Well, you shouldn't have
24 never did that." I said, "I know," and I said, "Well, you
25 still, you still mad at me or we can't talk or what," and

1 she's like, "Well, we can still talk and all, but it's going
2 to take a lot of fixing to fix this one." I said, "All
3 right."

4 Q And at some point after that when you learned that you
5 were, that there was an arrest warrant out for you; correct?

6 A Yes, yes, sir.

7 Q And the police that testified this morning said it was
8 approximately March the 9th that you were interviewed by the
9 police?

10 A That's right.

11 Q And how did you get to the police station in Georgetown
12 that day?

13 A I called my uncle and told him I needed to turn myself
14 in.

15 Q Called your who?

16 A My uncle.

17 Q And how did you get to the police station in Georgetown?

18 A He brought me. I met him at his house and when he got
19 off work he brought me.

20 Q Where does he live?

21 A He lives maybe 15 minutes, nah, nah, about 10 minutes
22 down the road from my house on 176.

23 Q Why didn't you just stay there at your house in
24 Summerville the week like Monday the 30th or Tuesday the 31st
25 so that the police could pick you up then instead of waiting

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- 1 until March?
- 2 A I stayed there about three days after I had the warrant
3 and then I left or it was about two days and I left the second
4 day.
- 5 Q Why didn't you stay and get arrested there and come to
6 the police station then?
- 7 A I don't know because I been locked up before for
8 something I didn't do because I didn't have nothing to do with
9 it. I was just there and I seen it happen and they locked me
10 up and I ended up getting some charge for it, and I was, I
11 just scared of the police. I didn't want to go back to jail.
- 12 Q Were you talking with the police during that week, the
13 week of the incident, which is January the 29th?
- 14 A Right after I talked to Belinda's mother that morning
15 Detective Hayward or Investigator Hayward called me and I
16 explained to him on the phone what happened and he said,
17 ``Well, it sounds like, it sound like, you know what I'm
18 saying, it didn't happen the way, I, I'' ---
- 19 MR. MODICA: Objection.
- 20 THE COURT: Yeah, I sustain the objection on that.
- 21 A Well, he, he told me ---
- 22 THE COURT: Don't, don't -- no, he's going
23 to ask you another question.
- 24 A All right.
- 25 Q After you were arrested and in jail March the 9th of '06

1 at any point after that did you talk with the prosecution
2 witness thereafter?

3 A Yeah, I talked to her I think it was October of this year
4 2006. I called my house and she was at my house when I
5 called, at my grandmother's.

6 Q And how do you know she was there?

7 A I didn't know she was there. I called to talk to my
8 mother because see my brother's girlfriend had just died and I
9 called to talk to him, make sure he was all right, and when I
10 called they said, "Well, Belinda's here. Do you want to talk
11 to her?" I said, "If she'll talk to me put her on the
12 phone," and she got on the phone and we talked for the whole
13 15 minutes.

14 Q And what was the subject of the conversation that you all
15 had then?

16 A She just told ----

17 MR. MODICA: Objection.

18 THE COURT: I overrule the objection. Go ahead.

19 A She told me that she still loved me and then that she
20 didn't want me to be in jail, that I done serve enough time in
21 jail already, that it was just one big mistake and she
22 understands how I lost my mind at the time because I told her
23 I was under deep stress and we told each other we loved each
24 other and stuff and that, you know, what I'm saying, I said,
25 "Well, I don't know if I can ever be with you again," and she

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1 said, "Yeah, I know the same," I said, "So, we can be friends
2 or whatever," she said, "Yeah, probably, we might could be
3 friends. We'll talk about that once you get out."

4 Q On that phone conversation did the prosecution witness
5 say anything about if she could drop charges or not drop
6 charges?

7 MR. MODICA: Objection.

8 THE COURT: I sustain the objection.

9 Q Did the prosecution witness indicate what would happen to
10 her if she tried to drop charges?

11 MR. MODICA: Objection.

12 THE COURT: I sustain the objection.

13 MR. GOUDE: Make an offer of proof on that, Judge.

14 THE COURT: Okay, we can do that after -- once you
15 get through with this witness in direct we're going to break
16 for lunch and you can do it at that time.

17 BY MR. GOUDE:

18 Q Mr. Parker, who all was there at your house that morning
19 while the prosecution witness was there?

20 A It was me; my grandmother, Shirley Ward; my grandfather,
21 James Ward; my little cousin, Roland Ward; and my mother; and
22 my brother; and his girlfriend, Debbie.

23 Q And was your brother's -- what was his name?

24 A Josh.

25 Q And was he awake or asleep during that time period?

1 A They were all sleeping because it was early in the
2 morning.

3 Q Now, at some point was your mother awake during the time
4 period while you all were there?

5 A I don't know if she was awake. When we first come in
6 there she might have heard us, but I know once we got there
7 she was awake and walking around.

8 Q Now, your brother's girlfriend, Debbie, that was there
9 that morning is she here today in court today?

10 A No, sir, she passed away in October.

11 Q The house that you live in at Lilac Lane in Summerville
12 does it have wooden doors on the bedrooms?

13 A No, sir.

14 Q What kind of door, if you want to call it that, does it
15 have on the bedroom?

16 A It's just -- it's either a sheet or a blanket hanging up
17 so nobody can see in the room.

18 Q Is that on all three bedrooms?

19 A And the bathroom, yes, sir.

20 Q Is that the way it was January 29th, 2006?

21 A Yes, sir.

22 Q Is that the way it was basically the whole time you and
23 the prosecution witness lived there from '04 through January
24 of '06?

25 A Yes, sir.

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1 Q During the time period that you and the prosecution
2 witness stayed together from '04 through October of '05 when
3 you all moved to Georgetown did the prosecution witness and
4 you ever separate or did she move back to Georgetown and move
5 away and did you all get back together or did you all ---

6 A Yes, sir, like sometimes she would leave on the weekends
7 and then come back Monday or Tuesday.

8 Q How often did that happen during the course of your
9 relationship?

10 A Through the whole relationship probably maybe I'd say
11 about eight, nine times. It was about once a month.

12 Q The prosecution witness stated that in the garage
13 apartment you pulled her pants down and stuck your fingers in
14 her vagina. Did you ever do that?

15 MR. MODICA: Objection.

16 THE COURT: I overrule the objection. There was
17 testimony to that effect.

18 MR. MODICA: Yes, sir, pitting though.

19 THE COURT: Beg your pardon?

20 MR. MODICA: It's pitting, what if anything did you do
21 to her?

22 THE COURT: I overrule the objection.

23 MR. MODICA: Yes, Your Honor.

24 Q Did you pull her pants down and stick your finger in her
25 vagina?

1 A No, sir, I didn't. She did because I accused her of
2 cheating and she pulled her pants down and told me to check,
3 and I said, "Nah, I ain't even going around like that." I
4 said, "Me, I don't even want to be with you no more because we
5 done, we done decided that we weren't going to be together
6 like boyfriend, girlfriend no more."

7 Q Is your height and weight basically the same now as it
8 was in January of '06?

9 A My height is but I weigh a little more than I did back
10 then.

11 Q What was your height in January of '06?

12 A Like between 5-10 and 6 foot.

13 Q What was your weight?

14 A Maybe like 130, 135.

15 Q Was the rear seat in the truck, was that seat wide enough
16 or deep enough either way you want to look at, for two people
17 to lay down on the seat together?

18 A No, sir, just, it's big enough for you to sit in.

19 Q During the time that you all lived together what did you
20 ever do to try to -- what did you ever do to physically stop
21 the girl from leaving your home?

22 A Well, I never, I never really stopped her. She wanted to
23 leave she would leave. I mean, we would fight and all that
24 but I wouldn't stop her. When she left she left. I couldn't
25 stop her from leaving.

Nicholas Parker - Proffer

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1 Q In the bedroom in the trailer in BB Smith's trailer park
2 that Sunday morning January the 29th did you -- you say you
3 went to the bedroom. Was the bed made up? It had covers on
4 it, sheets, that sort of stuff?

5 A No, sir, just a naked bed.

6 MR. GOUDE: I have no other questions,
7 Judge.

8 THE COURT: We'll break for lunch till 2:30.
9 Just see you back at 2:30. Keep can have -- keep your
10 seat.

11 (Whereupon, the following takes place outside the
12 presence of the jury.)

13 THE COURT: You said you wanted to make a proffer,
14 Mr. Goude?

15 MR. GOUDE: Judge, yes, thank you, sir. What I would
16 ask or was going to ask is ---

17 THE COURT: Well, just ask him, go ahead and ask him
18 and let's see what the answers are, see what the questions
19 are.

20 EXAMINATION

21 BY MR. GOUDE:

22 Q Mr. Parker, when you talked with the girl about October
23 of '06 on the telephone when you called your grandma's house
24 and the girl was there, did the girl tell you that she had
25 talked with the Solicitor and they had told her -- she said

1 that they had told her that if she changed her story or
2 anything that she could get 18 months in prison for making a
3 false statement to the police?

4 A Yeah, she told me that she was -- she had tried to drop
5 the charges and the Solicitor said, "You go ahead and drop the
6 charges but the State is going to pick it up, but if I, if I
7 change my statement then they're going to give me 18 months or
8 more, the minimum of 18 months."

9 MR. GOUDE: The purpose of that question, Judge, is to
10 go to the motive of the witness testifying and her credibility
11 as to whether all this stuff is actually true or whether she
12 was saying this from January the 29th onward because her
13 mother didn't like Mr. Parker, thought that they used drugs
14 together, didn't want her daughter to be around Mr.
15 Parker.

16 THE COURT: Well, well, now, this answer didn't have
17 anything to do with her mother. It had to do with the
18 Solicitor.

19 MR. GOUDE: Well, it has to do with whether the girl
20 is able to drop charges or if she wants to or not drop
21 charges.

22 THE COURT: Well, she can't drop charges. I mean,
23 that's ---

24 MR. GOUDE: Or wants to say that he didn't do
25 anything to her, he didn't kidnap her. If she changes her

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1 story she would go to prison for 18 months.

2 THE COURT: All right, any questions from the State
3 on that?

4 EXAMINATION

5 BY MR. MODICA:

6 Q Did she tell you what Solicitor it was?

7 A Nah, she didn't say. She said she went to the
8 Solicitor's Office.

9 Q Okay, but you were aware from the day of your arraignment
10 who the Solicitor was.

11 A No.

12 Q Are you telling me that you didn't see me at your
13 arraignment at the jail?

14 A On -- yeah, since then, but that was before that. She
15 talked to me in October. I didn't see you till December or
16 November.

17 Q Okay, so, you knew I was the Solicitor in October;
18 correct?

19 A No, in November.

20 Q I'm sorry, when you were arrested you knew that I was the
21 Solicitor.

22 A No.

23 Q Well, wasn't I standing right next to you and right next
24 to Dustin Morris?

25 A I ain't never seen you in my life. I didn't know who you

1 were. Nobody told me who you were.

2 Q Haven't you referred to me as the little, the little

3 guy?

4 A Yeah, the little ---

5 Q In the letters?

6 A The young white dude, that's what I, that's what I called

7 you.

8 Q Okay, so, you know who I am.

9 A I don't know your name. I don't know who you are.

10 Q When you called her, when you had this conversation with

11 her ---

12 A Right.

13 Q --- you were -- did you come to understand it was me who

14 supposedly ---

15 A The little, yeah.

16 Q --- who supposedly said those things?

17 A The little white guy, she said she talked to the

18 Solicitor.

19 Q Okay, that would be me; wouldn't it?

20 A I guess so.

21 Q From your understanding having seen me in court

22 previously ---

23 A Uh-huh (affirmative response).

24 Q --- that would be your understanding it was me; isn't

25 that correct?

1 A That's right; that's right.

2 MR. MODICA: Well, I will tell you as an officer of the
3 Court I never had that conversation. I don't know -- I would
4 hope that holds some water, but in any event it is absolutely,
5 positively not relevant. The Court is well aware that it's
6 not, that, you know ---

7 THE COURT: Well ---

8 MR. MODICA: --- the train doesn't run by Defendants
9 and victims. It's the Solicitor's decision.

10 THE COURT: I understand, I understand that, but as
11 far as her credibility I will allow the question and
12 answer.

13 All right, you can step down.

14 MR. MODICA: Your Honor, can we take up something over
15 ---

16 THE COURT: Yeah, you can go ahead. Let's get him
17 down.

18 MR. MODICA: Yeah, quickly so you can contemplate it
19 over the lunch hour. I took a look at your charge on the
20 kidnapping and there is language regarding kidnapping that I
21 want the Court to include. I can make a copy of this, but if
22 I might read it and give you the ---

23 THE COURT: Okay, make sure you give it to me and Mr.
24 Goude.

25 MR. MODICA: Well, but I want, I want to read it for

1 the record and give you a cite so you can take a look at it
2 because it actually comes right from a case. "The offense of
3 kidnapping commences when one is wrongfully and unlawfully
4 deprived of his, his or her freedom and continues until his or
5 her freedom is restored." That is found in State versus
6 Ziegler, Z-I-E-G-L-E-R, at 274 South Carolina 6, 260 Southeast
7 Second 182 on pages 184 to 185, and it's a 1979 case; and very
8 quickly, in addition, the State would object to a lesser
9 included offense of burglary because I would submit that there
10 is no evidence of a lesser included offense. Thank you, Your
11 Honor.

12 THE COURT: All right, the first premise I think is a
13 correct premise of law. In some of the cases I read yesterday
14 no question that it is continuing offense. So, I'll hear from
15 Mr. Goude, but I feel sure I'll charge that.

16 MR. MODICA: Thank you, sir.

17 THE COURT: The -- as to -- we're still not at the
18 charge conference yet. I'll consider. I've looked at the
19 burglary second; and of course, it's the same as burglary
20 first without the aggravating circumstance of injury and I'll
21 hear from Mr. Goude. You want to make any comment on that now
22 or wait till we do our charge conference as far as the lesser
23 included?

24 MR. GOUDE: I can just wait and do it at the
25 conference, Judge.

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1 THE COURT: Okay, all right, we'll be at ease
2 till 2:30. If you'll give us a copy of that language you
3 want.

4 ***** OFF THE RECORD *****

5 (On the record.)

6 (Whereupon, the following takes place outside the
7 presence of the jury.)

8 THE COURT: Mr. Parker, you can come on back up and
9 have a seat and you're still under oath.

10 The State ready?

11 MR. MODICA: I believe so.

12 THE COURT: The State ready?

13 MR. MODICA: Yes, sir.

14 THE COURT: The Defense?

15 MR. GOUDE: Yes, sir.

16 THE COURT: All right, bring in the jury.

17 (Whereupon, the following takes place in the presence of
18 the jury.)

19 THE COURT: All right, all right, Mr. Goude.

20 DIRECT EXAMINATION (CONTINUED)

21 BY MR. GOUDE:

22 Q Mr. Parker you said earlier ---

23 THE COURT: I said he could ask -- I said he could
24 ask one more, that one question.

25 MR. MODICA: Oh, yes, sir, thank you.

1 BY MR. GOUDE:

2 Q When you called home about October of '06 to talk with
3 your grandmother did you say that you talked to the
4 prosecution witness who was there at your grandmother's house
5 that day?

6 A Yes, sir.

7 Q And did the prosecution witness say anything to you about
8 whether she talked with the Solicitor's Office of what would
9 happen to her if she tried to drop charges or change her
10 statement or anything?

11 A She said she tried to drop the charges and told them
12 that she wanted to change her statement, but they said she,
13 she could drop the charges but the State would pick it up
14 and if she changed her statement and that they found out,
15 me not guilty then she would get 18 months minimum in
16 jail.

17 Q Thank you. That's all I have, Judge.

18 THE COURT: Cross.

19 CROSS EXAMINATION

20 BY MR. MODICA:

21 Q Do you know this person sitting next to Belinda?

22 A Yes.

23 Q What, who is that?

24 A That's her brother, Chris Driggers.

25 Q His number is one of the telephone numbers that you

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1 called; correct?

2 A Yes, sir.

3 Q By the way, when you arrived there on the 29th at
4 Belinda's it was still dark out; wasn't it?

5 A No, sir.

6 Q Well, didn't you just tell us that you got there at seven
7 o'clock in the morning?

8 A Yes, sir.

9 Q Okay, well, today is February 1st. That was just a
10 couple of days ago of the year before. Are you telling our
11 jury that at seven o'clock in the morning that it's still not
12 dark out?

13 A You, you could drive, you needed lights, it wasn't, it
14 wasn't dark.

15 Q So, you drive around, you would drive around without
16 lights on?

17 A At seven o'clock in the morning, yes.

18 Q Seven o'clock in the morning on January 29th of
19 2006?

20 A 7, 7:30, yes. It wasn't that dark.

21 Q Okay, and you're saying that your grandmother, so we
22 know, that your grandmother did not drive with lights on that
23 day.

24 A Yes, sir.

25 Q Let's talk about these telephone calls, State's Exhibit

1 Number One. Okay, one of the phone calls, telephone calls,
2 numbers you called and if you need to look in that you let me
3 know. Otherwise, I'll point it out to you.

4 A All right.

5 Q Was [REDACTED].

6 A Yes, sir.

7 Q Okay, and is it your testimony you know that number or
8 don't know that number?

9 A I don't know that number.

10 Q Okay, do you know who Kevin Johnson is?

11 A I heard about his name but I don't know who he is, no,
12 sir.

13 Q Didn't know who he was or whether he was a friend of
14 Belinda's, never knew that.

15 A I found out he was a friend, but that's all I knew.

16 Q Okay, did you know he was a friend prior to January 29th
17 of 2006?

18 A No, sir.

19 Q You said [REDACTED] is Debbie Elliott, the victim's
20 mother's cell phone; is that correct?

21 A Yes, sir.

22 Q [REDACTED] is Belinda's mother's home phone number; is that
23 correct?

24 A Yes, sir.

25 Q [REDACTED], that's one of the numbers you called?

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- 1 A Yes, sir.
- 2 Q Repeatedly.
- 3 A Yes, sir.
- 4 Q Okay, and do you know that to be Chris's cell phone
5 number?
- 6 A No, sir. I just know it was a number that she called me
7 from.
- 8 Q Okay, you didn't know it was Chris's number?
- 9 A Not that I know of, no, sir.
- 10 Q Well, I mean, prior to January 29th of ---
- 11 A No.
- 12 Q Okay, [REDACTED], is that one of the numbers you
13 called?
- 14 A Yes, sir.
- 15 Q Did you know whose number that was?
- 16 A No, sir.
- 17 Q Okay, do you know who John Hewitt is?
- 18 A No, sir.
- 19 Q [REDACTED] Brandon Lambert.
- 20 A No, sir.
- 21 Q I'm sorry, [REDACTED]. Is that one of the numbers you
22 called?
- 23 A Yes, sir.
- 24 Q And do you know whose phone that was?
- 25 A No, sir.

1 Q You know who Brandon Lambert is?

2 A No, sir.

3 Q Now, what I would like you to do is open this up. Now,
4 you said that -- you correct me if I'm wrong, you said, you
5 testified before the lunch break that after this incident
6 happened you called the following day to check how she was and
7 that on one occasion you spoke to Belinda's mother.

8 A It was more than one occasion.

9 Q You spoke to Belinda's mother more than one
10 occasion?

11 A No, sir, I spoke to her mother one occasion and then I
12 called more than that and my grandmother spoke to her after
13 that.

14 Q Okay, well, my question to you is ---

15 A Yeah, one occasion, yes, sir.

16 Q That you spoke to Belinda's mother?

17 A Yes, sir.

18 Q Debbie Elliott?

19 A Yes, sir, one time.

20 Q I want you to look at this page here which has -- see
21 where I'm pointing?

22 A Yes, sir.

23 Q And this is on 1-29?

24 A Yes, sir.

25 Q Okay, I want you if you would start from, from -- also

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- 1 down here in the body has 1-30.
- 2 A Yes, sir.
- 3 Q 2006?
- 4 A Uh-huh (affirmative response).
- 5 Q Okay, I want you to start from 9-27. See where I'm
- 6 referring to 9-27?
- 7 A Yes, sir.
- 8 Q Actually what I'm going to go to 9-25.
- 9 A Right.
- 10 Q You see 9-25 there?
- 11 A Right.
- 12 Q Okay, the number that you called was [REDACTED].
- 13 A [REDACTED]
- 14 Q [REDACTED], and that's ---
- 15 A Her mom.
- 16 Q --- Brenda's [sic] mom.
- 17 A Right.
- 18 Q Okay.
- 19 A Belinda.
- 20 Q Belinda's, I'm sorry. Go from here and between the
- 21 numbers [REDACTED], [REDACTED] and [REDACTED] tell me whether it
- 22 continues from that all the way down the page.
- 23 A Yes, sir.
- 24 Q Okay, and it continues, would you flip the page over
- 25 yourself?

- 1 A (Complies with request.)
- 2 Q And it continues all the way down the next page.
- 3 A Yes, sir.
- 4 Q Okay, now, if you want to take a moment and count those
- 5 out would you agree with me that there are approximately 140
- 6 phone calls that you made from your grandmother's place either
- 7 to Belinda's mother's cell phone or her house phone?
- 8 A I don't know the number but it's a lot, but I ain't count
- 9 them.
- 10 Q Well, do you want to take a moment and count them?
- 11 A No, sir, I trust you.
- 12 Q You trust me that it's approximately 142.
- 13 A Yes, sir.
- 14 Q That seems a little obsessive; doesn't it?
- 15 A I was just trying to get a hold of her. I didn't talk to
- 16 her none of them times.
- 17 Q Okay, no matter what you wanted to get a hold of her;
- 18 Correct?
- 19 A Yes, sir, but if you look at the time ---
- 20 Q Would you agree?
- 21 A All right, go ahead.
- 22 Q I'll wait for you to finish.
- 23 A If you look at the times there's only maybe five seconds,
- 24 four seconds apiece.
- 25 Q Okay, would you agree with me calling 140 times five or

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1 ten seconds in between is obsessive? Would you agree with
2 that?

3 A Yes, sir, I guess.

4 Q Okay, well ---

5 A Yes, sir.

6 Q All right, and that's -- and you called over the place.

7 A Yeah, I called because she -- her mom was going to put me
8 in jail. I was trying to find out what was going on. That's
9 why I called.

10 Q All right, well, she was going to put you in jail.

11 A I was concerned, not obsessive, how about that?

12 Q You were concerned that she was going to put you in jail.

13 A Exactly.

14 Q Because you deserved to go to jail for what you did;
15 isn't that true?

16 A That's your opinion.

17 Q I'm asking you your opinion, sir.

18 A No, sir, because I didn't do it intentionally.

19 Q Okay, I'm showing you this. You can hold it for a
20 moment. Do you recognize your handwriting in those letters?

21 A Yes, sir.

22 Q Okay, you wrote those letters to Belinda; correct?

23 A That's right.

24 Q All right, could you look at all three pages for me?

25 A (Complies with request.)

1 Q You wrote all that; correct?

2 A Yes, sir.

3 Q All right, now, I want to show you this. Switch with me.
4 Take a peek at that. Is that another letter that you wrote to
5 her?

6 A Yes, sir.

7 Q And all those pages are your handwriting; correct?

8 A Yes, sir.

9 Q All right, can we have this marked as State's Exhibit 22,
10 please?

11 (Whereupon, State's Exhibit Number 22 [Letter] marked for
12 identification.)

13 MR. MODICA: And can we have this marked as State's
14 Exhibit Number 23?

15 (Whereupon, State's Exhibit Number 23 [Letter] marked for
16 identification.)

17 BY MR. MODICA:

18 Q In State's Exhibit Number 23, if you would hold on to
19 that and I'll kind of direct your attention, see over here
20 where it starts with "I wanted to know."

21 A Yes, sir.

22 Q Okay, does it say there, this is a letter that you wrote
23 to her, right, we just got through that?

24 A That's right, she asked me to.

25 THE COURT: Have you moved it into evidence yet?

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1 MR. MODICA: No, sir, I'm not intending to move it in.
2 I'm just going to question him about portions of it.
3 BY MR. MODICA:
4 Q Does it say there "I want to know if there is any way
5 I can fix what I did."
6 A Yes, sir.
7 Q And if go down two lines.
8 A Right.
9 Q That starts with "I".
10 A Right.
11 Q Okay, "I messed up bad." Did you write that?
12 A Right here?
13 Q Starting right there. Sorry, right above there.
14 A Yes, sir.
15 Q It says "I messed up bad."
16 A Yes, sir.
17 Q And skip one line.
18 A All right.
19 Q Begins with "I" ---
20 A Yes, sir.
21 Q --- "I quit," you wrote, "I quit treating you the way I
22 did when I first started dating you." You wrote that?
23 A Yes, sir.
24 Q Okay, after you go all the way down where it begins with
25 "all". Do you see what I'm talking about?

1 A Yeah.

2 Q And it says "All of my ways before were wrong;" doesn't
3 it?

4 A That's right.

5 Q Okay, now, if you would go to the last page.

6 A (Complies with request.)

7 Q I can direct you down here where it starts with, "I am
8 going to tell." Do you see where I'm referring to?

9 A Yes, sir.

10 Q Okay, and it says, "I'm going to tell the truth in
11 Court. I'm the one who messed up."

12 A That's true.

13 Q Do you say that there?

14 A That's true.

15 Q Okay, show you State's Exhibit Number 22. That's your
16 letter; correct?

17 A That's right.

18 Q Direct you to five or six lines down, "like I told
19 you." Do you see where I'm referring to?

20 A Yes, sir.

21 Q It says there, "Like I told you before all this happened
22 I would take death or jail to get me away from you." Is that
23 what it says?

24 A You know why I said that. Can I explain myself?

25 Q Sure, that what it says.

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- 1 A That's what it says. That's what, yes, that's ---
- 2 Q Is that what it says?
- 3 A Yes, that's what it says.
- 4 Q Okay, and that's what you wrote to her.
- 5 A Yes, sir.
- 6 Q Okay, going down a little bit where it says "I can't."
- 7 A Yeah, I see it.
- 8 Q It says, "I can't take back anything but I wish I never
- 9 got mad and lost my mind."
- 10 A That's correct.
- 11 Q And down here the bottom, go to page one, please, see
- 12 where it says "sometimes."
- 13 A Yes, sir.
- 14 Q It says there "sometimes I have nightmares about the
- 15 day. I can only imagine how you felt."
- 16 A That's right.
- 17 Q "I'm truly sorry for the way I made you feel."
- 18 A Yes, sir.
- 19 Q "I've had plenty of time to think about what I did
- 20 wrong."
- 21 A That's right.
- 22 Q You want to change your answer about whether or not you
- 23 believe you should be jailed for what you did after reading
- 24 your own words, sir?
- 25 A No, sir.

1 Q By the way, these phone records that we have here in
2 evidence this is of your own grandmother's phone records;
3 correct?

4 A Yes, sir.

5 Q And I don't recall seeing any -- if there is any please
6 tell me, do you have any phone records to indicate all the
7 times that she called you, that you claimed happened and that
8 you spoke to her afterwards while you were on the run?

9 A It was all before this day right here.

10 Q Okay, do you have those by chance?

11 A No, sir, you all didn't subpoena them.

12 Q So, we just have to take your word for it; don't we?

13 A Yes, sir.

14 Q Now, when you first started testifying the Defense
15 attorney was asking you questions; correct?

16 A Correct.

17 Q And for the most part he let you talk about what was
18 going on.

19 A Yes, sir.

20 Q Okay, and he started with January 17th and you kind of
21 detailed what happened between January 17th and January 29th;
22 right?

23 A That's right, that's right.

24 Q And you told our jury all about the contact that you had
25 with her during that time period; correct?

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- 1 A Correct.
- 2 Q And then -- and you said that during that time period the
3 first week you talked on the phone a little bit and then on
4 Friday and the following week she came to your house and you
5 had sex one time in your house, she showed up at your work the
6 following week. She was there before you were. You didn't go
7 to work. You went back to your house and had sex; right?
- 8 A That's right, correct.
- 9 Q And when you were telling that you realized in your head.
10 that that was the same week that the incident happened, the
11 same week of the 29th; correct?
- 12 A I had made a mistake. It's been a year since this
13 happened.
- 14 Q Okay, while that's true certainly you've had plenty of
15 time to think about what you were going to tell this jury;
16 isn't that true?
- 17 A Yeah.
- 18 Q In fact, prior to getting arrested on March 9th you knew
19 the police were looking for you.
- 20 A Yes, sir.
- 21 Q You dodged the police.
- 22 A That's right.
- 23 Q You hid from the police.
- 24 A That's right.
- 25 Q You didn't turn yourself in.

- 1 A I was scared.
- 2 Q At least for a while.
- 3 A I was scared.
- 4 Q Scared because you had done wrong; isn't that true?
- 5 A Yes, sir, but -- yeah.
- 6 Q Because you had done wrong.
- 7 A Yeah.
- 8 Q All right, and when you had that time between January
- 9 29th when this happened and March 9th when this happened you
- 10 certainly had plenty of time to think about what happened and
- 11 what you were going to say to the police; correct?
- 12 A That's right. I didn't think about what I was going to
- 13 say to the police but I had plenty of time to think about what
- 14 happened.
- 15 Q Okay, all right, well, when you turned yourself in, and
- 16 correct me if I'm wrong, it was you who wanted to talk to the
- 17 police. You didn't want to speak to Investigator Morris, but
- 18 you wanted to talk to the police and tell them your version of
- 19 the events; correct?
- 20 A Well, first I wanted to talk to my lawyer and then he
- 21 advised me if I did make a statement it would help me better
- 22 when I got my bond, which was not correct.
- 23 Q I'm not quite sure that you answered my question but let
- 24 me see if I can ask the question again.
- 25 A All right.

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1 Q When you went down to speak to the police it was your
2 intention to speak to them regardless of whether you talked to
3 ---

4 A Yeah, that's true.

5 Q That's something you wanted to do.

6 A That's right.

7 Q It's not something the police made you do.

8 A No, they coerced me but I did do it.

9 Q They did coerce you?

10 A Well, they -- he told me if I told them ---

11 THE COURT: Wait, wait just a minute, when you say he
12 tell us who he is. We don't know.

13 Q Are you talking about Paul Glover the person who
14 testified today?

15 A No, I talked to Hayward first. The only time I talked to
16 Paul Glover is when I was in the interview room.

17 Q Please tell us who it was in the police department that
18 coerced you to give that.

19 A Well, he told me if I ---

20 THE COURT: When you say he you've got to tell us who
21 he is.

22 A All right, all right.

23 THE COURT: We don't know.

24 A Investigator Hayward he told me that if I did tell the
25 police what happened it will go better for me when I went and

1 got my bond. So, that's why I talked, but before that I said
2 I wanted to talk to my lawyer, I need a lawyer first.

3 Q That's what you're -- just so we're clear, that's what
4 you're telling our jury, that's what you told to Sergeant
5 Hayward.

6 A That's right.

7 Q And that's the gentleman that was sitting in the
8 interview room with you.

9 A That's right.

10 Q And never said a word during the course of the interview.

11 A That's right.

12 Q All right, regardless of what Sergeant Hayward might have
13 said to you, okay ---

14 A All right.

15 Q --- correct me if I'm wrong, you just told us a moment
16 ago that despite what Hayward said you wanted to tell the
17 police your version of the events; isn't that true?

18 A Yes, that's true.

19 Q So, the fact that he might have said that really matters
20 not.

21 A No, because see, I did -- at first I wanted to tell them
22 and then when I got there I realized I was in a lot of trouble
23 and maybe I needed a lawyer to find out, you know what I'm
24 saying, how bad it was really, but I didn't.

25 Q Wait a second, are you telling us that between January

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1 29th and March 9th you didn't realize that you were in some
2 trouble?

3 A I knew I was in trouble. That's why I needed to talk to
4 a lawyer.

5 Q All right, and from January 29th until March 9th you had
6 plenty of time, even though you were on the run, to talk to an
7 attorney if you wanted to; correct?

8 A Yeah, that's the whole reason I run to tell you the truth
9 because I was going to get a job and get enough money to
10 buy an attorney but you put me in the news. So, I couldn't
11 even get a job.

12 Q I'm not sure you answered my question. So, I'll answer
13 it -- ask it again.

14 A Yes, my answer was yes.

15 Q My question to you, sir, is you had plenty of time to
16 think about whether or not you were going to talk to the
17 police.

18 A Right.

19 Q Okay, it had nothing to do with what you say Sergeant
20 Hayward said to you that made you talk to them because you
21 wanted to tell them the truth.

22 A Well, it had a lot to do because I made the decision when
23 I got there that I wasn't going to talk to the police without
24 a lawyer. I told him that off the top.

25 Q All right, okay, well, when you were in that interview

1 room, you correct me if I'm wrong, he gave you your Miranda
2 warnings.

3 A That's right.

4 Q And you've been around the block. You know what Miranda
5 warnings are; right?

6 A Yeah, I been locked up two times before this.

7 Q Okay, so, you, you know the deal; right?

8 A Yes, sir.

9 Q You've seen TV, you've seen Miranda warnings; right?

10 A Sure, sure.

11 Q You knew before you walked in that interview room that
12 you had an absolute right to an attorney.

13 A He talked to me before I went to the interview room
14 though and that's when I changed my mind.

15 Q Who is he?

16 A Investigator Hayward.

17 Q We got that. We're beyond that now.

18 A Right, that's -- I'm just telling why I made that
19 decision to sign the Miranda warning.

20 Q Okay, so, the only reason that you spoke to them and told
21 that version of the events is because you were forced.

22 A No, I wasn't.

23 Q That's what you're telling our jury?

24 A Because I made the decision.

25 Q All right, okay.

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- 1 A That's what I just said.
- 2 Q I'm sorry. You've got to do me a favor.
- 3 A All right.
- 4 Q This young lady has to take down everything we say.
- 5 A Yes, sir.
- 6 Q We cannot talk over each other.
- 7 A All right.
- 8 Q I promise that I will let you talk. I'm going to try not
- 9 talk when you are talking. Please don't talk when I'm
- 10 talking. Do we have a deal?
- 11 A Yes, sir.
- 12 Q All right, so, you made a decision despite what Sergeant
- 13 Hayward said that you were going to go into that interview
- 14 room and give your version of the events; correct?
- 15 A Yes, sir, I decided that; yes, sir, I decided that.
- 16 Q All right, all right, that wasn't so difficult was it to
- 17 get to this point?
- 18 A No, sir.
- 19 Q You have to say yes or no.
- 20 A No, sir.
- 21 Q Okay, when you were talking to them you gave a version of
- 22 events; correct?
- 23 A Correct.
- 24 Q And so, you have a lot of time to think about it between
- 25 January 29th and March 9th about what you were going to tell

1 the police.

2 A In that whole -- can I explain something? The whole time
3 ---

4 THE COURT: Wait a minute.

5 Q You can answer and then you can explain.

6 A Yes, sir; yes, sir; yes, sir, but the whole time I was
7 trying to convince myself that I didn't, I didn't do it, it
8 just didn't happen, this event never happened.

9 Q So, you don't have any problem lying to yourself; do you?

10 A No, I was trying to convince myself. I didn't lie to
11 myself. I was trying to convince myself but it didn't work.
12 That's why I turned myself in.

13 Q It's kind of like you're trying to convince these fine
14 people here now; aren't you?

15 A No, I'm trying, I'm just trying to get the truth out.
16 That's all I want out.

17 Q Your version of the truth; isn't that it?

18 A No, the truth.

19 Q Okay, well, you correct me if I'm wrong, did you say the
20 exact same thing to Investigator Paul Glover as you did to our
21 jury?

22 A No, sir.

23 Q All right, so, it's your different versions of the truth
24 when it suits you; isn't that true?

25 A No, sir.

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1 Q No?

2 A No, sir.

3 Q Okay, well, you sat here during -- all during the course
4 of the trial and you didn't say boo to Investigator Glover,
5 right, about dropping Belinda; did you? You didn't say one
6 word about it; did you?

7 A No, sir. I didn't tell them about putting the tape on
8 her hands neither; did I?

9 Q No, okay, so ---

10 A All right.

11 Q --- you lied to them; didn't you?

12 A Yeah, I tried to tell you at that time I didn't, I didn't
13 even know what happened. I done, I done told myself it didn't
14 happen so much that I didn't even know the truth, but I had
15 plenty of time since I been locked up, incarcerated to think
16 about the truth of what happened.

17 Q To think about what version of the truth you were going
18 to tell these fine people?

19 A No, to think about what actually happened. It's
20 traumatic.

21 Q Your version about what happened.

22 A That's what you can call it.

23 Q All right, but you would agree with me that between what
24 you said to Investigator Glover and what you told our jury
25 here is different.

1 A Yes, sir.

2 Q And clearly one of the two is a lie.

3 A Yes, sir.

4 Q All right, so we understand each other then you don't
5 have a problem with lying to people when it suits you;
6 correct?

7 A It wasn't that I -- no, it wasn't that I was lying.
8 That's what I had believed at that time.

9 Q Okay, so, you're asking our jury to take what you're
10 saying on faith, on belief of what you think might have
11 happened; is that you're telling us?

12 A That's -- no, sir, I'm telling you you cross examine me
13 and my lawyer cross examine me and I just want them to get the
14 truth out of all of that. That's all I want.

15 Q Well, I think that's what we all I want.

16 A That's the only reason I'm here to try it. That's why I
17 didn't plea.

18 Q But the point is, sir, that you told untruths to
19 Investigator Glover.

20 A I never denied that.

21 Q Okay, all right, now, Investigator Glover certainly gave
22 you time to tell whatever you wanted to tell; correct?

23 A Yes, sir.

24 Q All right, and like he said, you know, a couple of times,
25 "Are you sure that you don't want to tell me anything else";

1 right?

2 A That's right.

3 Q And so we're clear you didn't tell him squat about
4 putting tape on her hand.

5 A No, sir.

6 Q Or hands.

7 A No, sir.

8 Q Or wrists; correct?

9 A Correct.

10 Q All right, you didn't tell him anything about dropping
11 Belinda on the ground.

12 A No, sir.

13 Q All right, and you're saying that now to kind of
14 compensate for the testimony that you heard her say; isn't
15 that true?

16 A No, I said that because when I looked at the tape I
17 realized what I didn't tell them, the parts that I had left
18 out.

19 Q Well, isn't it true that you realized because you saw
20 photographs of the injuries to Belinda?

21 A No, but that's not the reason why I said that.

22 Q Let's take a peek at these for a moment, 9 through 18.
23 You did this to her; didn't you? Go ahead. Take a peek.

24 A I know what they look like. I had plenty of time to look
25 at it.

1 Q All right, you did that.
2 A Yes, sir.
3 Q You caused these injuries?
4 A I didn't do them intentionally.
5 Q But you caused them ---
6 A I -- yes.
7 Q --- when you went into her house?
8 A You ain't got to raise your voice, but, yes, sir.
9 Q Now, at some point in time you gave her, I believe it
10 was, a 12 by 14 photograph of yourself.
11 A That was when we was dating.
12 Q Okay, you gave it to her.
13 A Well, actually it was a little picture and she went and
14 got it blowed up to be a bigger picture.
15 Q All right, let me change my question.
16 A But yes.
17 Q She had a picture of you that was 12 by 14.
18 A Yes, sir.
19 Q Okay, and you told her that you wanted her to have that
20 with her when she slept.
21 A No, sir.
22 Q You never told her that.
23 A I never told her that.
24 Q All right, but it upset you to no end, in your words,
25 made you crazy mad when you didn't find that picture by her

Nicholas Parker - Cross by State

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- 1 when she was sleeping on the couch or in her bedroom.
- 2 A Yes, sir.
- 3 Q Now, that's because you thought she should have that
- 4 picture close by her when she slept; isn't that true?
- 5 A No, sir, can I explain why?
- 6 Q Yes, you can, but that's true; correct?
- 7 A Because the whole -- no, sir.
- 8 Q It's not true that you didn't -- it didn't -- that you
- 9 did not want her to have the photograph there.
- 10 A I didn't say that. You asked me if it was true that I
- 11 didn't want her to have it beside her bed.
- 12 Q Let me rephrase the question so we understand each other.
- 13 A All right.
- 14 Q You did want the photograph of you by her while she was
- 15 sleeping; isn't that true?
- 16 A It would, it would make me feel good, yes, sir.
- 17 Q Okay, wouldn't you say -- wouldn't you agree with me that
- 18 that's kind of obsessive?
- 19 A No, sir, I just figured she could talk to me or if she
- 20 see me then I figured she'd be thinking about me and then
- 21 that's while we was talking.
- 22 Q She knows what you look like; don't she?
- 23 A Yes, sir.
- 24 Q She doesn't need to see a picture of you.
- 25 A Yeah, but she's in Georgetown when I'm in Summerville.

- 1 Q Okay, she doesn't need to see a picture of you to talk to
2 you; does she?
- 3 A No, sir.
- 4 Q All right, so, isn't that kind of obsessive? Wouldn't
5 you agree with me that that's a little obsessive?
- 6 A Not really.
- 7 Q No, not really, maybe a little bit?
- 8 A That's what -- no, sir, that's like having somebody
9 that's dead beside your bed, a picture of them, that's
10 obsessive because they done passed away but you still got the
11 picture beside your bed looking at them all the time? Is that
12 obsessive?
- 13 Q You were so freaked out that she didn't have your picture
14 that you took masking tape ---
- 15 A Duct tape.
- 16 Q Thank you, duct tape, wrapped it around one leg and then
17 around the other leg.
- 18 A Yes, sir.
- 19 Q While she slept, and if that wasn't enough you started on
20 her wrists; correct?
- 21 A Yes, sir.
- 22 Q By the way, Belinda is a heavy sleeper; isn't she?
- 23 A No, sir.
- 24 Q Not at all?
- 25 A I mean, if you stay up for a couple of days then, yeah,

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1 you sleep heavy.

2 Q Okay, my question to you is, I got you, is Belinda a
3 heavy sleeper?

4 A I answered. I said no, sir.

5 Q No, sir?

6 A No, sir.

7 Q During the course of your testimony, I might have misread
8 you, were you concerned for her medical safety when you saw
9 her there?

10 A I never thought about it.

11 Q Okay, so, despite the fact that you had what you say is
12 cocaine residue, coke, lines, residue, straw, half a joint, 20
13 to 25 beer cans strewn throughout the house you were not
14 concerned with her physical, medical safety; correct?

15 A It wasn't medical safety, no, sir, but I was
16 concerned about her safety, yes.

17 Q That I understand, but you weren't concerned about her
18 medical safety.

19 A No, sir.

20 Q Now, you told the Investigator Glover that there was a
21 serial kidnapper rapists.

22 A No, I didn't say that. I said I seen something on the
23 news about somebody being kidnapped prior to me being there
24 and he was still on the loose. That's what I seen on the
25 news.

- 1 Q All right, did you use that kidnapper thing as a reason
2 when you were telling Investigator Glover why you abducted or
3 kidnapped Brenda?
- 4 A No, sir, Belinda.
- 5 Q You didn't tell him that? I'm sorry, Belinda.
- 6 A No, sir.
- 7 Q I don't know why I'm saying Brenda.
- 8 A I told him but that ain't why I used it.
- 9 Q I'm sorry?
- 10 A You said -- you asked me if I used it, it's the reason I
11 used it is because I knew about it and that's what made it
12 okay, no, sir.
- 13 Q No, okay.
- 14 A Or ask me the question again.
- 15 Q Let me see if I can re-ask that question.
- 16 A All right.
- 17 Q Did you tell Paul Glover on March 9th, 2006, that because
18 of the kidnapper, whatever you heard or saw about the
19 kidnapper, that's the reason why you kidnapped her.
- 20 A That was one of the reasons but I didn't, I didn't know I
21 was kidnapping her at the time. It didn't, it didn't dawn on
22 me till later on.
- 23 Q All right, by the way, it was your testimony that the
24 tape stayed on her, I believe, 20 to 25 minutes, maybe more.
- 25 A Yes, sir.

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1 Q Okay.

2 A Maybe, maybe not even that much, no, maybe more, maybe
3 less.

4 Q Well, let's see if we can get this because it was your
5 testimony, more than 15 less than 20.

6 A Could be, yes.

7 Q Okay, I wasn't there, and we're merely trying to get to
8 the truth of the matter.

9 A All right.

10 Q Let's try that again, 15 minutes to 20 minutes, somewhere
11 in between there?

12 A Yes, sir.

13 Q All right, and the duct tape was on her legs, ankles.

14 A Yes, sir.

15 Q And her wrist even though the wrist wasn't finished off.

16 A Right, it was hanging, they was hanging.

17 Q Hanging?

18 A Yes, sir.

19 Q Both of those remained somewhere between 15 minutes and
20 20 minutes.

21 A Yes, sir.

22 Q Okay, let me get this straight you're telling our jury
23 during that 15 to 20 minutes you didn't know what you were
24 doing, that's your defense in this case, you didn't know what
25 you were doing.

- 1 A Because we was arguing and fighting. That's the last
2 thing I looked at.
- 3 Q Okay, you were heated, those were your words; right?
- 4 A Yes, sir.
- 5 Q You were heated about what happened; right?
- 6 A About her lying to me prior to this yes, sir.
- 7 Q Okay, and heated would mean that you were angry and upset
8 at her; correct?
- 9 A Yes, sir.
- 10 Q All right, and you told her that, "You're coming with me
11 to my house."
- 12 A Yes, sir.
- 13 Q You didn't give her a choice.
- 14 A Not at first.
- 15 Q Not at first.
- 16 A Right..
- 17 Q For a period of time, certainly 15 to 20 minutes, she had
18 no choice in the matter, correct, because it was your
19 intention to take her there to your house; isn't that true?
- 20 A Yes, sir, because I just wanted the relationship over.
- 21 Q Do you always end your relationships by abducting your
22 girlfriends and dragging them to your house and discussing it
23 being over? Is that how you end your relationships?
- 24 A No, sir, I never done this before in my life.
- 25 Q I'm sorry?

1 A I never done this before in my life.

2 Q January 17, 2006, you didn't have a clue that she wasn't
3 coming back home.

4 A No, sir.

5 Q She didn't discuss with you that she was leaving you;
6 correct?

7 A No, sir.

8 Q That made you angry; didn't it?

9 A No, that really -- I wasn't, I wasn't even upset because
10 the reason she had to come back is because she had to take
11 care of her kids.

12 Q Okay, you were cool with that.

13 A Me and her talked on the phone that same afternoon.

14 Q You were cool with that.

15 A Yes, sir.

16 Q But on January 29th you were no longer cool with that;
17 were you?

18 A No, because she was telling me one thing and when I got
19 there I found out a whole 'nother different thing.

20 Q Okay, I guess that -- the answer to my question would be
21 a yes?

22 A Yeah.

23 Q Okay, and you were, like you said, angry, heated, upset.

24 A That's right.

25 Q Belinda had a doctor's appointment with your mother and

1 her.

2 A Yes, sir.

3 Q And your grandmother took them there.

4 A Yes, sir.

5 Q And did you come to find out that when your mother went
6 to see the doctor, your grandmother drove Belinda away so she
7 could get to her mother and get away from you?

8 A No, that ain't how I found out, that ain't what I found
9 out happened.

10 Q You never found that out?

11 A I found out that Belinda's mother come to the mental
12 health and picked her up. That's what I found out.

13 Q Okay, all right, but that was with your grandmother
14 helping set it up.

15 A No, sir.

16 Q Your grandmother had nothing to do with that.

17 A She said she didn't know anything about it until it
18 happened.

19 Q Okay, did you mention on the tape not only a kidnapper
20 but a rapist.

21 A That's what the news said.

22 Q That's not what I'm asking you. When -- in your
23 conversation ---

24 A Yes, sir, I guess. I don't remember exactly what the
25 tape said but if that's what it, if that's what it said then

1 yes.

2 Q You don't remember when you were sitting over there this
3 morning and listening and watching it that that's what you
4 said?

5 A I mean, the way I was talking I couldn't really
6 understand what I was saying because it ---

7 Q You mean that jive kind of slang you were using or you
8 just can't understand your own voice.

9 A If that's what you call it, yes, sir.

10 Q Which, couldn't understand ---

11 A The first one what you said.

12 Q Okay, is it true that Belinda was deeply upset about and
13 very concerned about her children?

14 A Yes, sir.

15 Q She repeatedly mentioned it at the house, in the truck,
16 on the way to Summerville and at Summerville.

17 A She was worried because she said the people had to leave
18 and she needed somebody that could get there and pick her kids
19 up.

20 Q At 8:30.

21 A Yes, sir.

22 Q Okay, and you told Belinda that, "We'll be back at 8:30
23 to deal with your kids."

24 A Yes, sir.

25 Q And based upon what you tell us is the driving time that

1 would be a lie to her?

2 A Like I said at the time my head wasn't there.

3 Q Well, you said that to her while you were in the car;

4 correct?

5 A Yes, sir.

6 Q I take it your head was at least better then; correct?

7 A No, sir.

8 Q Wasn't better then?

9 A No, sir.

10 Q All right, tell our jury during the course of these

11 events all of a sudden when you snapped to and your head was

12 better.

13 A It took a couple of days after to realize what actually

14 happened.

15 Q Well, there came a point in time -- let me ask you this,

16 you call your grandmother nanna?

17 A Yes, sir.

18 Q Okay, nanna kept coming out to the outhouse and saying,

19 "You need to let the girl go, you need to let the girl go

20 back, we need to get her home," something like that; isn't

21 that true?

22 A No, sir, I don't, I don't recall.

23 Q Okay, at some point in time your grandmother knew what

24 you were doing.

25 A Yes, sir.

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1 Q She either saw or knew about the tape on the legs,
2 ankles; correct?

3 A I don't know if she saw them. I know she seen the ones
4 on her hands, that's all.

5 Q But where is it that you took off the tape around the
6 ankles?

7 A Before we even got to Jamestown.

8 Q Okay, but, oh, so, so, it was in the vehicle.

9 A Yes, sir.

10 Q Okay, so, and when you're doing that your grandma's -- by
11 the way you kind of tore them off, jerked them off?

12 A No, sir.

13 Q You gingerly took them off?

14 A No, I just ripped the tape and pulled it off.

15 Q Okay, and when you pulled it it jerked.

16 A No, I just took it off, I pulled it. I didn't jerk it.
17 I pulled it.

18 Q Let me ask you this, would it have hurt the way you took
19 it off?

20 A No, sir. The tape might was sticking to her leg but
21 other than that I didn't put no violence in it.

22 Q And when you rip duct tape would you agree with me you
23 can hear a ripping noise?

24 A Yes, sir.

25 Q And when you pull it you can hear some noise associated

- 1 with it?
- 2 A Yes, sir.
- 3 Q All right, and your grandmother being in the truck she
- 4 would have heard that; correct?
- 5 A The radio was on.
- 6 Q Oh, the radio was on?
- 7 A Yes, sir, that's how she does every time we get in the
- 8 truck she drives listening to the radio and then that's and we
- 9 do whatever we do. We talk, do whatever.
- 10 Q Belinda was screaming in the truck?
- 11 A No, sir, we weren't screaming. We was, we was loud but
- 12 we was talking back and forth.
- 13 Q I'm not asking about you. Belinda was screaming in the
- 14 truck about letting her go and her kids.
- 15 A No, sir, she wasn't screaming.
- 16 Q Wasn't screaming.
- 17 A She couldn't scream. Her voice was already hoarse when I
- 18 got there from partying.
- 19 Q Was it hoarse the day before?
- 20 A Well, when she called me that morning it was hoarse.
- 21 Q Okay, was it hoarse the day before that?
- 22 A I didn't talk to her the day before that.
- 23 Q The last time you talked to her before that was it
- 24 hoarse?
- 25 A No, sir.

- 1 Q Okay, magically.
- 2 A No, not magically.
- 3 Q It was hoarse that day that you spoke to her on the
4 phone.
- 5 A It's not magically because that's what happens when you
6 party and you do drugs.
- 7 Q I understand what you're saying.
- 8 A Right.
- 9 Q But somehow it just so happened that from the time that
10 you spoke to her, the time you spoke to her on the 29th all of
11 a sudden she had a hoarse voice.
- 12 A It could have been hoarse before that.
- 13 Q Could have been.
- 14 A Right.
- 15 Q But for you that's ---
- 16 A That's when I noticed it.
- 17 Q --- that's when you noticed it.
- 18 A That's right.
- 19 Q That's quite a coincidence; isn't it?
- 20 A No, that's just how, how things happened.
- 21 Q You told Investigator Glover that there would be no duct
22 tape involving -- there would be no duct tape involving your
23 putting on duct tape on Belinda in Summerville. You told him
24 that; correct?
- 25 A Yes, sir, I guess if that's what it said.

1 Q Okay, if it's, if it's : on there and you told him that
2 that would have been a lie; correct?

3 A Yes, sir, but it ain't like I knew. There was duct tape
4 everywhere.

5 Q Okay, but ---

6 A It ain't like, it ain't like I went around and collect
7 the evidence and make sure that there was no duct tape
8 nowhere.

9 Q Okay, but you know from having sat during the course of
10 the trial that duct tape was found in the truck.

11 A Yes, sir.

12 Q And you know that duct tape was found in the little house
13 or the apartment.

14 A Yes, sir.

15 Q Okay, and I hope you're not suggesting to the jury that
16 that duct tape was off the boxes. Is that what you're
17 suggesting to this jury?

18 A I don't know.

19 Q And let us know, are you suggesting that the police
20 planted the duct tape there?

21 A I don't know.

22 Q All right, just might be so happens that since you're
23 taking off the duct tape in the vehicle, as you just testified
24 to ---

25 A Yes, sir.

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1 Q --- and she was also in that apartment or little house,
2 that it's quite possible that the duct tape that you had on
3 her was the duct tape found in those two places?

4 A Could have been but I don't see how it could have got in
5 the little house because it was -- she had no duct tape on her
6 when we went to the little house.

7 Q So, when you told Investigator Glover that you only taped
8 her legs, her ankles that was a lie?

9 A Yes, sir.

10 Q And just so we're straight, are you suggesting to our
11 jury now that the duct tape that was found on her wrists and
12 in the pictures was put there by her mother to frame you; is
13 that what you're suggesting?

14 A No, sir.

15 Q Okay, so, that when you said that on the tape to
16 Investigator Glover that, too, would have been a lie or an
17 attempt to mislead.

18 A Yes, sir, a lot, a lot on that tape was a lie.

19 Q Okay, now, having lived at Lot ■ BB Smith's in October
20 for a period of time you were aware that the back door was
21 messed up.

22 A Yes, sir.

23 Q And you know that you could jerk it open.

24 A Yes, sir.

25 Q So, whether it was locked or not you could have jerked

1 it open.

2 A Yes, sir, but she left the front door unlocked. So, why
3 would I jerk it open?

4 Q That's a good point.

5 A Exactly.

6 Q She told you on the phone, thank you for bringing it up,
7 she told you on the phone that the front door was going to be
8 open.

9 A Right.

10 Q Okay, you and nanna didn't park in the front?

11 A No, sir, because she told us not to.

12 Q Okay, plenty of places to park in the front.

13 A Yes, sir.

14 Q Some sewer problem in the back.

15 A I didn't know that.

16 Q Didn't know that, okay, despite the fact that you lived
17 there.

18 A I didn't stay there a week. I didn't even -- I ain't
19 have enough time to know nothing.

20 Q Despite the fact that you lived there, despite the fact
21 ---

22 A Yes, sir, I did not know, yes, sir.

23 Q Let me finish my question, despite the fact that you
24 lived there and despite the fact you know Belinda and her
25 family you didn't know that there was a problem with the

1 septic tank in the back.

2 A No, sir.

3 Q But it's your testimony despite the fact that the front
4 door was left open that you went to the back door first.

5 A Right because I didn't want to walk all the way around if
6 I parked right there by the back door.

7 Q You didn't want to walk all the way around that long
8 trailer.

9 A It's not that long but why.

10 Q That's what you're telling our jury.

11 A No, sir, but why? I mean, I was right there by the door.
12 So, I see if the back -- I checked the back door to see if it
13 was unlocked. It wasn't unlocked ---

14 Q Okay.

15 A --- because maybe I thought she might have left ---

16 Q You didn't have to jerk it open; did you?

17 A Sir?

18 Q You didn't happen to jerk it open; did you?

19 A I didn't jerk it. It didn't come open at all. It was
20 locked.

21 Q You testified to our jury that you carried Belinda like
22 this cradling her in your arms, you got down the hallway and
23 the back door and you put her down so you could open the door.

24 A No, I didn't say that..

25 Q That's not what you told our jurors?

1 A No, no, sir, I said I leaned against the wall.

2 Q So, you didn't put her down.

3 A No, sir.

4 Q Okay, all right, so, when you told Investigator Glover
5 that you were getting weak and you put her down and she was
6 able to walk out the back ---

7 A It was a lie.

8 Q --- that was a lie.

9 A Yes, sir.

10 Q And you misled him when you didn't tell him that you
11 dropped her, accidentally dropped her when you went out the
12 back porch.

13 A Yes, sir.

14 Q Despite the fact that he gave you every opportunity in
15 the world to say whatever you wanted ---

16 A Yes, sir. Have you ever been interrogated before?

17 THE COURT: You don't get to ask him questions, just
18 answer what he asks you.

19 A All right, yes, sir, yes, sir, all right.

20 Q Do you remember saying words to the effect -- "If I
21 can't have you no one can"?

22 A I didn't -- I never remember it. I don't remember it.
23 If I did say that I said it but I don't remember it.

24 Q Okay, that nonsense that you told Investigator Glover
25 about Belinda hanging, trying to hang herself that was a way

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1 to mislead people, too?

2 A I never said that.

3 Q You didn't say that on the tape?

4 A No, sir.

5 Q Would you agree with me that you were jealous of Belinda
6 if somebody else looked at her?

7 A No, sir.

8 Q Not at all?

9 A No, sir.

10 Q Never got angry at her for somebody looking at her in
11 short shorts or ---

12 A No, I know what you're trying to get at, but you want me
13 to tell you why I got angry?

14 Q Yeah.

15 A Because when she sat down she did it intentionally to
16 make me mad. She did it intentionally.

17 Q And she was happy about what she received, a beating
18 because she did that, she was happy about that, she wanted
19 that.

20 A No, sir.

21 Q Is that what you're telling our jury?

22 A No, sir.

23 Q She wanted you to beat her after that?

24 A No, sir.

25 Q You did beat her after that, didn't you, because you were

1 so angry; didn't you?

2 A Yeah, but she also hit me also.

3 Q I got you. I've heard that one before.

4 A Yeah, you heard it before.

5 Q But you beat her because you were jealous and upset about
6 what she did; isn't that true?

7 A Because she did it intentionally.

8 Q Okay, whether or not she did it intentionally you beat
9 her; isn't that true?

10 A I done answered that.

11 Q Did you beat her?

12 A I already answered that.

13 Q Belinda wasn't allowed to drive around; was she?

14 A Yes, she was.

15 Q Any time she wanted?

16 A I bought her own car just for that same reason.

17 Q You mean the car that only worked for one week?

18 Is that the car you're talking about?

19 A No, it worked longer than one week, probably like three
20 months.

21 Q When you were in the little house you all got into an
22 argument.

23 A Yes, sir.

24 Q Okay, and by the way you were also arguing in the vehicle
25 on the way from Georgetown to Summerville.

Nicholas Parker - Cross by State

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- 1 A At the beginning, yes, but after -- but not the whole
2 time.
- 3 Q Well, I think it was your testimony earlier that you
4 argued a good while in the vehicle, but you only argued a
5 short time when you were back at the house. Wasn't that your
6 testimony?
- 7 A Yes, sir.
- 8 Q I'm sorry?
- 9 A Yes, sir.
- 10 Q Okay, on the statement that you gave to Paul Glover, you,
11 correct me if I'm wrong, you said that you only argued for a
12 few sentences in the truck.
- 13 A Yes, sir.
- 14 Q Okay, so, that was a lie.
- 15 A Like I stated before there's a lot of things on that
16 tape that's a lie.
- 17 Q Okay, but that's one of the lies.
- 18 A Yes, sir.
- 19 Q You, you had told Belinda that you were concerned about
20 her gallivanting around Georgetown.
- 21 A Yes, sir.
- 22 Q Okay, you were -- so, you would agree with me that you
23 were -- might have been a little bit jealous.
- 24 A With her lying to me that's, that's what made me start to
25 believe that, but yes, sir.

1 Q Okay, you were jealous, regardless of what reason you
2 became jealous.

3 A Yes, sir.

4 Q You were concerned in your head that she might be
5 sleeping around.

6 A I had, I had accusations. I wasn't concerned. I mean, I
7 didn't know for sure but I had accusations.

8 Q Okay, you thought it in your head, you believed it.

9 A Yeah, she, yeah, because the way she was lying to me.

10 Q Okay, and when you were in the little house you
11 confronted her about that.

12 A Yes, sir.

13 Q All right, and you have a method that you use to, you
14 told her that the method that you use to see if somebody has
15 been cheating is that you tell if they're wet or dry in the
16 vagina.

17 A No, sir.

18 Q Haven't you told that -- her that before.

19 A No, sir.

20 Q Isn't that why you stuck your finger in her vagina to
21 check?

22 A I did not do that.

23 Q Isn't it true after sticking your finger in her vagina
24 you jumped back and said, "Oh, what did I do," or words to
25 that effect?

1 A No, sir; no, sir.

2 Q You wanted her to make love to you that day; didn't you?

3 A No, sir.

4 Q You weren't interested in sex that day?

5 A No, sir, that's the last thing on my mind that day.

6 Q Other than kidnapping that was the last thing on your

7 mind.

8 A I wasn't anything about kidnapping.

9 Q By the way isn't it her shirt you were wearing in the

10 interview with Paul Glover?

11 A No, sir.

12 Q Not her shirt?

13 A No, we all had shirts. We all went to the bar. Me, her

14 and my uncle got the same shirt. That was my shirt. She had

15 her shirt already.

16 Q The reason why she had sentimental things at your house

17 is because she had to literally fool you and sneak away from

18 you with that doctor's appointment, right, otherwise she could

19 have just taken her stuff; isn't that true?

20 A Yeah, all she had to do was tell me she wanted to leave

21 because two weeks before that we had talked about her leaving

22 if she had wanted to leave.

23 Q But she didn't do that. She didn't tell you and she

24 snuck out with faking the doctor's appointment; isn't that

25 true?

1 A She did it more than -- she did it more than one time,
2 but yes, sir.

3 Q Okay.

4 A She didn't fake the doctor's appointment because she
5 really had to go.

6 Q But she used that as a way of getting away from you;
7 correct?

8 A That's what she did, yes, sir.

9 Q Investigator Glover asked you, "You can't have her no
10 one else can have her," and you responded by saying, "She
11 had me heated," meaning angry; isn't that true, from the
12 tape?

13 A I said I wasn't sure if I said that or not, also said
14 that on the tape. I said if I said it then I don't know if I
15 said it, but if I did, I did, but I was heated. That's what I
16 said, my exact words.

17 Q And on the tape you lied when you said that you didn't
18 think you did anything wrong.

19 A Yes, sir.

20 Q Because you know now you did do something wrong.

21 A Yes, sir, but I didn't have the intention when I got
22 there to do it.

23 Q You didn't like Belinda working out of the house; did
24 you?

25 A I didn't mind.

Nicholas Parker - Cross by State

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1 Q Well, she had a job at Food Lion; right?

2 A That's correct.

3 Q She got that job through your grandmother's
4 friend.

5 A That's correct.

6 Q And you made sure that she couldn't go back there; isn't
7 that true?

8 A No, sir, that's not.

9 Q It's not true?

10 A I didn't make sure that she couldn't go back there.

11 Q Well, you beat her so bad that she couldn't show her face
12 in public.

13 A And the reason that happened was because this same
14 instance you brought up earlier about her showing her pants.
15 I didn't do it to intend her not to work.

16 Q Well, you didn't -- she was so badly injured she couldn't
17 show up to work like that; could she?

18 A She had a black eye.

19 Q Would you agree that you beat her badly enough that she
20 couldn't show up for work the way she looked?

21 A No, sir.

22 Q You think it's okay for women to have been beaten and
23 show up for work -- let me finish -- with a black eye? Is
24 that what you're telling our jury?

25 A No, sir, but it wasn't like the way you're trying to make

1 it sound.

2 Q Your mother, your mother helped raise you; correct?

3 A No, sir, my grandparents raised me. My mother is there

4 off and on.

5 Q Off and on, she helped raise you.

6 A Yes, sir.

7 Q Okay, your mother, you correct me if I'm wrong, feels

8 very strongly about her boys, her sons being able to control

9 their girlfriends; doesn't she?

10 A About beating them, yes, sir.

11 Q Yeah, she feels strongly about that.

12 A Yes, sir.

13 Q She thinks that you boys, her sons need to keep their

14 women in line; isn't that true?

15 A No, sir.

16 Q She doesn't believe that.

17 A No, sir.

18 Q She didn't tell you that?

19 A No, sir.

20 Q She didn't teach you that?

21 A As a matter of a fact she goes off with our girlfriends.

22 Our girlfriends go off with her without us knowing anything.

23 So, if she, if she figured we should control them don't you

24 think that she would have consult with us before she did

25 something like that?

Nicholas Parker - Cross by State

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- 1 Q Now, tell me about this American Coast and Body Shop in
2 Moncks Corner.
- 3 A Custom, American Custom Body Shop.
- 4 Q Custom Body Shop. Would it surprise you that that place
5 doesn't even have a business license?
- 6 A He has a business license..
- 7 Q He does?
- 8 A Yes.
- 9 Q Okay, and who is -- who's this he person?
- 10 A Leonard Long.
- 11 Q Leonard.
- 12 A Long.
- 13 Q L-O-N-G?
- 14 A Yes, sir.
- 15 Q Rattle off the phone number for us would you for American
16 Coastal Body Shop ---
- 17 THE COURT: Custom.
- 18 Q I'm sorry, Custom Body Shop.
- 19 A I don't recall that. It's been so long since I called
20 the number.
- 21 Q But you worked there on and off for a good period of
22 time.
- 23 A Yes, sir.
- 24 Q You can't rattle off the number for our jury?
- 25 A It's been over a year.

- 1 Q Tell us what street is that on?
- 2 A 17A.
- 3 Q And what?
- 4 A 17A.
- 5 Q What number is it?
- 6 A I don't know.
- 7 Q Belinda had to use her food stamps for herself and her
- 8 kids to feed you and your family; isn't that true?
- 9 A That was what she wanted to do. That was her agreement.
- 10 She, she offered that.
- 11 Q Okay, was it -- were you paying \$400 a month to live in
- 12 your grandmother's house? Were you?
- 13 A I didn't have to. I lived there since I was young.
- 14 Q Were you paying?
- 15 A No, I wasn't.
- 16 Q All right, the truth of the matter is you didn't pay a
- 17 dime to help out with the cost in the house; did you?
- 18 A I never paid a dime when I lived there.
- 19 Q Okay, because you were mooching.
- 20 A No, that wasn't what I was doing. I took care of myself.
- 21 Q When you went down to live at BB Smith's it was Belinda's
- 22 mother who set you and Belinda up without you spending a dime.
- 23 A For the first month's rent, yes, sir.
- 24 Q Okay, you didn't have a job then.
- 25 A I moved -- lost my job because I was moving to

Nicholas Parker - Cross by State

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1 Georgetown.

2 Q You didn't have a job.

3 A No, but I planned on getting one. I even tried to get
4 one with her mom's boyfriend and they told me no I couldn't
5 work with him.

6 Q I'm sure you had great plans, many, great many things,
7 but the fact of the matter is you were not in a position to
8 pay a dime; isn't that true?

9 A Right, neither was she.

10 Q It was her mother's trailer. She didn't need a dime;
11 right? Her mother was helping her out. You knew that.

12 A The same way, I say the same way with my grandparents.

13 Q By the way you weren't getting any food stamps; were you?

14 A No, sir.

15 Q You weren't contributing any food money to her and her
16 children.

17 A No, but I supported the money for everything else.

18 Q Everything else?

19 A Everything else.

20 Q What's the everything else?

21 A Drugs.

22 Q You bought, you bought her kids clothes.

23 A Drugs, yeah, drugs, clothes, what else? Food, sometimes
24 like food from the store, like candy, stuff like that, but as
25 far as, far as major food to fill the house up, no.

- 1 Q When you're talking about drugs you're talking about
2 recreational drugs?
- 3 A That both me and her did, yes, sir.
- 4 Q Okay, so, rather than, you know, do the basics, pay the
5 electric bill and stuff, when you got money you blew it up
6 your nose; didn't you?
- 7 A She, she -- that what she wanted to do.
- 8 Q I'm asking about you, sir. Answer my question.
- 9 A We both did.
- 10 Q Great, you did ---
- 11 A We both, no.
- 12 Q ---- with your money that you got.
- 13 A Not by myself, no.
- 14 Q In fact, you moved there because things were going to be
15 cheaper down at BB Smith's.
- 16 A That was her idea.
- 17 Q Whose idea?
- 18 A Belinda's.
- 19 Q Okay, isn't that true?
- 20 A Yes, sir.
- 21 Q That things would be better for you.
- 22 A That what she told me. Belinda told me, that's what
23 Belinda told me.
- 24 Q These aren't difficult things, did you agree with that?
- 25 A I agreed with it, yes.

Nicholas Parker - Cross by State

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1 Q All right, because it made your free ride easier; didn't
2 it?

3 A No, that's because that what she wanted to do.

4 Q All right, and you're all about what she wanted to do;
5 aren't you, sir?

6 A Sometimes, yeah.

7 Q Right, and when she said, "Let me go," you were all
8 about that. So, you let her go.

9 A She never -- yeah, I took the tape off her when she
10 asked.

11 Q Forty to 45 minutes later by your own testimony.

12 A No, 20 minutes later. I, I didn't, I didn't look at the
13 clock in time what time I took it off, nothing like that.

14 Q It was your testimony earlier that it was 40 to 45
15 minutes.

16 A Well, I guess if that, that's -- I don't know.

17 Q Didn't you tell them 40 to 45 minutes later?

18 A I guess. I don't know what time it was. I didn't look
19 at the clock like I just ---

20 Q You don't know what you're saying from one second to the
21 next; do you?

22 A That's what you say.

23 Q Aren't you -- are you going to tell me ---

24 A Okay, 45, if it was 45 minutes.

25 THE COURT: Wait, wait, one at a time. We're getting

1 where we're stepping on each other.

2 Q Did you, do you have something to say?

3 A It don't matter. You'll cut me off anyway. Go ahead.

4 Q I'll go. Didn't you tell this jury 40 to 45 minutes
5 earlier today and recently when I was asking you questions
6 change it to less than 20.

7 A Approximately.

8 Q Is that a yes?

9 A Yes.

10 Q Now, you correct me if I'm wrong, isn't it easier to go
11 from Summerville to Georgetown back to Summerville than it is
12 to go to Georgetown, Summerville, Georgetown, Summerville.

13 A Yes, sir.

14 Q All right, so, by the way, it was -- you knew what boxes
15 she had because you all moved them from wherever it was,
16 Ladson or BB Smith's to the small house; correct?

17 A No, my grandmother moved them.

18 Q All right, take a box, you rip it open, you look inside
19 of it to see whose stuff it is and you re-tape it. You could
20 do that; right?

21 A Yes, sir.

22 Q You can handle that; right?

23 A Yes, sir.

24 Q All right, so, you could have taken all of her stuff.

25 A Right, that's ---

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1 Q Let me finish.

2 A All right.

3 Q All of her stuff down to Georgetown, she could have --
4 you initially could have looked through it and decided which
5 was hers and which wasn't, bring it to her, and say, "No,
6 nanna can keep this," and you could have toted that back
7 without going back and forth and back and forth; isn't that
8 true?

9 A No, sir.

10 Q But you didn't do that. You didn't do that.

11 A No, sir; no, sir, because I wanted to make sure she had
12 everything because after this I wasn't planning on talking to
13 her anymore.

14 Q Well, you took her from her house with tape on her
15 because you wanted her back, you wanted her.

16 A No, I didn't want her back. I wanted her -- to get her
17 out of my life.

18 Q Then just leave her there; right? You could have just
19 left her at the place.

20 A But then she would have still had to come back to my
21 house and get the things.

22 Q The arrangements were already made for Tuesday.

23 A I would have took off work.

24 Q You didn't even -- great, you wouldn't even had to have
25 been involved. You could have been out of there. She would

1 have been out of your life without you even seeing her; isn't
2 that true?

3 A But I had, no, I had to see what she was taking because
4 to see if she took something ---

5 Q Your nanna ---

6 THE COURT: Let him finish. Go ahead and finish your
7 Answer, Mr. Parker.

8 A I'm through, Judge. I'm through.

9 Q Your nanna would have been there, she got your back;
10 doesn't she?

11 A She don't, she don't know what's what.

12 Q Some of the stuff was given to nanna, that's what you
13 said.

14 A Right, she separated.

15 Q Some of her stuff was given to nanna.

16 A She separate it in boxes. She had nanna's stuff on one
17 side and hers on the other.

18 Q I see. So, the Tuesday deal didn't work out because you
19 thought she was going to rob you blind of your lousy clothes.
20 Is that what you're saying?

21 A No, sir.

22 Q You've got an excuse for everything; don't you?

23 A No, I just -- no -- I just don't follow on your questions
24 that's all.

25 Q By the way if you didn't want to have anything to do with

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1 her why in God's name did you call her, what did we say, over
2 140 times a day afterwards?

3 A Right because she called me and she had told me that
4 everything was going to be all right, we could get back
5 together.

6 Q Go ahead.

7 A She led me on.

8 Q Go ahead, take, take that statement, Exhibit Number One.
9 Take that there. Grab, grab it.

10 A I see it. I done looked at it.

11 Q I want you to show this jury right here and now the phone
12 calls that she made to you after you had kidnapped her. Show
13 us the phone calls that she made to you. Show us.

14 A There's not, there's not one.

15 Q Go ahead, show us. Take your time. Look at number one.
16 Please do, look at it.

17 A There's not one.

18 Q Not there; right?

19 A That's what I said, yes, sir.

20 Q And you didn't have -- wanted to have anymore to do with
21 her but you wrote her letters; correct?

22 A Because she kept leading me on. Do you know why I wrote
23 the letters? Do you know that?

24 Q Listen a minute, let me ask you something. Wasn't that
25 woman, Belinda standing right next to me at the bond hearing?

1 A No, she wasn't. She was not.

2 Q Isn't that a lie?

3 A No, that's not no lie. It was ---

4 Q What ---

5 A Let me tell you exactly who was in the bond hearing?

6 Q Yeah, go ahead, tell us.

7 A It was you, him and the three other people. I think her,

8 too. All three of you all and somebody else.

9 Q Her, too, who her?

10 A You, whatever her name is beside you, him.

11 Q This young lady here?

12 A Yes, sir. Him and then another lady.

13 Q Okay.

14 A And they were standing to the right and you was standing

15 to the left.

16 Q Okay, she didn't say anything at the bond hearing either;

17 right? Is that what you're going to say?

18 A Who, who didn't say anything?

19 Q Belinda didn't say anything.

20 A She wasn't there.

21 Q Okay.

22 A Oh, at the bond hearing in the court or you're talking

23 about when I was supposed to get bond when I first went in

24 front of the -- the first time I got bond in front of Judge

25 Dunn?