

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Larry B. Hyman, Jr., Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOHNNY LONGWORTH

APPELLANT

APPELLATE CASE NO. 2013-001648

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JULY 22 & 23, 2013	1
MOTION TO AMEND INDICTMENT	5
ADMISSION OF COMPETENCY EVALUATION REPORT	12
<u>NEIL V. BIGGERS HEARING</u>	
KYM BECKHAM (IN CAMERA)	16
MARK MCINTYRE (IN CAMERA)	33
MIKE GUTHINGER (IN CAMERA)	44
MOTION TO SUPPRESS IDENTIFICATION	54
MOTION TO SEQUESTER WITNESSES	58
VOIR DIRE	62
JURY SELECTION	72
OPENING STATEMENT BY MR. SPRATLIN	89
OPENING STATEMENT BY MS. KNOWLES	94
TESTIMONY	
KYM BECKHAM	97
MARK MCINTYRE	118
MIKE GUTHINGER	129
MOTION FOR DIRECTED VERDICT	135
COLLOQUY WITH MR. LONGWORTH ON THE RIGHT TO TESTIFY	136
CHARGE CONFERENCE	140

CLOSING ARGUMENT BY MR. SPRATLIN	144
CLOSING ARGUMENT BY MS. KNOWLES	151
CHARGE ON THE LAW	154
RENEWAL OF MOTION FOR DIRECTED VERDICT	165
VERDICT	166
MOTION FOR NEW TRIAL	168
SENTENCING	169
COURT'S EXHIBIT # 1 (MENTAL HEALTH EVALUATION).....	172
INDICTMENT AND SENTENCE SHEET	179
CERTIFICATE OF COUNSEL.....	182

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA) **TRANSCRIPT OF RECORD**
COUNTY OF HORRY) CASE NO: 2012-GS26-03641

B E F O R E: The Honorable Larry B. Hyman
July 22 & 23, 2013

STATE OF SOUTH CAROLINA

vs.

JOHNNY RAY LONGWORTH

APPEARANCES:

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Attorney for the State

Melinda Knowles, Assistant Public Defender
Attorney for the Defendant

Natalie Dahl, RPR
Court Reporter

I N D E X

	PAGE
Motion to Amend Indictment.....	5
Motion to Suppress Identification	
Kym Beckham	
Direct by Mr. Spratlin.....	16
Cross by Ms. Knowles.....	24
Examination by the Court.....	27
Officer Mark McIntyre	
Direct by Mr. Spratlin.....	33
Cross by Ms. Knowles.....	39
Officer Guthinger	
Direct by Mr. Spratlin.....	44
Cross by Ms. Knowles.....	48
Examination by the Court.....	53
Jury Voir Dire by the Court.....	62
Jury Selection.....	72
Opening statement by Mr. Spratlin.....	89
Opening statement by Ms. Knowles.....	94

I N D E X (CONTINUED)

1	
2	Kym Beckham
3	Direct Examination by Mr. Spratlin.....97
4	Cross-Examination by Ms. Knowles.....109
5	Redirect Examination by Mr. Spratlin.....116
6	Recross-Examination by Ms. Knowles.....117
7	
8	Officer Mark McIntyre
9	Direct Examination by Mr. Spratlin.....118
10	Cross-Examination by Ms. Knowles.....123
11	Redirect Examination by Mr. Spratlin.....126
12	Recross-Examination by Ms. Knowles.....128
13	
14	Officer Mike Guthinger
15	Direct Examination by Mr. Spratlin.....129
16	Cross-Examination by Ms. Knowles.....133
17	
18	Closing Argument by Mr. Spratlin.....144
19	Closing Argument by Ms. Knowles.....151
20	Jury Charge.....154
21	Jury Verdict.....166
22	Sentence of the Court.....169
23	Certificate of Reporter.....171
24	
25	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H I B I T S

COURT'S EXHIBITS

PAGE

Exhibit 1	6/6/2013 competency report	14
Exhibit 2	Jury charge	165

MOTION TO AMEND INDICTMENT
P R O C E E D I N G S

1
2 THE COURT: State of South Carolina,
3 plaintiff, versus Johnny Ray Longworth, Case No.
4 12HO1229, in the Court of General Sessions.
5 Make your motion. Where is your defendant?
6 Don't we need him in here?

7 MS. KNOWLES: Not really, not for this.

8 THE COURT: Well, let's have him in here
9 anyway.

10 (A brief recess was taken, and the
11 defendant is present.)

12 MR. SPRATLIN: Would it be more
13 appropriate if I made the motion to amend the
14 indictment on the record, and then we can hear
15 the motion?

16 THE COURT: Okay. Call it for trial,
17 okay.

18 MR. SPRATLIN: Yes, sir, Your Honor.
19 The State calls for trial the State of South
20 Carolina, County of Horry versus Johnny Ray
21 Longworth, Indictment 2012-GS26-03641. In that
22 indictment, Your Honor, the defendant is charged
23 with a count of assault and battery in the first
24 degree. The State at this time moves to amend
25 the indictment to the lesser included offense of

MOTION TO AMEND INDICTMENT

1 assault and battery in the second degree.

2 THE COURT: All right. Ms. Knowles.

3 MS. KNOWLES: Your Honor, the defense
4 would argue against that, obviously. I believe
5 that any amendment like that would be a
6 sufficient change, and I believe that he needs
7 to seek a new indictment in order to proceed
8 forward with the assault and battery second.

9 THE COURT: I look at the indictment
10 that we have and it alleges, essentially, the
11 requirements of the assault and battery in the
12 second degree. Assault and battery in the
13 second degree occurs when someone unlawfully
14 injures another person or offers or attempts to
15 injure another person with the present ability
16 to do so, and among other things, the act
17 involves non-consensual touching of the private
18 parts of the person, either under or above the
19 clothing.

20 The indictment says that the defendant
21 did, in this case, commit -- offered to commit
22 or attempted to commit an unlawful act or injury
23 with the present ability to do so to Kym
24 Beckham, and the act involved a non-consensual
25 touching of the private parts of the victim with

MOTION TO AMEND INDICTMENT

1 a lewd and lascivious intent, that would be
2 assault and battery in the first degree.

3 Statutorily, assault and battery in the
4 second degree is a lesser included offense which
5 generally allows an amendment. In this case,
6 the State is merely admitting the lewd and
7 lascivious intent element of burglary -- excuse
8 me, the assault and battery in the first degree,
9 and seeks to move forward only on a lesser
10 included offense, and that offense involves
11 exactly the same language, except the "lewd and
12 lascivious intent." I think that it puts the
13 defendant on notice. It is a fair amendment in
14 that the State has the ability to make that
15 amendment.

16 Now, I'll hear from you further.

17 MS. KNOWLES: Your Honor, if you are so
18 inclined to agree with the State, I ask that no
19 mention of the indictment be made, none,
20 whatsoever.

21 THE COURT: Well, I have to tell the
22 jury that he's been indicted. I'm not in the
23 practice, ever, of giving the indictment to the
24 jury. In fact, I tell the jury that an
25 indictment is nothing more than a document which

MOTION TO AMEND INDICTMENT

1 brings the case to court. It is not evidence,
2 not to be considered as evidence, it's not been
3 proven. I go through that litany every time I
4 try a criminal case.

5 The amendment, as I understand it, is
6 simply to amend it to assault and battery in the
7 second degree and to delete that portion of the
8 last sentence that says "with a lewd and
9 lascivious intent."

10 MS. KNOWLES: But, Your Honor, that is
11 my point. What we're going forward with, the
12 assault and battery second, is a generally
13 intent crime, whereas the assault and battery
14 first specifically requires lewd and lascivious
15 intent, completely different.

16 THE COURT: I understand that, but the
17 jury will not be told that that is required at
18 all.

19 MS. KNOWLES: I don't see how we can go
20 forward without being completely truthful to the
21 jury. It's misleading.

22 THE COURT: The jury -- I mean the Grand
23 Jury found all of the evidence of assault and
24 battery in the second degree, as well as assault
25 and battery in the first degree. The State has

MOTION TO AMEND INDICTMENT

1 chosen not to proceed on first degree, and that
2 relieves him of the responsibility of proving
3 that it was done with lewd and lascivious
4 intent.

5 MR. KNOWLES: This case is over a year
6 old.

7 THE COURT: I understand.

8 MS. KNOWLES: I don't understand why
9 we're waiting the morning of the trial to make a
10 determination that we want to proceed on a
11 lesser included offense. I mean, that is just
12 another note that I want to be made on the
13 record.

14 THE COURT: I understand.

15 MS. KNOWLES: It's very frustrating for
16 me to prepare for this case when I have done so
17 up to this point for assault and battery first,
18 and now we're changing the ball game entirely.

19 THE COURT: Well, if he didn't amend the
20 indictment, do you take the position that he
21 could not ask for a charge on a lesser included
22 offense during the trial.

23 MS. KNOWLES: No, sir, I don't. I think
24 that is appropriate if he chose to do that at
25 that stage.

MOTION TO AMEND INDICTMENT

1 THE COURT: What's the difference? What
2 is the difference?

3 MS. KNOWLES: The difference is -- I
4 mean, the difference is right to a fair trial,
5 and the fact that he's entitled to due process.

6 THE COURT: He's going to get that, and
7 he is put on notice that these are the acts that
8 the State complains of and that the State
9 intends to not proceed on the greater offense,
10 but only on the lesser included.

11 MS. KNOWLES: How is he put on notice
12 when that is not in that indictment?

13 THE COURT: All of the elements of the
14 lesser included are included in the indictment.

15 MS. KNOWLES: That's not specified in
16 that indictment.

17 THE COURT: If you were -- if the State
18 were to fail to prove lewd and lascivious
19 intent, the State would still be entitled to a
20 lesser included charge. Do you not agree?

21 MS. KNOWLES: He's making it sound like
22 that that was included within the indictment,
23 that he was put on notice of that fact, but
24 that's not the case.

25 THE COURT: But the Grand Jury had

MOTION TO AMEND INDICTMENT

1 defined all of those elements of second degree
2 assault and battery when it indicted him on this
3 charge. It went further than that. It went so
4 far as to find lewd and lascivious intent, but
5 the State is not going forward on it. In my
6 view, it is a benefit to your client.

7 MS. KNOWLES: If you could clarify, if
8 this is your decision, what you are going to
9 tell the jury so my client knows.

10 THE COURT: I'm going to say that he has
11 been indicted for assault and battery in the
12 second degree in that on March 13, 2012 he did
13 commit, offer to commit or attempt to commit an
14 unlawful act of injury with the present ability
15 to do so to Kym Beckham, and the act involved
16 the non-consensual touching of the private parts
17 of the victim, either above or under her
18 clothing.

19 MS. KNOWLES: The indictment is for
20 assault and battery first, not second.

21 THE COURT: I understand that, but he's
22 asking that it be amended.

23 MS. KNOWLES: So you are going to say
24 that he's been indicted for assault and battery
25 second, when he hasn't?

MOTION TO AMEND INDICTMENT

1 THE COURT: Yes. And I think the case
2 law clearly says that it may be indicted for a
3 lesser included offense. I don't think any of
4 us argue that it is not a lesser included
5 offense.

6 MS. KNOWLES: And I wouldn't be making
7 these arguments at that stage in the ball game,
8 I wouldn't be. I would let him make that
9 request, but we're at the outset of this, not at
10 the conclusion.

11 THE COURT: I understand. I believe
12 that the amendment is proper, and I'll allow the
13 amendment.

14 What else do we have that we need to
15 dispose of?

16 MR. SPRATLIN: There was a competency
17 evaluation ordered in this case by the Honorable
18 Carmen Mullins.

19 THE COURT: Bobby, can you find Heather
20 for me?

21 MR. SPRATLIN: The report -- order was
22 signed, Your Honor, back in the April term of
23 court. It was completed by Michael D. Gassen.
24 Statutorily, the report is admissible into
25 evidence, and I would like to present this to

BY THE COURT - COURT'S EXHIBIT '1

1 Your Honor. I believe Ms. Knowles was furnished
2 with a copy of this.

3 THE COURT: Ms. Knowles, based on your
4 prior conversations, you agree to the admission
5 or consent to the admission -- admission of the
6 report?

7 MS. KNOWLES: Your Honor, I consent and
8 he does not want any of that mentioned during
9 the trial, but pretrial, I have no issue.

10 THE COURT: Ms. Knowles, I note in the
11 report that the examiner, Dr. Michael Gassen, on
12 6/5/2013 made a finding and stated his opinion
13 that Mr. Longworth currently has legal capacity
14 to understand the proceedings against him and to
15 assist his attorney in his own defense. There
16 was a lengthy discussion of his ability to
17 assist in his defense, his current legal
18 situation and his ability to understand the
19 difference or the terminology that's often used
20 in the courtroom. The specific finding was, in
21 summary, Mr. Longworth demonstrated an
22 understanding of the vast majority of the
23 general, legal and case specific information we
24 discussed, and he displayed an ability to
25 readily learn and retain pertinent information

BY THE COURT - COURT'S EXHIBIT 1

1 he may be lacking. Additionally, he interacted
2 in a polite and appropriate manner throughout
3 the interview, and he displayed the ability and
4 the willingness to assist his attorney in his
5 own defense. As such, it is the opinion of the
6 examiner that he has the capacity to understand
7 the proceedings against him and to assist his
8 attorney in his own defense.

9 Ms. Knowles, do you contest those
10 findings? Is there anything that you are aware
11 of that would suggest that Mr. Longworth is not
12 competent to stand trial here?

13 MS. KNOWLES: No, Your Honor.

14 THE COURT: Today, does he appear to
15 have the capacity to understand the nature of
16 the proceedings against him and to assist his
17 attorney?

18 MS. KNOWLES: I believe that he can
19 assist me, and I believe that he understands.

20 THE COURT: Do you have any evidence
21 whatsoever that would contradict the findings of
22 the Department of Mental Health?

23 MS. KNOWLES: No, sir.

24 THE COURT: Let's make this a part of
25 the record.

BY THE COURT - COURT'S EXHIBIT 1

(Court's Exhibit 1 marked.)

MR. SPRATLIN: I believe there is one more matter, I believe defense attorney intends to make a motion under Neil v. Biggers to have the out-of-court identification suppressed. The State is prepared to go forward at this time for that motion.

MS. KNOWLES: I ask that we do this Neil versus Biggers hearing and continue this case until tomorrow morning so I can revamp my whole entire defense.

THE COURT: Well...

MR. KNOWLES: I had things I wanted to introduce, a PowerPoint that needs to be changed. I won't be able to do it in 15 minutes.

THE COURT: Ms. Knowles, in light of your vigorous opposition to my order of allowing the amendment of the indictment, I will -- and you tell me you need that time -- I will grant that motion.

MS. KNOWLES: Thank you, very much.

MR. SPRATLIN: Yes, Your Honor.

THE COURT: We'll do Biggers. All right.

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 MR. SPRATLIN. The State in regards to
2 the State of South Carolina, Horry County,
3 versus Johnny Ray Longworth in Indictment
4 2012-GS26-03641, a pretrial motion by the
5 defense regarding the suppression of the
6 out-of-court identification of the defendant by
7 the victim in this case --

8 THE COURT: It was a show-up type?

9 MR. SPRATLIN: It was a show-up
10 identification.

11 The State calls Ms. Kym Beckham. If you
12 will, come forward and please be sworn.

13 (KYM BECKHAM, was duly sworn and
14 testified as follows:)

15 THE CLERK: State your name and spell
16 your last.

17 MS. BECKHAM: Kym Beckham,
18 B-E-C-K-H-A-M.

19 DIRECT EXAMINATION

20 BY MR. SPRATLIN:

21 Q Good morning. How are you doing today?

22 A Fine.

23 Q I have a couple of questions. First off,
24 how old are you?

25 A 57.

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 Q 57 years old. I see you -- do you wear
2 glasses?

3 A (Deponent nods head.)

4 Q Do you have contacts in right now?

5 A No. I can't see.

6 Q I'm sorry?

7 A I'm just teasing.

8 Q Please answer the questions --

9 THE COURT: Do you use them normally, or
10 just for reading?

11 A Mainly for reading and driving.

12 Q (BY MR. SPRATLIN) Where do you work?

13 A I have a shop called Nest Consignments.

14 Q Where is that located at?

15 A On Broadway Street in old downtown.

16 Q What downtown is that?

17 A Myrtle Beach.

18 Q Were you working there back on March 13,
19 2012?

20 A Yes, sir.

21 Q Did you have a chance to come in contact
22 with the defendant that day?

23 A I did.

24 Q Would you tell the court how you became in
25 contact with the defendant?

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 A He walked into my shop and I greeted him
2 like anybody else, and he was asking me questions.

3 Q What kind of questions was he asking you?

4 A He started asking me questions about
5 historical buildings in Myrtle Beach, which
6 there's not, really, any.

7 Q What other questions did he ask you, if
8 any?

9 A I had a seed catalog, and he asked me if I
10 was a farmer.

11 Q Let me ask you, how was the defendant
12 dressed that day, if you recall?

13 A He had on long, neutral color pants, a Polo
14 type shirt with a logo and a ball cap on backwards
15 with sunglasses on top, in the front.

16 Q Was there anything covering his face or
17 obscuring your view of him?

18 A Nothing.

19 Q What time of day was this?

20 A 4:30 issue, 4:15, 4:30. I don't remember
21 exactly.

22 Q In the afternoon?

23 A Yes.

24 Q Was it daylight?

25 A Oh, yeah.

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 Q Is your store well lit?

2 A Very well.

3 Q Was there any reason you could not properly
4 observe the defendant on that day?

5 A No.

6 Q Or the individual that was in your store
7 that day?

8 A None, whatsoever.

9 Q How long, if you could, was the defendant
10 in your store?

11 A I want to say it was 15 minutes or so.

12 Q And was anybody else in the store at the
13 time the defendant was in there?

14 A No.

15 Q How far away was the defendant from you
16 when he was talking with you originally?

17 A Originally, he had walked into another room
18 in the shop. There's a lot of different rooms in
19 the building.

20 Q At some point, did he come closer to you?

21 A Yes.

22 Q When was that?

23 A He walked back into the room that is
24 straight across from my office, and I guess he was
25 probably about 4 or 5 feet away from me while we

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 were having a conversation.

2 Q What was that conversation about?

3 A Gardening, vegetables. He has lots of
4 experience, apparently, growing vegetables, and I
5 was getting ready to plant a garden and I was
6 asking him questions about tomatoes and butter
7 beans, that kind of stuff.

8 Q At some point, did the defendant become
9 even closer to you?

10 A Yeah. I was thinking that he needed to go.
11 He was in the shop too long. He was, obviously,
12 not a customer. I saw him look me up and down two
13 times, and then he approached me and that's when
14 he -- I don't know what changed talking about
15 tomatoes, but then the next thing I know he pushed
16 me up against the door frame in my office.

17 Q Where was his hands when he pushed you
18 against the door frame?

19 A He reached for my face. He put his left
20 hand on my face and his right hand right on my
21 left breast, and he was kind of acting like he was
22 trying to push me to kiss him. He was right in my
23 face.

24 Q So he was right in front of you?

25 A Yeah.

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 Q How long did that go on for?

2 A Not very long, because I immediately became
3 angry that he dared to touch me, and I shoved him
4 and I said no.

5 Q What happened when you shoved him and said
6 no?

7 A He said, No? And I said, No. You've got
8 to get out of here, and I started shoving him out
9 through the rest of the store.

10 Q Were you able to get him outside the store?

11 A I did.

12 Q Did you see what he did after you got him
13 outside of the store?

14 A Well, I had to go out with him because I
15 didn't have my phone or keys or anything, so I ran
16 into our tenant's shop next door, and he came out
17 and we witnessed him go around behind our
18 building, get on a bicycle and ride off.

19 Q What did you do after he rode off?

20 A I had to get his -- my attendant's wife to
21 dial 911 for me, I couldn't do it.

22 Q Did the police respond?

23 A Yes, they did.

24 Q When they responded, what did you tell them
25 about the defendant? Did you give them a

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 description?

2 A I did.

3 Q At some point, did the police ask you to
4 try to identify somebody?

5 A Yes, they did.

6 Q How long after the incident that you had
7 gotten the defendant out of your store, did they
8 ask you to identify somebody?

9 A Well, I'm told it was six minutes.

10 Q Do you remember, yourself, how long it was,
11 or the six minutes is about right?

12 A Yeah. Yeah. It was very, very fast. I
13 was grateful.

14 Q Okay. Now, where did -- how did you get
15 transported from the store -- let me back up. Did
16 they take you to where the individual was, or did
17 they bring him to you?

18 A No, they took me to where they had him.

19 Q How did they get you there?

20 A In a police car.

21 Q At any time, did you get out of the police
22 car?

23 A No.

24 Q When you approached, what did you see?

25 A I saw the defendant on a bicycle. He was

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 standing straddling his bicycle, and the other
2 officers were around him. I knew it was him from
3 down the road, but I was asked by the officer to
4 see his face, make a positive identification,
5 which I did.

6 Q So when you saw his face, you said that was
7 the person?

8 A Right.

9 Q How certain were you that that was the
10 person that was in your store?

11 A 100 percent.

12 Q Any chance at all you could be wrong?

13 A None.

14 Q Do you see that person here in the
15 courtroom today?

16 A Yes, I do.

17 Q Would you please point him out and identify
18 an article of clothing he's wearing.

19 A (Indicates.) White shirt.

20 MR. SPRATLIN: Please let the record
21 reflect the witness identified the defendant.

22 I believe that is all the questions I
23 have in regards to this matter.

24 THE COURT: Ms. Knowles.

25

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1

2

CROSS-EXAMINATION

3

BY MS. KNOWLES:

4

Q Ms. Beckham, how are you?

5

A Good. Thank you.

6

Q Now, you said that my client entered your

7

store and he was in there for approximately 15

8

minutes; this total incident lasted that long?

9

A Well, we had a long conversation, like I

10

said, about vegetable gardening. His family had

11

8.8 acres in Shalotte, North Carolina where they

12

grew vegetables.

13

Q So he just walked in and started conversing

14

with you? He didn't look around or anything?

15

A He was looking around the shop. There is a

16

whole lot of different rooms, so he went on

17

through the different rooms.

18

Q Yes, ma'am.

19

A And then he started asking me if -- when I

20

said, Can I help you, or whatever I said, he said,

21

Are there any historic buildings in Myrtle Beach,

22

and I said, No, there's not. He talked about how

23

pretty Charleston was. Then at some point I

24

walked into my office, and I had a Burpee Seed

25

catalog in my desk, and that is what I was working

KYM BECKHAM - CROSS-EXAMINATION BY MS. KNOWLES

1 on for my garden. He said, Are you a farmer, and
2 I said, No, we are just working on our vegetable
3 garden.

4 Q So this happened within your office, this
5 incident, alleged incident?

6 A I was standing in the doorway of my office.

7 Q And how long was he looking around before
8 you engaged in conversation?

9 A Probably four, five minutes, I'm guessing.

10 Q And how close would you say that the two of
11 you were whenever this alleged assault took place?

12 A He was in my face.

13 Q And so at no point -- how did the
14 conversation get to that?

15 A What?

16 Q If you were speaking about farming and
17 things, how did it get to that?

18 A I have no idea. Absolutely no idea. I saw
19 the minute when things changed with him, because
20 he looked me up and down two times and then he
21 lunged for me.

22 Q And this was all within the doorway of your
23 office?

24 A Right. Right.

25 Q Okay.

KYM BECKHAM - CROSS-EXAMINATION BY MS. KNOWLES

1 A Yeah. I mean, it was totally bizarre.

2 Q Okay. And did you immediately become
3 suspicious of him?

4 A Oh, my gosh, he was touching me right away,
5 so, I mean, I was pushing him away and -- no, but
6 I wasn't suspicious of him at all until I saw him
7 look me up and down. I was just thinking that he
8 needed to leave because he had been in there too
9 long.

10 Q And you had said there was no one else
11 there with you, no other employees?

12 A It is only me.

13 Q You said that you do wear glasses, right?

14 A I wear reading glasses and I wear them for
15 driving.

16 Q You said that you are 100 percent
17 certain --

18 A Absolutely.

19 Q Now, on the description you gave to
20 officers, do you remember what that description
21 was?

22 A Yeah. I told them that he was -- he wasn't
23 very tall, that he had a really dark tan, black
24 eyes. I'll never forget his eyes and what he was
25 wearing.

KYM BECKHAM - CROSS-EXAMINATION BY MS. KNOWLES

1 Q Do you remember giving an age?

2 A I did. I gave an age that was younger than
3 he actually turned out to be because of the
4 backwards cap and all of that.

5 Q And you said he was wearing light colored
6 clothing?

7 A Pretty neutral. I want to say his shirt
8 was kind of in the pale yellow beige family. It
9 was a button-up shirt and there was logo right
10 here.

11 Q Something you see a lot of people wearing?

12 A Right.

13 Q Nothing was unique about --

14 A No, absolutely not.

15 MS. KNOWLES: I have no further
16 questions.

17 THE COURT: Ms. Beckham, let me ask you
18 a couple of questions.

19 EXAMINATION

20 BY THE COURT:

21 Q I believe you said this person was in your
22 business for about 15 minutes?

23 A I'm guessing.

24 Q When he entered the business, where were
25 you?

KYM BECKHAM - EXAMINATION BY THE COURT

1 A I was in my office.

2 Q And as he walked around your shop, did you
3 leave your office?

4 A I did. I walked out.

5 Q Did you watch him during those first few
6 minutes?

7 A I did, because I didn't have any kind of
8 security system in place and I kind of have to
9 keep my eyes on everyone.

10 Q He was the only person in your business at
11 that time?

12 A Correct.

13 Q Anything to distract or divert your
14 attention from him?

15 A (Deponent nods head.)

16 Q You have to answer verbally because my
17 court reporter has to take your answer.

18 A No. No. Nothing.

19 Q Nothing. Okay. And he had been there how
20 long before he came over to your office to where
21 you were?

22 A I'm guessing four, five minutes.

23 Q And the rest of the time were you engaged
24 in a conversation with him?

25 A I was.

KYM BECKHAM - EXAMINATION BY THE COURT

1 Q Now, you described that conversation as
2 being from historic buildings in Charleston and
3 things of that nature, that went on for how long?

4 A The rest of the time. Really, honestly, a
5 year and months later, I can't remember how much
6 time it was. I can only guess.

7 Q Based on what you told me, I think you said
8 he walked around for about four, five minutes, and
9 the whole time was like 15 minutes. Is it
10 reasonable to --

11 A To say 10 minutes or so.

12 Q Ten minutes? All right. During that time,
13 were you having a face-to-face conversation with
14 him?

15 A He was standing across the room from me. I
16 was standing in the doorway of my office, and he
17 was standing outside in another room.

18 Q How far would that be from you?

19 A He was probably 4 or 5 feet away from me at
20 that point while we were conversing.

21 Q So you were 4 or 5 feet away?

22 A Yeah.

23 Q Not 30 or 40 feet, 4 or 5?

24 A Yeah.

25 Q Okay. And during the time that you had

KYM BECKHAM - EXAMINATION BY THE COURT

1 this conversation, was your attention on him?

2 Were you paying attention to him as you conversed
3 with him?

4 A Right. We were in a conversation.

5 Q Okay. And at some time, he approached you
6 closer?

7 A It was after he looked me up and down two
8 times is when he just came and got right in my
9 face and touched me.

10 Q So for that 10 minutes, you were from zero
11 contact space to 4 or 5 feet; is that correct?

12 A Yeah.

13 Q All right. And did you have an opportunity
14 to see his face?

15 A Absolutely.

16 Q You mentioned some sunglasses being on his
17 hat, did he ever put them on his face?

18 A No, sir.

19 Q And when the police came, how long did it
20 take them to come?

21 A It took them -- it was really fast. I'm
22 told it was six minutes. I would have said five.

23 Q For them to get to you?

24 A To get to me.

25 Q And then how much longer was --

KYM BECKHAM - EXAMINATION BY THE COURT

1 A No, excuse me. They got to me quicker. It
2 was -- I honestly cannot remember.

3 Q How long was it from when this incident
4 occurred until you were taken to where he was?

5 A Six minutes.

6 Q Six minutes, okay. So you saw him again in
7 about six minutes?

8 A Correct.

9 Q And had you given the police a description
10 of him?

11 A Yes, I did.

12 Q And what did you tell them?

13 A I told them that he had a suntan like he
14 had been outside a lot, and I told them what he
15 was wearing and the color of his eyes.

16 Q Did you tell them about the bicycle?

17 A Right. Yeah.

18 Q And how far away from your shop was it that
19 they had the defendant stopped?

20 A A matter of blocks, within walking
21 distance.

22 Q A few blocks, okay. Now, when you saw him
23 at the point of arrest, was he wearing the same
24 clothing that you described?

25 A Yes, sir. He was.

KYM BECKHAM - EXAMINATION BY THE COURT

1 Q Was there anything different about his
2 appearance that you would change if you had to
3 describe him again?

4 A Nothing.

5 Q Were you absolutely certain that you had
6 accurately described him?

7 A Yes, sir.

8 Q And when you saw him, what was your level
9 of certainty as to this being the person you
10 encountered?

11 A 100 percent.

12 Q You were 100 percent sure?

13 A Yes.

14 Q And it was a matter of only six minutes or
15 so. And I believe you said that this -- this
16 identification that you were asked to do was a
17 block or some blocks from your shop, walking
18 distance?

19 A Yes, sir, it was.

20 Q Was it more than ten, or less than ten?

21 A Oh, definitely less than ten.

22 Q Was your recollection of the person you had
23 seen in your shop still fresh, your memory still
24 fresh at the time you saw him?

25 A Just a matter of minutes later, yes, sir,

KYM BECKHAM - EXAMINATION BY THE COURT

1 it was.

2 THE COURT: I don't have any further
3 questions for her.

4 MR. SPRATLIN: None from the State.
5 State has two more witnesses.

6 THE COURT: You may step down.

7 MR. SPRATLIN: State calls Officer Mark
8 McIntyre to the stand.

9 (MARK McINTYRE, having been duly sworn,
10 testified as follows:)

11 THE CLERK: State your full name and
12 spell your last name

13 MR. McINTYRE: Mark McIntyre,
14 M-C-I-N-T-Y-R-E.

15 DIRECT-EXAMINATION

16 BY MR. SPRATLIN:

17 Q Where do you work?

18 A City of Myrtle Beach Police Department.

19 Q How long have you been working at Myrtle
20 Beach Police Department?

21 A A little over two-and-a-half years?

22 Q What is your current job there?

23 A Police patrol officer.

24 Q How long have you been in that position?

25 A Two-and-a-half years I've been employed.

MARK MCINTYRE - DIRECT EXAMINATION BY MR. SPRATLIN

1 Q So were you in that position back on
2 March 13, 2012?

3 A I was.

4 Q Were you on duty that day, if you recall?

5 A Yes, sir, I was.

6 Q Did you have a chance to respond to the
7 Nest shop on Broadway Street in Myrtle Beach?

8 A I did.

9 Q What was that in regards to?

10 A To an assault that just occurred, and I
11 responded to that call.

12 Q When you got there, who, if anyone did, you
13 come in contact with?

14 A Came in contact with Ms. Beckham. She was
15 inside of her shop, and she was upset at the time
16 I arrived.

17 Q Was she able to communicate with you?

18 A Yes, she did.

19 Q What did she communicate with you in
20 regards to who the assailant was that assaulted
21 her?

22 A She told me that she was assaulted and the
23 guy grabbed her inappropriately. She described
24 him as being a white male, late 30s to early 40s.
25 She said he was wearing light colored pants and

MARK McINTYRE - DIRECT EXAMINATION BY MR. SPRATLIN
1 Polo type of shirt. She described it far enough
2 to say that the Polo shirt had a logo on it, on
3 the pocket area, but she couldn't tell what the
4 logo was. She said he was wearing a baseball hat
5 turned around backwards with sunglasses on top,
6 and he had a dark tan like he worked outside. She
7 said she last saw him riding a bicycle away from
8 the area going towards Third Avenue South.

9 Q Armed with that information, what did you
10 do?

11 A Okay. I broadcasted it out to the
12 surrounding officers to be on the lookout for that
13 person.

14 Q Did you have a chance to make an
15 identification of that person?

16 A Yes. I put -- I responded to the call, a
17 few minutes later I got the description and called
18 it out, and few minutes later I got a call from
19 Corporal Guthinger that he had just stopped a
20 person who matched the description a few blocks
21 away.

22 Q Do you recall or how long it was from the
23 time you responded to the call until you got the
24 information that someone had been detained?

25 A It was approximately six minutes.

MARK McINTYRE - DIRECT EXAMINATION BY MR. SPRATLIN

1 Q Now, when Corporal Guthinger called and
2 said he had someone that matched that description,
3 what did you do?

4 A Asked the victim if she could identify or
5 recognize the person who committed the crime, and
6 she said yes. He stood by with the person he had
7 stopped, and I put her in my police car and drove
8 her to the location to do a driveby so she could
9 identify the person or not.

10 Q And how far away was this individual being
11 detained from the store where you were at?

12 A Approximately three blocks down, and one
13 block over.

14 Q So about four blocks, total?

15 A Yeah.

16 Q How long did it take you to drive there in
17 your car?

18 A 45 seconds maybe.

19 Q Okay. Let me ask you, when you approached,
20 what did you observe personally?

21 A I observed Corporal Guthinger, another
22 Myrtle Beach officer and the defendant standing
23 with the bicycle. They were kind of standing on
24 both sides of him, and he was straddling his
25 bicycle and standing next to them as we drove up.

MARK MCINTYRE - DIRECT EXAMINATION BY MR. SPRATLIN

1 Q How closely did that individual on the
2 bicycle match the description given by Ms.
3 Beckham?

4 A He had on the clothing she described, the
5 hat was on backwards, sunglasses, everything.

6 Q Where was Ms. Beckham at this point in
7 time?

8 A In the police car with me.

9 Q At any point, did she leave your presence?

10 A No. She stayed.

11 Q Did you or any other officer tell her to
12 identify that as being the assailant?

13 A No.

14 Q Now, when you saw the individual or drove
15 towards where the individual was, did Ms. Beckham
16 make an identification of the individual?

17 A As we started getting close, as we could
18 see the individual, she said, That's him. I said,
19 Let's get closer and take a look at his face so
20 you can get a real good look at him. So we rode
21 up right next to him, and I kind of slowed up
22 almost to a stop as we went by, she looked and
23 said, Yeah, that's definitely him.

24 Q In your opinion, did she have any sort of
25 hesitation in making that identification?

MARK McINTYRE - DIRECT EXAMINATION BY MR. SPRATLIN

1 A No, sir.

2 Q Did she do anything at all that led you to
3 believe that she was uncertain in that
4 identification?

5 A No, sir.

6 Q Let me ask you, Officer McIntyre, if that
7 had not been the individual or she was unable to
8 identify that person, would you and other officers
9 continue to search?

10 A Yes.

11 Q And if that was not the individual or Ms.
12 Beckham had not been able to identify that person
13 as being the individual, would that individual
14 have been released?

15 A Yes.

16 Q To your knowledge?

17 A Yes.

18 Q Again, Ms. Beckham was in the back of your
19 police car?

20 A Yes.

21 Q And you were in her presence the entire
22 time?

23 A Yes, sir.

24 MR. SPRATLIN: Thank you, Officer. That
25 is all I have right now. Answer any questions

MARK McINTYRE - DIRECT EXAMINATION BY MR. SPRATLIN

1 Ms. Knowles may have.

2 THE COURT: Ms. Knowles.

3 CROSS-EXAMINATION

4 BY MS. KNOWLES:

5 Q Officer McIntyre, at the time that you
6 received this call, that the call was dispatched,
7 what were you doing?

8 A On normal patrol in town.

9 Q And where were you at in location to this
10 store?

11 A I believe I was over on Third Avenue South,
12 where by Broadway Street and Highway 15 and Third
13 Avenue South come together.

14 Q And this business was located where?

15 A I believe it is 516 Broadway Street -- yes,
16 516 Broadway Street.

17 Q What is the distance between those two
18 locations?

19 A Where I was at when the call came out?
20 Probably six, seven blocks down Broadway Street.

21 Q And you indicated that you responded to the
22 location where the alleged assault took place?

23 A Yes.

24 Q And you spoke with Ms. Beckham?

25 A Yes.

MARK McINTYRE - CROSS-EXAMINATION BY MS. KNOWLES

1 Q And she gave you a description of the
2 suspect?

3 A Yes.

4 Q And what was that description that she gave
5 you in specifics? I need you to be very detailed.

6 A I'm going off my report because I wrote it
7 exactly as she told me. She described him as a
8 white male that appeared to be in his late 30s,
9 early 40s. He was wearing light colored pants and
10 a tan Polo type shirt. She advised that it has a
11 logo on the left chest area, but does not know
12 what the logo was of. She said he was wearing a
13 tan baseball cap backwards and sunglasses on top
14 of the hat. She said he was about my height,
15 which is 5'9". She said he had a tan like he's
16 been working outside, and he has very dark brown
17 eyes. That is what she described him as.

18 Q Do you recall what my client was wearing
19 the day that he was arrested for this?

20 A I believe he was wearing khaki pants. I
21 mean, I know he was wearing a Polo type golf
22 shirt.

23 Q You believe?

24 A I didn't actually encounter him that day.
25 I rode by with her, and then another officer

MARK MCINTYRE - CROSS-EXAMINATION BY MS. KNOWLES
1 transferred him to the jail and everything. So I
2 saw him for just a brief 15 seconds that we rode
3 by him there. Because after the identification, I
4 went back to the store and had to do all of the
5 paperwork with the victim and all of the report
6 stuff, and the other officers took him to jail and
7 stuff.

8 Q So you viewed him for about 15 seconds, you
9 said?

10 A Yes, ma'am.

11 Q But you said that you felt -- told Mr.
12 Spratlin that my client matched the description
13 that had been given to you, correct?

14 A From a distance, he had the hat turned on
15 backwards, I believe he was wearing khaki colored
16 pants. He was wearing a golf shirt with a logo,
17 and he was on bicycle that she had described. So
18 when riding up to him, I was like, Well, that
19 looks like who she described. I mean, that is
20 what I thought to myself.

21 Q But you don't recall what he was wearing?

22 A I know it was khaki pants and Polo shirt
23 and hat turned backwards with sunglasses on it.

24 Q Okay. Now, was my client, Mr. Longworth,
25 the only person that was stopped and detained for

MARK MCINTYRE - CROSS-EXAMINATION BY MS. KNOWLES
1 suspicion of committing this crime?

2 A Yeah.

3 Q Would you say that the description that was
4 given could fit a number of people within the
5 community?

6 A I guess it could fit anybody that was
7 wearing that type of clothing, you know, that was
8 approximately 5'9", white male, but, I mean...

9 Q You would agree tan shorts -- what was it,
10 a white shirt?

11 A Khaki white pants and a tan shirt.

12 Q Numerous people wear that type of attire?
13 There was nothing that stood out with the
14 description that was given, was there, that was
15 unique?

16 A Other than the specifics. He was wearing
17 the light color pants, golf type of shirt with the
18 logo, hat turned around backwards with the
19 sunglasses and he was three blocks away from where
20 the crime took place.

21 Q So he had that very same hat on,
22 sunglasses, everything whenever he was stopped?

23 A Yes.

24 Q But you did say that your encounter with
25 him was only 15 seconds or so?

MARK MCINTYRE - CROSS-EXAMINATION BY MS. KNOWLES

1 A The amount of time to take me to turn the
2 corner, drive up, see him stopped with the
3 bicycle, and then we rode by and then we rode off.
4 So I spent a total of maybe 10, 15 seconds looking
5 at him while I had her in the car. I took her
6 back to the business and we continued the rest of
7 the information for the report.

8 Q Was she visibly shaking, upset?

9 A Yes. Yes. When I arrived at the store,
10 she was very upset.

11 Q Now, this is my last question, and probably
12 the most important one. You had indicated that
13 you took her to the site where he had been stopped
14 for the identification?

15 A Yes.

16 Q And she told you, That's him, that's him,
17 before she could even see his face; is that right?

18 A As we were going down the street, we got
19 close to him. As we got close, she said, That's
20 him. I said, Well, let's get right to him so we
21 can get a good look at his face so, you know -- to
22 make sure that she definitely saw his face and got
23 a good look so she didn't identify the wrong
24 person. When we got to where he was, I slowed to
25 almost a stop and she looked and said, Yes,

1 MARK MCINTYRE - CROSS-EXAMINATION BY MS. KNOWLES
2 definitely.

3 MS. KNOWLES: No further questions.

4 Thank you.

5 THE COURT: You may step down. Thank
6 you.

7 MR. SPRATLIN: Lastly, the State calls
8 Officer Mike Guthinger to the stand.

9 (MIKE GUTHINGER, having been duly sworn,
10 testified as follows:)

11 THE CLERK: State your full name and
12 spell your last.

13 MR. GUTHINGER: Mike Guthinger,
14 G-U-T-H-I-N-G-E-R.

15 DIRECT-EXAMINATION

16 BY MR. SPRATLIN:

17 Q This may be an obvious question, where do
18 you work?

19 A City of Myrtle Beach Police Department.

20 Q How long have you been working there?

21 A 14 years.

22 Q What is your current position at the Myrtle
23 Beach Police Department?

24 A Administrative sergeant in training.

25 Q How long have you been in that position?

A Almost a year.

MIKE GUTHINGER - DIRECT BY MR. SPRATLIN

1 Q What position were you in back on March 13,
2 2012?

3 A Patrol supervisor assigned to the beach
4 patrol unit.

5 Q What are the duties of a patrol supervisor?

6 A I have a shift that I'm in charge of. I
7 supervise that area and then being on a beach
8 patrol. I usually stay on the beach area unless
9 there is a call that comes out and I am in the
10 area, I go to that area.

11 Q That day, did you have a chance to respond
12 or be involved in a case of an assault at the Nest
13 Consignment store on Broadway?

14 A Yes, I did.

15 Q What was your involvement with that?

16 A When I heard the call come out, I was in
17 the area over by 3rd south by the beach. I went
18 over a few blocks in that area, the "Town Area,"
19 as we refer to it as.

20 Q What did you do once you got there?

21 A I started checking the streets in the
22 immediate area for a suspect, and I had been given
23 a description on the radio.

24 Q Do you remember who gave you that
25 description?

MIKE GUTHINGER - DIRECT BY MR. SPRATLIN

1 A Officer McIntyre.

2 Q Do you recall exactly the details of that
3 description, or just the general?

4 A Kind of a general. You get details as I'm
5 driving, and I don't write them down or anything.

6 Q Did you have a chance to stop someone?

7 A Yes, I did.

8 Q Do you see the person here in court who you
9 stopped?

10 A Yes, I do.

11 Q Would you point him out and identify an
12 article of clothing?

13 A He's wearing a white shirt (indicates).

14 MR. SPRATLIN: Please let the record
15 reflect the witness has identified the
16 defendant.

17 Q (BY MR. SPRATLIN) : That day, how closely did
18 the defendant match the description given to you?

19 A I matched it really good.

20 Q Was he riding a bicycle?

21 A He was riding a bicycle, had the khaki type
22 of pants on, golf shirt, logo on his chest, hat,
23 sunglasses, hat on backwards, speaking with two, I
24 guess, juveniles.

25 Q Was there anything about him that you

MIKE GUTHINGER - DIRECT BY MR. SPRATLIN

1 recall that did not match the description given?

2 A No.

3 Q What did you do when you saw the defendant?

4 A I approached a group that was there. The
5 defendant matched the description, so I wanted to
6 talk to him. I explained that I was investigating
7 an incident that occurred, and I asked him for ID.
8 I asked everybody in the group what they were
9 doing, and they said they were discussing, I
10 think, religion things or talking about a church
11 or something they were a part of.

12 Q What, if anything, did you do to confirm
13 that the defendant was, in fact, the suspect?

14 A I called out that I was out to look for a
15 person here. I obtained his ID. Normally I would
16 run it through NCIC and locals when I have contact
17 with somebody. I stood by with him and notified
18 the other officers I had someone that might fit
19 the description.

20 Q Was any sort of identification done?

21 A Yes. They brought the victim to the scene.

22 Q And if you know, was she able to identify
23 him?

24 A Yes, she was able to.

25 Q And was he arrested at that point?

MIKE GUTHINGER - DIRECT BY MR. SPRATLIN

1 A Yes, he was arrested.

2 Q Back when he was standing with the bicycle
3 before the identification occurred, was he
4 handcuffed?

5 A No, he was not.

6 Q Was there anything -- did you or anyone in
7 your presence do anything that would insinuated to
8 the victim to identify that individual?

9 A No, we did not.

10 Q Did you come in contact with anyone else in
11 that area that matched the description given
12 besides the defendant?

13 A No. Those were the first people I ran
14 into, and the only one on a bicycle that I saw.

15 MR. SPRATLIN: Thank you, Officer
16 Guthinger. Please answer any questions
17 Ms. Knowles may have.

18 CROSS-EXAMINATION

19 BY MS. KNOWLES:

20 Q Officer, what had you been doing before
21 this call came in and you responded?

22 A Probably on the beach. I was over in that
23 area, either on Ocean Boulevard or in part of the
24 beach in that area.

25 Q Do you recall where you were at in location

MIKE GUTHINGER - CROSS BY MS. KNOWLES

1 to where the suspect was stopped, my client?

2 A I came from the area of Third Avenue South
3 and Ocean Boulevard, went down Third Avenue South,
4 headed west to Highway 15, which is a couple
5 blocks away, and worked my way back towards Oak
6 Street, trying to do a circular or zig-zag
7 pattern.

8 Q So you were on Oak Street whenever the call
9 came in?

10 A I was on Ocean Boulevard when the call
11 first came out, which is about, you know, a half
12 mile or so from Oak Street.

13 Q And you said that you felt as if my client
14 matched the description that was given for the
15 suspect in this case, correct?

16 A Yes.

17 Q And you indicated that you felt like he
18 matched that description really good?

19 A Yes.

20 Q How so?

21 A He was riding a bicycle. He had on a pair
22 of long pants. When they said it was tan or khaki
23 color pants, I always think of like a Docker type
24 of pants that he was wearing. He had a golf shirt
25 with a logo definitely on the left side, hat on

MIKE GUTHINGER - CROSS BY MS. KNOWLES

1 backwards, sunglasses on top of the hat. He was
2 on a bicycle.

3 Q But there are many people that ride bikes,
4 correct?

5 A Yes.

6 Q And there are many people -- I mean, this
7 was peak golf season whenever this happened,
8 wouldn't you say?

9 A Yeah.

10 Q March or April?

11 A In March, yes.

12 Q And so his attire was probably very common
13 place and something you would see on several
14 people?

15 A I mean, that's possible.

16 Q Now, there was some mention of you speaking
17 with some Mormon missionaries, tell me about that
18 conversation.

19 A When I went over towards Highway 15, which
20 is Broadway, runs into Broadway, the same street.
21 I went west and drove back east, and that was the
22 first group I approached. I didn't see anybody
23 else out on the road. I didn't see anybody else
24 on a bicycle. He was standing there and he was
25 speaking with two younger kids. They kind of had

MIKE GUTHINGER - CROSS BY MS. KNOWLES

1 white dress shirts on, a tie, neat, clean cut. I
2 stopped the group there. I started to, you know,
3 ask questions on what everybody is doing, coming
4 from, general questions to get the feel of what
5 was going on.

6 Q And what did you learn from them?

7 A Well, from them, that he just came up to
8 them and started talking to them.

9 Q Did they tell you how long that their
10 conversation lasted?

11 A He said a couple of minutes.

12 Q A couple of minutes. But based upon the
13 description that you told them, which was the
14 description you had been given, you felt that
15 Mr. Longworth was most likely the suspect in this
16 case?

17 A He was in the area there and I kind of
18 figured if he was on a bicycle, it would take him
19 about that long to a couple minutes to get where
20 he was at.

21 Q Okay. Were you actually present when the
22 -- Ms. Beckham made the identification?

23 A She was in the patrol car, but I was
24 standing next to the defendant.

25 Q So you can't be sure how certain she was?

MIKE GUTHINGER - CROSS BY MS. KNOWLES

1 A No. I couldn't even see her in the car.

2 We do that as a safety thing there.

3 Q Okay. And what was my client wearing
4 whenever you took him into custody?

5 A Same clothes I stopped him on. He had long
6 pants, light color pants, golf shirt, logo, hat,
7 sunglasses and we transported his bicycle to the
8 police department also.

9 MS. KNOWLES: Let me make sure I don't
10 have anything else.

11 (A brief pause in the proceedings.)

12 Q (BY MS. KNOWLES) : Were you responsible for
13 taking what he was wearing into, I guess, custody
14 and putting it into evidence, or whatever you do
15 with it?

16 A No. I was not the transport officer. I
17 stood by with the bicycle. I think he had like a
18 bag or something with that bicycle, I'm not sure,
19 and that was picked up by a police cadet and taken
20 to the station.

21 Q But as far as the articles of clothing,
22 specifically the sunglasses and the hat, do you
23 recall what happened with that?

24 A No.

25 MS. KNOWLES: I have no further

MIKE GUTHINGER - CROSS BY MS. KNOWLES
1 questions.

2 THE COURT: Is it Officer Guthinger?

3 MR. GUTHINGER: Yes.

4 THE COURT: I have a few questions.

5 EXAMINATION

6 BY THE COURT:

7 Q When you were standing with him, I gather
8 from your testimony that when the officer arrived
9 with Ms. Beckham, you were just still standing by
10 the road?

11 A Yes, we're on the side of the road.

12 Q He was not in your car?

13 A No, he was not.

14 Q He was still with the bicycle?

15 A Yeah. I left him straddling his bicycle.

16 Q Was he handcuffed?

17 A No, he was not.

18 Q He did not give the appearance of being
19 under arrest or anything of that nature?

20 A No.

21 Q Okay.

22 MR. SPRATLIN: Nothing further from the
23 State, Your Honor.

24 THE COURT: You may step down. Thank
25 you.

STATE RESTS - ARGUMENT ON MOTION

1 MR. SPRATLIN: I didn't know if

2 Ms. Knowles would call --

3 THE COURT: Is that the State's...

4 MR. SPRATLIN: That's the State's case.

5 The State rests in regards to this motion.

6 MS. KNOWLES: Your Honor, we have
7 nothing further at this time. We would make a
8 motion to suppress the identification based upon
9 the fact that we believe it was unreliable given
10 the time frame that took place, the description
11 that was given was very general, it could have
12 matched several people within the area. We are
13 a golf community, this was golf season and, Your
14 Honor, the victim admitted my client being in
15 several areas of the store and her attention not
16 being focused on him entirely. She says that
17 for 15 minutes total was the total encounter,
18 and we would just ask that you suppress the
19 identification in this matter.

20 THE COURT: State.

21 MR. SPRATLIN: The State asks that you
22 allow it. The State would rely specifically on
23 Neil v. Biggers, which is a U.S. Supreme Court
24 case. Also, the state case of State of South
25 Carolina versus Anthony Jerome Brown, 356 S.C

STATE RESTS - ARGUMENT ON MOTION

1 496, which states in relevant portions that
2 while show-up identifications are generally
3 disfavored and are suggestive in nature, they
4 are appropriate and sometimes necessary. In
5 fact, the State specifically has to show that
6 the show-up occurred shortly after the alleged
7 time crime occurs, near the scene of the crime
8 while the witness' mind is still fresh, the
9 suspect did not have time to alter his looks or
10 dispose of evidence. The show-up may expedite
11 the release of an innocent suspect and enable
12 the police to determine whether to continue
13 searching.

14 In this case, Your Honor, we have all of
15 those. The show-up identification occurred
16 clearly within -- from all the testimony, I
17 think the Court can determine it occurred
18 anywhere from 10 to 15 minutes after the
19 incident occurred. It was near the scene of the
20 crime, about four blocks away according to the
21 testimony of Officer McIntyre. The victim's
22 memory was still fresh. She testified that this
23 all had just happened within 10 minutes or so
24 beforehand. The suspect did not have time to
25 alter his looks. According to Officer

STATE RESTS - ARGUMENT ON MOTION

1 Guthinger, he matched the description perfectly
2 according to Officer McIntyre and according to
3 the victim. Had the suspect not been
4 identified, he would have been released from
5 custody, thus allowing an innocent person to be
6 released from custody and allowed the police to
7 know whether to continue searching for the
8 suspect. The case of Brown also states that the
9 closer in time and place to the scene of the
10 crime the less objectionable a show-up is. In
11 this case, it was almost immediately after the
12 offense and within four blocks. So the State
13 would ask that it would be reliable as a
14 reliable pretrial identification.

15 THE COURT: I'm aware of the fact that
16 our courts have in the past disfavored show-up
17 identifications; however, those identifications
18 can be reliable and admissible under the total
19 -- if under the totality of the circumstances
20 the identification is so reliable that no
21 substantial likelihood of misidentification
22 exists. Neil V. Biggers is instructive. It
23 sets forth the factors that should be considered
24 by the Court, such as the witness' opportunity
25 to view the defendant at the time of the alleged

STATE RESTS - ARGUMENT ON MOTION

1 offense. In this case, she says her store was
2 empty, her attention was on the defendant, that
3 he was there for some 15 minutes, and she
4 engaged in a face-to-face conversation with him
5 that lasted 9 to 10 minutes, and, certainly,
6 that also goes to the attention that she paid to
7 the defendant. She gave a prior description of
8 the defendant, that description, according to
9 the officers who have testified, was consistent
10 with the appearance of the defendant when he was
11 placed under arrest, or when the subsequent
12 identification occurred.

13 She tells me that she was 100 percent
14 certain of the identification at the
15 confrontation, and that only a short period of
16 time passed from the time of the alleged offense
17 and the time of the confrontation. I think I
18 heard it was around six minutes. These kinds of
19 show-ups are proper where it occurs shortly
20 after the offense and near the offense. I think
21 it was only four blocks away. The witness tells
22 me that her memory was still very fresh, and
23 there's no evidence that this defendant had any
24 opportunity to change his appearance or had
25 changed his appearance recently.

MOTION TO SEQUESTER WITNESSES

1 Also, I have considered the fact that
2 this type of identification would have allowed
3 the police to discontinue their search and to
4 expedite the release of any innocent suspects,
5 so I will allow the identification.

6 MR. SPRATLIN: Thank you, Your Honor.
7 Nothing further from the State in regards to the
8 pretrial motions.

9 THE COURT: Any other motion?

10 MS. KNOWLES: The only other motion I
11 would make is to sequester the witnesses in this
12 matter.

13 THE COURT: I will hear from the State.

14 MR. SPRATLIN: The State would ask to
15 allow the victim to stay in here under the
16 Victim's Bill of Rights, as well as the
17 investigating officer that the State would
18 identify as Officer McIntyre.

19 THE COURT: Very well. Of course the
20 defendant has -- do you have an investigator
21 involved in this?

22 MS. KNOWLES: My office?

23 THE COURT: Yes.

24 MS. KNOWLES: We have an investigator,
25 but not in regard to this.

MOTION TO SEQUESTER WITNESSES

1 THE COURT: Not used in this case? You
2 won't need his assistance then?

3 MS. KNOWLES: No, sir.

4 THE COURT: Okay. All right. Then I
5 will order that the witnesses be sequestered.
6 Do you want to go ahead and select the jury this
7 afternoon?

8 MR. SPRATLIN: We leave that to the
9 discretion of the Court. The State is prepared
10 for jury selection.

11 MS. KNOWLES: Your Honor, that is up to
12 the Court's discretion.

13 THE COURT: Let's bring them in and do
14 that.

15 MR. SPRATLIN: The State asks for a
16 couple of moments to retrieve the jury
17 information.

18 THE COURT: All right. We'll take a
19 10-minute break.

20 MR. SPRATLIN: And it's my
21 understanding, Your Honor, from the earlier
22 motion, that following jury selection, the case
23 will be continued until the morning?

24 THE COURT: Until the morning.

25 (A brief recess was taken.)

JURY PANEL MEMBER EXCUSED

1 THE COURT: Your name is Roberta Bryan?

2 MS. BRYAN: Yes, sir.

3 THE COURT: It's been brought to my
4 attention that you have been excused from jury
5 service or continued several times because of
6 certain medical problems you have; is that
7 correct?

8 MS. BRYAN: Yes, sir.

9 THE COURT: Did you hear me earlier
10 today when I asked if anyone had any medical or
11 emotional problems they felt would prevent them
12 from providing efficient jury selection?

13 MS. BRYAN: Yes, sir. When the
14 gentleman asked me, I told him I might as well
15 do it because they are constantly going to send
16 me -- what you call it? I say I might as well
17 get it over with.

18 THE COURT: What do you mean?

19 MS. BRYAN: I mean serve the jury.

20 THE COURT: I can excuse you -- what
21 medical problems do you have?

22 MS. BRYAN: I have a spine cord injury
23 and blood clot issues.

24 THE COURT: Would that make it dangerous
25 for you to serve as a juror sitting for long

JURY PANEL MEMBER EXCUSED

1 periods of time? Could it aggravate your blood
2 clots?

3 MR. BRYAN: Well, I'm in a wheelchair
4 because I wasn't sure if I would get in trouble
5 because he didn't come out that particular
6 time -- well, I usually have my leg elevated.

7 THE COURT: Is that what you usually
8 have to do?

9 MS. BRYAN: Yes, sir, when I'm at work.

10 THE COURT: Do you feel like you need to
11 be excused because of your medical condition?
12 I'm not talking about continuing, I mean
13 excusing you?

14 MR. BRYAN: Yes, sir.

15 THE COURT: Is that what you think
16 should happen?

17 MR. BRYAN: Yes, sir.

18 THE COURT: Any objection from the
19 State?

20 MR. SPRATLIN: No.

21 MS. KNOWLES: No.

22 THE COURT: I'm excusing you. You are
23 excused from this jury panel. You don't have to
24 come back. Tony, can you make sure that the
25 clerk is aware of that?

JURY VOIR DIRE - BY THE COURT

1 (Recess taken from 1:39 p.m. to 1:55 p.m., and
2 the following was had in the presence of the
3 jury panel.)

VOIR DIRE

5 THE COURT: Good afternoon. It's good
6 to see you all again. As I told you this
7 morning, we're all in the second phase or now in
8 the second phase of the jury selection for the
9 case of State of South Carolina versus Johnny
10 Ray Longworth. As I explained to you, the
11 second phase is where we try to make sure that
12 none of you will have any reason for not serving
13 on this jury. The jury selection process is the
14 cornerstone of every trial. The most important
15 thing we do in a trial is making sure that we
16 select a fair and impartial jury. In that
17 regard, we want those who have no interest,
18 prejudice or bias at all concerning a particular
19 case.

20 As I told you a moment ago, this is the
21 case of the State versus Johnny Ray Longworth.
22 Mr. Longworth has been charged with the offense
23 of assault and battery in the second degree.
24 There was an indictment issued in this case.
25 Let me tell you that an indictment is not

JURY VOIR DIRE - BY THE COURT

1 evidence in a case. You will not even see the
2 indictment. The fact that a person may have
3 been arrested and indicted for an offense is not
4 evidence. It should not be considered by you in
5 any form or fashion. It does not create any
6 presumption at all concerning the defendant's
7 guilty or innocence in this matter. It is
8 merely a document by which a case is brought to
9 court. Something has to start the process, and
10 that's what an indictment is.

11 In this case, Mr. Longworth is indicted,
12 and it is alleged -- and, again, it is only
13 alleged at this point in time and the State has
14 the burden of proving all of the elements of
15 this offense to each of you who are seated in
16 this jury beyond a reasonable doubt. It is
17 alleged that on or about March 13, 2012 he did
18 commit or offered to commit or attempted to
19 commit an unlawful act or injury with the
20 present ability to do so to Kym Beckham, and the
21 act involved a non-consensual touching of the
22 private parts of Ms. Beckham. That is what the
23 State must prove to you, and that is what the
24 defendant is charged with in this particular
25 case.

JURY VOIR DIRE - BY THE COURT

1 As I said, what we want to do or are
2 going to try to do this afternoon is select a
3 jury. I told you to be here at 1:00, and it is
4 now 2 o'clock. We have been in here before noon
5 in the courtroom handling matters pertinent to
6 this courtroom. We haven't been here loafing
7 while you sat there in the jury room. We also
8 have other matters that have arisen that we have
9 to take care of this afternoon, so what I want
10 to do is select a jury, find out which of you
11 will be on this jury so that we can release the
12 balance of you, and you won't have to at least
13 come back to this jury tomorrow. The jury that
14 we will select will also be released, and you
15 will come back in this courtroom at 9:30 in the
16 morning while we continue to take care of
17 matters that have arisen in this particular
18 case.

19 Let me tell you about how we go about
20 selecting a jury on the criminal side of the
21 court. It's different from the way we would
22 select a jury if this were a civil case. If
23 this were a civil case, we have a very nice,
24 neat process we follow. We would bring you up
25 as a panel, your names would be placed in random

JURY VOIR DIRE - BY THE COURT

1 order on a sheet, very similar to this one, you
2 would all be given new numbers so you wouldn't
3 know who we were talking about, and the lawyers
4 would sit there and do their strikes from the
5 list using the new numbers so no one would even
6 know if they had been considered as a juror or
7 whether they had been struck. Isn't that a nice
8 way to do it?

9 But I'll tell you how we do it on a
10 criminal side. It is quite different. We
11 follow different customs and traditions here.
12 On the general sessions side, the names of the
13 jurors are called. Again, they are called at
14 random, and you are required to come forward and
15 stand in front of me. You turn around and face
16 the other jurors, and the attorneys and the
17 lawyers and the state's attorney, or the
18 prosecutor, you might hear him referred to as
19 the DA, and in South Carolina we refer to them
20 as solicitors. The solicitor goes first, and
21 the solicitor will say, Present the Juror, or he
22 may say, Strike the juror, or, Excuse the juror
23 on this case. If he says to excuse you, you get
24 to immediately return to your seat. If he says,
25 Present the juror, then the defense team has an

JURY VOIR DIRE - BY THE COURT

1 opportunity to either say, Swear the juror, or,
2 Excuse the juror on this case. If the defense
3 says, Swear the juror, then you come around and
4 have a seat in the jury box and you'll be on the
5 jury panel. If the defense says, Excuse a
6 juror, of course you are returned to your seat
7 and you will not be serving on that case.

8 Some people find that to be an
9 embarrassing situation. I mean, they get their
10 feelings hurt when they are struck from a case.
11 Now, I'm telling you that, and you are probably
12 sitting there saying, I hope I get struck, I
13 don't want to serve on a jury. But let me tell
14 you this: People who serve on juries tell me
15 afterwards that it was an enlightening and at
16 least an educational experience, an experience
17 that, overall, they may not have enjoyed, but
18 they appreciate the process once they have, in
19 fact, served. That's the feeling that we want
20 you to have. We want you to understand that
21 this is a system, one of the best systems under
22 the law anywhere in the world, and that it does,
23 in fact, work.

24 If you are struck, please don't have
25 your feelings hurt. Let me tell you about these

JURY VOIR DIRE - BY THE COURT

1 attorneys. When they start striking, they are
2 going to sit and make faces at each other,
3 writing down things and making notes and they
4 are going to look just like they know what they
5 are doing, but after practicing 30 years, I can
6 tell you they absolutely do not know what they
7 are doing. There is nothing harder than
8 selecting a jury. I told you how important it
9 is, but there is nothing more difficult than
10 that, because they don't know anything about
11 you. They know very little, that little
12 information that you had given the clerk of
13 court is all they have to go by.

14 Many times, and quite often, you may be
15 struck simply because they see a person down the
16 list who, for whatever reason, they feel may be
17 more sympathetic to their position in the trial,
18 and that is why you were struck. Please, don't
19 have your feelings hurt if you were struck. Our
20 objective is to find a fair and unbiased jury,
21 and if we have done that, we have served our
22 purpose.

23 In doing that, I'll ask you questions.
24 I told you a little bit about this case, that is
25 what is shown on the indictment. I want to ask

JURY VOIR DIRE - BY THE COURT

1 you some questions concerning your knowledge or
2 any information you may have about the case, so
3 I'll ask you if you would, please, stand and be
4 sworn in. There is a lot of swearing in being
5 selected as a juror. You were placed under oath
6 this morning, and you take another oath now and
7 then if you're selected to be on the jury, but
8 that is because it is so important that we have
9 correct information from you. Madam Clerk, if
10 you would.

11 (Whereupon, the jury panel was sworn.)

12 THE COURT: Was there any person who did
13 not take that oath?

14 Let the record reflect there was no
15 response to that question.

16 Listen carefully to the questions I have
17 for you. A moment ago, I told you that this was
18 the case of the State of South Carolina versus
19 Johnny Ray Longworth. Ms. Knowles, could you
20 have Mr. Longworth stand and turn around and
21 face the jury so they can see who he is? Thank
22 you, sir. Ms. Beckham, would you please stand
23 for us just a moment. Thank you, ma'am. As you
24 heard me read a moment ago. Ms. Beckham is the
25 alleged victim in this case. I'll ask you, have

JURY VOIR DIRE - BY THE COURT

1 any of you been related by blood or marriage or
2 have you ever had a close, personal or social
3 relationship with either the defendant,
4 Mr. Longworth, or with the alleged victim in
5 this case, Ms. Beckham? Is there anyone who had
6 a social or personal relationship with them or
7 been related by blood or marriage?

8 And there is no response.

9 I have a list of potential witnesses.
10 This may not be a complete list, there may be a
11 list of more people that will actually testify,
12 but I have a list of potential witnesses that
13 may testify in this case. Those witnesses would
14 be Ms. Beckham, Mr. -- Officer Mike Guthinger
15 with the Myrtle Beach Police Department and
16 Officer McIntyre with the Myrtle Beach Police
17 Department. Of course the defendant would have
18 the right to testify if he chose. Is anyone
19 related by blood or marriage or are you close
20 personal friends or do you have a social
21 relationship with any of these potential
22 witnesses?

23 And there is no response.

24 The attorneys in this case is Mr.
25 Spratlin, he is the solicitor. He works for

JURY VOIR DIRE - BY THE COURT

1 Jimmy Richardson, who is the solicitor for the
2 15th Judicial Circuit. He's been in this
3 court for several years, and he represents the
4 State exclusively in criminal matters.

5 At the defense table, we have
6 Ms. Melinda Knowles, and with Ms. Knowles is
7 Katie Owens. Ms. Knowles and Ms. Owens are both
8 with the 15th Judicial Circuit Public
9 Defender's Office. Their boss is Ms. Orrie
10 West, who is the public defender for the
11 15th Circuit. Both of these ladies have
12 worked for a number of years with the public
13 defender's office, and they exclusively defend
14 criminal matters in Horry County. Has anyone
15 ever been related by blood or marriage, or do
16 you have a close personal relationship or have
17 you ever been represented by any of these
18 attorneys?

19 And there is no response.

20 Has any member of this jury panel formed
21 or expressed an opinion about any issue or
22 matter involved in this case; that is, do you
23 know anything about this case? Have you
24 discussed it with anyone? Have you made any
25 statements concerning the issues involved in

JURY VOIR DIRE - BY THE COURT

1 this case? Do you know anything, anything at
2 all, about this particular case?

3 And there is no response.

4 Is any member of the jury panel aware of
5 any bias or prejudice towards either the State
6 or the defendant in this case?

7 And there is no response.

8 Is there any member of the jury panel
9 that was a member of the Grand Jury which issued
10 this indictment?

11 And there is no response.

12 Is there any member of the jury panel
13 who is a member of or a contributor to any group
14 which has as its primary concern promotion of
15 law enforcement or victim's rights, like MAD,
16 SAD, Citizens Against Violent Crime, things of
17 that nature?

18 And there is no response.

19 Finally, does any member of this jury
20 panel know of any reason, whatsoever, why he or
21 she should not serve as a juror in this case
22 with particular emphasis being placed on your
23 ability to be fair and impartial to both the
24 State and the defense?

25 And there is no response.

JURY SELECTION

1 Any additional questions?

2 MR. SPRATLIN: None for the State, Your
3 Honor.

4 MS. KNOWLES: None from the defense,
5 Your Honor.

6 THE COURT: Very well. Give us a juror.

7 THE CLERK: When I call your name and
8 juror number, if you will come to the front of
9 the courtroom, stand in front here on the little
10 square and face the back of the courtroom. Any
11 belongings you have, if you will bring those
12 with you.

13 Juror 146, Matthew Holt. What say the
14 State?

15 MR. SPRATLIN: Please present this
16 juror.

17 THE CLERK: Defense?

18 MS. KNOWLES: Please seat this juror.

19 THE CLERK: Please be seated in the jury
20 box.

21 214, Stanlee Morrison. What say the
22 State?

23 MR. SPRATLIN: Please present this
24 juror.

25 THE CLERK: Defense?

JURY SELECTION

1 MS. KNOWLES: Please seat this juror.

2 THE CLERK: 312, James Terpstra, Junior.

3 What say the State?

4 MR. SPRATLIN: I apologize, Madam Clerk,
5 what was the number?

6 THE CLERK: 312.

7 MR. SPRATLIN: 312. Please present this
8 juror.

9 THE CLERK: Defense?

10 MS. KNOWLES: Please excuse this juror.

11 THE CLERK: Juror No. 2, Cecilia Adams.

12 What say the State?

13 MR. SPRATLIN: Please present this
14 juror.

15 THE CLERK: Defense?

16 MS. KNOWLES: Please seat this juror.

17 THE CLERK: Brittany Meier, 206. What
18 say the State?

19 MR. SPRATLIN: Please present this
20 juror.

21 THE CLERK: Defense?

22 MS. KNOWLES: Please seat this juror.

23 THE CLERK: 89, Stevie Doyle. What say
24 the State?

25 MR. SPRATLIN: Please present this

JURY SELECTION

1 juror.

2 THE CLERK: Defense?

3 MS. KNOWLES: Please excuse this juror.

4 THE CLERK: You are excused. 61,

5 Marlene Coleman. What say the State?

6 MR. SPRATLIN: Please present this

7 juror.

8 THE CLERK: Defense?

9 MS. KNOWLES: Please excuse this juror.

10 THE CLERK: You are excused for this

11 particular case. 244, Noel Purchell. What say

12 the State?

13 MR. SPRATLIN: Please present this

14 juror.

15 THE CLERK: Defense?

16 MS. KNOWLES: Please seat this juror.

17 THE CLERK: Please be seated in the jury

18 box.

19 241, Ellen Popovich. What say the

20 State?

21 MR. SPRATLIN: Please present this

22 juror.

23 THE CLERK: Defense?

24 MS. KNOWLES: Please excuse this juror.

25 THE CLERK: You are excused for this

JURY SELECTION

1 particular case.

2 48, Briget Capell. What say the State?

3 MR. SPRATLIN: Please present this

4 juror.

5 THE CLERK: Defense?

6 MS. KNOWLES: Please seat this juror.

7 THE CLERK: Please be seated in the jury

8 box.

9 211, Robert Miller. What say the State?

10 MR. SPRATLIN: Please excuse this juror.

11 THE CLERK: You're excused from this

12 particular case.

13 177, Tracy Kundy. What say the State?

14 MR. SPRATLIN: Please present this

15 juror.

16 THE CLERK: Defense?

17 MS. KNOWLES: Please seat this juror.

18 THE CLERK: 304, Draxel Strickland.

19 What say the State?

20 MR. SPRATLIN: Please excuse this juror..

21 THE CLERK: You are excused from this

22 particular case.

23 Stephanie Cruz, 74. What say the State?

24 MR. SPRATLIN: Please present this

25 juror.

JURY SELECTION

1 THE CLERK: Defense?

2 MS. KNOWLES: What number?

3 THE CLERK: 74.

4 MS. KNOWLES: May we clarify how many
5 strikes we get? Five?

6 THE COURT: Five and five.

7 MS. KNOWLES: Please seat this juror.

8 THE CLERK: Please be seated in the jury
9 box.

10 207, Geoffrey Melzar. What say the
11 State?

12 MR. SPRATLIN: Please present this
13 juror.

14 THE CLERK: Defense?

15 MS. KNOWLES: Please seat the juror.

16 THE CLERK: 107, Devin Floyd. What say
17 the State?

18 MR. SPRATLIN: Please present this
19 juror?

20 THE CLERK: Defense?

21 MS. KNOWLES: Please seat this juror.

22 THE CLERK: Please be seated in the jury
23 box.

24 282, Amy Singles. What say the State?

25 MR. SPRATLIN: Please present this

JURY SELECTION

1 juror.

2 THE CLERK: Defense?

3 MS. KNOWLES: Please seat this juror.

4 THE CLERK: 133, George Hammett. What

5 say the State?

6 MR. SPRATLIN: Please present this

7 juror.

8 THE CLERK: Defense?

9 MS. KNOWLES: Please excuse this juror.

10 THE CLERK: You are excused for this

11 particular case.

12 213, Sherry Moats. What say the State?

13 MR. SPRATLIN: Please present this

14 juror.

15 THE CLERK: Defense?

16 MS. KNOWLES: Please seat this juror.

17 THE CLERK: Please be seated in the jury

18 box.

19 THE COURT: Two alternates.

20 THE CLERK: 109, Brandon Foley. What

21 say the State?

22 MR. SPRATLIN: Please present this

23 juror.

24 THE CLERK: Defense?

25 MS. KNOWLES: Please present this juror.

JURY SELECTION

1 THE CLERK: 50, James Carpenter.

2 MR. SPRATLIN: Please present this
3 juror.

4 THE CLERK: Defense?

5 MS. KNOWLES: Please seat this juror.

6 THE CLERK: Please be seated in the jury
7 box.

8 THE COURT: Any challenges?

9 MR. SPRATLIN: None on behalf of the
10 State.

11 MS. KNOWLES: No, sir.

12 THE COURT: You will serve as the jurors
13 on this particular case. Mr. Kundy, I would
14 like you to always occupy that seat when you
15 return to the courtroom. You will serve as the
16 foreperson of this jury. Mr. Foley and
17 Mr. Carpenter, you will be the alternates. I
18 ask you to always occupy one of those two seats.
19 The rest may sit wherever you want.

20 I want to caution you not to discuss
21 this case with anyone over the evening. I'm
22 going to bring you back in at 9:30. Don't even
23 discuss it with your husband or wife or your
24 significant other. Don't discuss it among
25 yourselves. It is not appropriate for you to do

JURY SELECTION

1 that. Please do not try to go on the Internet
2 and look up anything about this case. Don't try
3 to look for old newspaper clippings or anything
4 like that. You will have to determine this case
5 by the evidence you hear from the witness stand,
6 and that alone. Please, do not step outside of
7 the courtroom and try to do your own
8 investigation. I'll have Mr. Ropp take you back
9 to the jury room, and he's going to show you
10 where you will be in the morning, show you your
11 jury room. Mr. Ropp, are you going to have ham
12 and biscuits, or donuts for them?

13 MR. ROTH: Yes, sir.

14 THE COURT: What do you want, Mr. Kundy,
15 ham biscuits or donuts?

16 MR. KUNDY: Donuts are fine.

17 THE COURT: Take them back to the jury
18 room and make sure they are comfortable, and
19 they may be dismissed as soon as they are shown
20 how to get in and out of the courtroom.

21 (Whereupon, the jury exits, and the
22 following is heard out of the presence of the
23 jury.)

24 THE COURT: The balance of the jury
25 panel is excused. Please don't forget to check

JULY 22, 2013 DAY ENDED - START OF JULY 23, 2013

1 with the number that you were given this
2 afternoon. I don't anticipate we'll have
3 another jury because Judge John has one that
4 started and it will be several days. I have
5 this jury panel that we'll start in the morning.
6 I don't anticipate we'll have anything else, but
7 we never know, so please call, okay. You are
8 excused.

9 (Whereupon, the remaining jury panel was
10 excused.)

11 THE COURT: All right. Anything further
12 this afternoon, Mr. Spratlin?

13 MR. SPRATLIN: Nothing for the State,
14 Your Honor.

15 MS. KNOWLES: No, nothing.

16 THE COURT: I'll look forward to seeing
17 you all back here in the morning at 9:30.

18 (Whereupon, the case recessed at 2:27
19 p.m. on July 22, 2013 and reconvened July 23,
20 2013. The following was had on July 23, 2013
21 out of the presence of the jury.)

22 THE COURT: Ms. Knowles, are you ready?

23 MS. KNOWLES: Yes, sir.

24 THE COURT: Mr. Spratlin?

25 MR. SPRATLIN: State is ready to

COURT ADDRESSES JURY

1 proceed, Your Honor.

2 THE COURT: All right. Bring in the
3 jury.

4 (Whereupon, the jury entered at 9:40
5 a.m., and the following was had in the presence
6 of the jury.)

7 THE COURT: I see we have all of your
8 jurors and alternates. It is good to see you,
9 and Mr. Ropp had some refreshments for you this
10 morning. At any time during the trial of the
11 case if you need anything, please don't hesitate
12 to inform your foreman of that. He will advise
13 Mr. Ropp, the deputy who is keeping you at that
14 time, any problems that have arisen will
15 certainly address it.

16 Before we begin, a few minutes about how
17 we will proceed in this matter. As I told you
18 earlier in these proceedings, this is the case
19 of the State of South Carolina versus Johnny Ray
20 Longworth, and you met Mr. Longworth. In this
21 case, Mr. Longworth has been indicted for
22 assault and battery in the second degree. At
23 the end of this trial I will instruct you
24 further as to what that charge means, however,
25 you must understand that the fact that he has

COURT ADDRESSES JURY

1 been arrested and charged is of no consequence
2 to you, whatsoever. You must not consider that
3 as creating any presumptions or inferences about
4 his guilt during this trial. That is simply the
5 document -- that indictment is simply the
6 document by which this case is brought to trial.

7 Mr. Longworth has plead not guilty to
8 this charge, and that places the burden upon the
9 State to prove to you beyond a reasonable doubt
10 that he has committed the alleged offense. The
11 purpose of a jury is to find and determine the
12 facts in the case, what happened. You will hear
13 or may hear from this witness stand conflicting
14 testimony, and it is your duty as jurors to sift
15 through that testimony and evidence that may be
16 presented in this case to determine what the
17 true facts are.

18 You, as a jury, are the sole and
19 exclusive judges of the facts in this case. If
20 during this trial I say anything or by my
21 reaction to any evidence I convey to you that I
22 have some opinion about the facts in the case,
23 please set that aside, it was absolutely
24 unintentional. The law does not allow me to
25 even have an opinion about the facts in the

COURT ADDRESSES JURY

1 case.

2 You, the jury, are the sole and
3 exclusive judges of the facts. On the other
4 hand, in order to make a determination of guilt
5 or innocence, or in reality just to determine
6 whether the State met its burden of proof in
7 this case, you must apply the facts in this case
8 to the law in this case. That's how juries
9 deliberate. They determine the facts in the
10 case, and they apply those facts to the case in
11 the case, and from that combination of the two,
12 they determine whether -- the jury determines
13 whether or not there is -- remains reasonable
14 doubt, whether the State has removed all
15 reasonable doubt as to the guilt of the
16 defendant.

17 The law will be given to you by me at
18 the end of the trial. What I tell you now is
19 not an instruction of the law. I will give you
20 very specific instructions as to the law, and
21 you must be guided by that law as I give it to
22 you in your deliberations whether you agree or
23 not. You might think that you know what the law
24 is or that the law is something other than what
25 I tell you the law is, or that it ought to be

COURT ADDRESSES JURY

1 different from what I tell you, but you were
2 sworn as jurors to follow the law precisely as I
3 give it to you and apply that law to the facts
4 in the case during your deliberation process.

5 As I said, we're about to begin the
6 case, and the case will begin with an opening
7 statement from both Mr. Spratlin and from
8 Ms. Knowles. Mr. Spratlin will give the first
9 opening statement. He is permitted to comment
10 on the facts, permitted to comment on the law,
11 but what he's doing is giving you his view, his
12 perception, his opinion as to what the law is or
13 what the evidence will show and why he feels
14 that the defendant -- or that the State has
15 proven to you or will prove to you beyond a
16 reasonable doubt that the defendant is guilty of
17 this offense. That will be followed by
18 Ms. Knowles, and Ms. Knowles will also provide
19 comments on the facts and the evidence that she
20 perceives in this case, and she will talk to you
21 about how she believes that the State will fail
22 in its burden of proofing to you beyond a
23 reasonable doubt that the defendant committed
24 this offense. Following the opening remarks,
25 the State -- it is then incumbent upon the State

COURT ADDRESSES JURY

1 to put up evidence which convinces you beyond a
2 reasonable doubt of the 'defendant's guilt. The
3 State will present its case. During that time,
4 Mr. Spratlin will examine witnesses, and
5 Ms. Knowles will have the opportunity to
6 cross-examine witnesses.

7 Once the State has completed its portion
8 of the trial, or its portion of the evidence, it
9 will be the defendant's turn to put up any case
10 if he wishes to. The defendant is not obligated
11 to put up any evidence, whatsoever. He has no
12 duty to prove himself innocent. The defendant
13 comes into this court with a presumption of
14 innocence. He is presumed to be innocent. If
15 he puts up evidence, Ms. Knowles will examine
16 the witnesses and Mr. Spratlin will then have an
17 opportunity to cross-examine those witnesses.
18 But, again, Mr. Longworth does not have any
19 obligation to put up any evidence, and if he
20 does not, you must not consider that against him
21 in any way, form or fashion because that is
22 simply his exercise of his Constitutional
23 rights.

24 At the end of the trial, we will then,
25 again, have closing remarks from both sides.

COURT ADDRESSES JURY

1 Depending how the trial is going, it may be Mr.
2 Spratlin or Ms. Knowles who gives the first
3 closing remark. Again, they have the
4 opportunity to comment on the law, they have the
5 opportunity to comment on the evidence that has
6 been presented in the case. However, you, as
7 jurors, will be the ones who determine what the
8 facts are. Facts and evidence are sometimes
9 different. There is all types of evidence that
10 may be presented in a trial, and it may
11 conflict. It may be conflicting evidence. You
12 will determine what the facts are and you will
13 apply them as to the law as I give it to you.
14 Again, what the attorneys say is just their
15 opinion, their position on the case and it is
16 not evidence, nor is it necessarily the law that
17 you will apply in the case.

18 Following that, I will instruct you
19 fully and completely as to the law that you must
20 apply in this case. The case will then be given
21 to you, and you will begin your deliberation
22 process. During that process, you will make a
23 determination of whether or not the State
24 convinced you beyond a reasonable doubt of the
25 defendant's guilt. Please understand that this

COURT ADDRESSES JURY

1 case must be tried on the evidence that is
2 presented from this witness stand.

3 I have cautioned you earlier not to try
4 to do any independent research or anything of
5 that nature. You should never have to worry
6 about that. Everybody who has a Smart phone has
7 all of the information in the world at his or
8 her fingertips. We have had situations where
9 witnesses have brought up Mapquest and did their
10 own research as to how far this was from that,
11 or things of that nature, or looked up old
12 newspaper articles and things of that nature.
13 They've looked up definitions of the law on
14 things like Wikipedia. Please do not do that.
15 Refrain from doing that. You must not do that.

16 I also ask you not to prejudge this
17 case. Wait until you have heard all of the
18 evidence that is presented to you. Don't even
19 discuss it among yourselves. I don't anticipate
20 that this case will last more than today. I
21 think we'll certainly finish this case today
22 based on what I've seen. It could go on for
23 several days, I don't know, but I anticipate
24 we'll probably finish it today. Again, don't
25 discuss it with anyone until you have heard my

COURT ADDRESSES JURY

1 instructions on the law and I have instructed
2 you to begin your deliberations. It is
3 absolutely imperative that you keep an open mind
4 and you pay close attention to the witnesses who
5 will be testifying in this case. Everything
6 that is done here, everything that is done in
7 this trial, is done for your benefit.

8 If you cannot hear, if you cannot see
9 what is going on during the presentation of
10 evidence and witnesses, please raise your hand
11 and let me know, because it's not fair to the
12 defendant or the State for evidence to be
13 presented where some of you did not see it.
14 Please let me know. Again, if you become
15 uncomfortable, if you need a break, need to stop
16 and refresh yourselves, raise your hand, let me
17 know. We want to address any problems that you
18 may have. If during the trial you need
19 anything, again, bring it to Mr. Ropp's
20 attention, and if he is not right outside your
21 door or available like he is here, there will be
22 one of these fine deputies who will be there for
23 you. There is always someone who can assist
24 you, and I will stop whatever we're doing and
25 address those problems.

OPENING STATEMENTS - BY MR. SPRATLIN

1 Anything further, Mr. Spratlin?

2 MR. SPRATLIN: No, Your Honor.

3 MS. KNOWLES: No, Your Honor.

4 THE COURT: Mr. Spratlin.

5 MR. SPRATLIN: Thank you, Your Honor.

6 THE COURT: Did we swear this jury?

7 THE CLERK: No, sir.

8 THE COURT: I would have sworn I did.

9 Please stand and let's take the oath.

10 (Whereupon, the jury was sworn.)

11 MR. SPRATLIN: Thank you, Your Honor.

12 Good morning, ladies and gentlemen. I'm Martin

13 Spratlin. I represent the State of South

14 Carolina in this case against Johnny Longworth.

15 The State has the burden of proof, and we'll

16 bring forth evidence today to convince you

17 beyond a reasonable doubt that the defendant is

18 guilty.

19 I want to take a couple of seconds to

20 expound on some of the most important things

21 that I think the judge talked about, what

22 opening statements are. Opening statements, the

23 best way I've ever heard it described, is kind

24 of as a preview to a movie or the back cover of

25 a book, it gives you an idea on what the case is

OPENING STATEMENTS - BY MR. SPRATLIN

1 about. It doesn't tell you everything about the
2 case, but it tells you what to expect and what
3 you should expect to see from the case.

4 Now, as the judge said, nothing I say is
5 evidence. If Ms. Knowles chooses to do an
6 opening statement, nothing she says is evidence.
7 The only evidence you'll hear today is from this
8 witness stand, and that is why it is so
9 important that you pay attention to what the
10 witnesses are testifying about, how they are
11 testifying, not only what they are saying, but
12 how they are responding to questions, their
13 demeanor, because you will be asked to judge the
14 credibility of the witnesses, and you are going
15 to be asked to judge what the facts and the
16 truth in this case are.

17 As I said it, is kind of like a preview.
18 So here's the preview to what you'll see today.
19 On March 13, 2012 that man, Johnny Longworth,
20 went into the consignment shop that is run by
21 Ms. Kym Beckham, sitting behind me at the table,
22 the victim in this case. Mr. Longworth came
23 into the store, acted as any customer would, he
24 looked around, engaged Ms. Beckham in
25 conversation. They talked about everything from

OPENING STATEMENTS - BY MR. SPRATLIN

1 the historic buildings to -- I think he saw seed
2 catalogs or some kind of gardening catalogs in
3 the store, and starting talking to her about
4 that.

5 At one point, he's 4 or 5 feet away from
6 her, about as far as I am from you all, and
7 that's when things changed. That is when he
8 looked her up and down like a piece of meat and
9 lunged at her, knocking her against her office
10 door trying to force her to kiss him. He also
11 grabbed her breast, ladies and gentlemen. That
12 is important, because that is what makes this an
13 assault and battery second degree.

14 As you'll find out at the end of all of
15 the evidence today, the law says that touching
16 the private parts of another, which the breast
17 of a female is a private part, is assault and
18 battery second degree.

19 Now, luckily, fortunately, Ms. Beckham
20 wasn't hurt. She had -- her back hurt a little
21 bit, not a lot, thankfully, but you'll hear from
22 her how she injured she was from this incident,
23 how it affected her since that day.

24 Now, I think I took you up to the point
25 to where he's forcing himself on Ms. Beckham.

OPENING STATEMENTS - BY MR. SPRATLIN

1 She screams, pushes him away. He stops. I'm
2 thinking you probably all have heard this story,
3 but let me go ahead and tell you. Sometimes
4 when people are in times of stress, times of
5 intense terror, they get strength. You may have
6 heard a story about a man picking up a car whose
7 son is crushed underneath it or something along
8 those lines. In this case, the victim pushed
9 the defendant, pushed him out of the store. He
10 didn't walk out. He didn't head out. He didn't
11 run out. He was pushed out. She pushed him out
12 of the store, went next door and called the
13 police.

14 The police responded. She described the
15 defendant to them. This is within minutes the
16 officers respond. This is downtown Myrtle
17 Beach, a lot of police around, and it took less
18 than probably five minutes for Officer McIntyre
19 here to respond to the scene and talk with
20 Ms. Beckham. As soon as he got a description of
21 the individual, put what we commonly call a
22 all-point- bulletin, a be-on-the-lookout,
23 whatever you want to call it, put out a
24 description on the radio to all other officers,
25 be on the lookout for an individual matching

OPENING STATEMENTS - BY MR. SPRATLIN

1 this description. You will hear what that
2 description was: White male, brown Polo shirt,
3 logo, baseball cap, sunglasses on top. Within
4 10 minutes, four blocks away, that man is
5 apprehended by a police officer, Officer
6 Guthinger, who you will hear from today. He's
7 not in the courtroom, but you'll hear from him
8 today. He matches the description perfectly,
9 same pants, same shirt right down to the
10 baseball cap with sunglasses on top. He -- oh,
11 also riding a bike. I forgot to mention that.
12 Ms. Beckham said when he left the scene, he rode
13 away on a bike. This man was on a bike matching
14 the description perfectly.

15 Just to make sure, officers call
16 Ms. Beckham out. Officer McIntyre drove
17 Ms. Beckham out where they had the defendant
18 detained, and she positively identified him as
19 the man that attacked her in her store that day.

20 Ladies and gentlemen, you may have
21 thought when you got called for criminal jury
22 duty, especially with what has been in the news
23 lately, you may have thought you'll be on a
24 murder case, rape case, something like that.
25 This isn't one of those, but I guarantee you

OPENING STATEMENTS - BY MS. KNOWLES

1 that for everyone involved in this case, it is a
2 serious and important case, and that is why I
3 ask that the one thing you do throughout this
4 trial is just pay attention to what happens on
5 that witness stand, because that is what you are
6 going to base your decision on. If you do that,
7 I'm certain you'll find the defendant guilty
8 beyond a reasonable doubt. Thank you, ladies
9 and gentlemen.

10 THE COURT: Ms. Knowles.

11 MS. KNOWLES: Good morning, ladies and
12 gentlemen. My name is Melinda Knowles, and I
13 represent the accused in this case, Mr.
14 Longworth. My representation of Mr. Longworth
15 began in April of last year, and we have been
16 preparing for this day ever since. He has
17 emphatically denied responsibility for this
18 crime, and I remind you that he is to be
19 presumed innocent from the start of this trial,
20 and that presumption will travel with him
21 throughout.

22 Now, Mr. Spratlin just told you what he
23 intends to prove what my client has been charged
24 with, but even the best of intentions do not
25 amount to proof beyond a reasonable doubt. If

OPENING STATEMENTS - BY MS. KNOWLES

1 the facts of this case were just as he told them
2 to be, we wouldn't be here today for this trial.
3 This case most likely would have been disposed
4 of by way of a guilty plea long ago. So the
5 question becomes, Why wasn't it? What is the
6 bone of contention between the State and the
7 defense that has necessitated this jury trial?
8 That bone of contention, ladies and gentlemen,
9 has to do with criminal intent. It is the
10 defense's belief that no criminal intent to
11 cause this or any other injury existed on the
12 part of my client.

13 Criminal intent is important here, and
14 in every case, because without it, no crime has
15 been committed. To be more specific, criminal
16 intent must proceed a criminal act or in some
17 way activate the acts, thus causing the injury,
18 if one is found to exist. Furthermore, if one
19 makes a mistake by misreading signals that he
20 thought were being sent from another that
21 welcomed this sort of behavior and misstate the
22 facts that occurred, it should further preclude
23 him from criminal responsibility.

24 Now, you, ladies and gentlemen of this
25 jury will be impartial finders of fact, that

OPENING STATEMENTS -- BY MS. KNOWLES

1 should be no surprise to you. But I would bet
2 that you were unaware of how vital you are to
3 the defense. The 12 of you form a human shield
4 around my client, Mr. Longworth. You say to the
5 solicitor, Mr. Spratlin, Johnny Longworth is our
6 peer. He is a citizen of this country and one
7 of us. He may look and dress differently than
8 we do, may have a very different background and
9 upbringing than we did, but he is still one of
10 us, a member of our society, and as such, he
11 should be given the same rights as we have and
12 treated in the same manner as we would want to
13 be treated if our roles were reversed,
14 therefore, we are not going to allow him to be
15 taken from us until you prove his guilt beyond a
16 reasonable doubt. Only then are we going to
17 remove that cloak of innocence that he walked
18 into this courtroom wearing.

19 You are here to say, Mr. Spratlin, we
20 are the jury, and we are here to see that a
21 right to a fair jury trial is protected. We
22 will demand that each and every element of this
23 defense be established before we strip this man
24 of his liberty. You have no duty, ladies and
25 gentlemen, to rubber stamp what the prosecution

1 KYM BECKHAM - DIRECT BY MR. SPRATLIN
2 wants you to rubber stamp. Your duty, and what
3 we ask of you, is to impartially weigh the
4 evidence in this case, or lack of evidence, and
5 return a just verdict. We believe in this case
6 that a verdict that is just will be a verdict of
7 not guilty.

8 I want to thank you for your
9 participation here today on behalf of myself and
10 my client as we realize that it comes with great
11 sacrifice as you have had to set aside your
12 daily duties and responsibilities to be here, so
13 I sincerely thank you for your participation.

14 THE COURT: Mr. Spratlin.

15 MR. SPRATLIN: The State first calls
16 Ms. Kym Beckham to the stand.

17 (KYM BECKHAM, having been duly sworn,
18 testified as follows:)

19 THE CLERK: State your full name and
20 spell your last name.

21 MS. BECKHAM: Kym Newland Beckham,
22 B-E-C-K-H-A-M.

23 DIRECT-EXAMINATION

24 BY MR. SPRATLIN:

25 Q Please start by telling the jury how old
are you.

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 A 57.

2 Q What county do you currently live in?

3 A Horry.

4 Q How long have you lived in Horry County?

5 A Well, it's my current address for the last
6 eight-and-a-half years.

7 Q Before that?

8 A I lived in Atlanta for 24 years.

9 Q Okay.

10 A We were transferred from Myrtle Beach to
11 Atlanta.

12 Q Originally from Myrtle Beach?

13 THE COURT: You need to speak up.

14 A Sorry.

15 Q (BY MR. SPRATLIN) : So you were originally
16 from Myrtle Beach, but you lived in Atlanta for a
17 little while?

18 A Correct.

19 Q But you have been living in Horry County
20 for about eight-and-a-half years?

21 A Yes.

22 Q What do you currently do for work?

23 A I run a home furnishings consignment shop.

24 Q What is it called?

25 A Nest.

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 Q Nest? Where is it located at?

2 A It's on Broadway Street in Myrtle Beach,
3 old downtown.

4 Q And what do you sell there?

5 A Home furnishings.

6 Q Who owns that store, if you know?

7 A Our family.

8 Q How did you come to own a consignment shop?

9 A We could not keep that side of our building
10 rented. It is hard to rent in that area, so we
11 just decided to give this a go, and I had done it
12 before when I lived in Georgia.

13 Q How long ago did you decide to open up the
14 consignment shop?

15 A Two years.

16 Q Two years from today or around this time?

17 A Right.

18 Q Okay. And you said that you and your
19 family own the store. Who all is your family?

20 A My husband and his brothers.

21 Q And your husband, is that the gentleman
22 seated in the courtroom next to you?

23 A Yes.

24 Q Now, owning this store, who normally works
25 in the store for you?

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 A I do. I'm the only employee.

2 Q Has it been that way for awhile?

3 A Pretty much. My husband was with me a good
4 bit when we first opened, but his job has taken
5 him away.

6 Q Back in March of 2012, were you pretty much
7 the only one working there?

8 A I was the only one working there.

9 Q Do you remember back on March 13, 2012 if
10 you were working that day?

11 A I was.

12 Q Do you remember if it was a busy day at the
13 store?

14 A No, it wasn't. I didn't have much traffic
15 that day at all.

16 Q Where does most of the traffic from the
17 store come from?

18 A Mainly people dropping their watch off to
19 be repaired down the street. They have to wait,
20 so they wander in.

21 Q Pretty much foot traffic that comes in?

22 A Right.

23 Q Do you recall if the defendant came into
24 the store that day?

25 A Yes, he did.

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 Q Do you remember about what time he came in?

2 A It was late in the afternoon, after 4:00.

3 Q What time do you normally close up?

4 A I was closing at 5:00.

5 Q All right. When he came in after 4:00, was
6 it still daylight?

7 A Yes.

8 Q Is your store fairly well lit?

9 A It is more well lit than this room.

10 Q All right. If you recall, how was the
11 defendant dressed when he came into the store?

12 A He was just wearing some kind of long khaki
13 type of pants and a Polo type of shirt with a logo
14 on the left pocket.

15 Q Was there -- did he have anything on his
16 head or face?

17 A Yes. He was wearing a baseball cap and it
18 was on backwards and his sunglasses were on the
19 front, and I couldn't really see his hair.

20 Q Were his sunglasses on his face?

21 A No, they were on the hat.

22 Q All right. Now, when he first came into
23 the store, what did he do?

24 A He just -- I greeted him like I greet
25 everybody. He just wandered straight away back.

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 There is a lot of different rooms in my shop, and
2 we have one big room in the back where I had a lot
3 of stuff, and he wandered straightaway back there.
4 I kind of, you know, you have to watch people. So
5 I asked him if I could help him, and he started
6 asking me if there was any historical buildings in
7 Myrtle Beach, and I told him, no, not anymore.
8 And then he started talking about how pretty
9 Charleston was and those buildings are nice, and
10 then by this time we had walked back to the room
11 outside of my office. I picked up my seed
12 catalog, because I was planting my garden, and he
13 said, Are you a farmer, and I said, No, I'm just
14 doing my garden. He told me that his family had
15 8.8 acres in Shallotte and they grew vegetables
16 and sold them for a living. He was very
17 knowledgeable about vegetables, so I started
18 asking him questions about different things like
19 butter beans and heirloom tomatoes and he was
20 knowledgeable and all of a sudden he looked me up
21 and down two times and by that time I was thinking
22 he's been in here too long, he's got to go.
23 Because I started getting fidgety, and that is
24 when he lunged at me and pushed me up against the
25 door frame of my office where I was standing. One

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 hand went to my face, and the other one went to my
2 breast, and he was like in any face trying to kiss
3 me. I shoved him and I said, No. And he said,
4 No? I said, No. And then I turned him around and
5 that's when I started shoving him.

6 Q Let me back you up now before he assaulted
7 you. What were you all talking about again?

8 A Well, at that point, heirloom tomatoes.

9 Q Is this the kind of conversation you would
10 normally have with anybody who came into your
11 store?

12 A If anybody asked me any questions, you
13 know, like if someone said are you a gardener, I
14 would say, Yes, I am, and we would get into a
15 conversation just normal.

16 Q How far away from you was the defendant
17 when you were having that conversation?

18 A 4, 5 feet.

19 Q Now, when he was walking around the store,
20 how far away was he from you, normally?

21 A He wasn't that close to me, really. When
22 he was in the big part of the store, I was a long
23 ways away from him.

24 Q Was anybody else in the store when the
25 defendant was in there?

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 A No one.

2 Q Now, let me back you to where you are all
3 talking about gardening and he's about 4 or 5 feet
4 away. You said he looked you up and down?

5 A Yeah. It was the weirdest thing. It was
6 like a switch flipped. He looked me up and down
7 and I just went, Oh, to myself, this isn't...

8 Q When that switch flipped, did his
9 expression change at all?

10 A Yeah. He just -- I mean, it was like he
11 was -- had a regular ole face on, and all of the
12 sudden, it looked like he had a determination
13 going on. He was doing something.

14 Q Again, what did he do when he had that
15 determination, what did he do to you?

16 A He lunged at me and my shoulder blade went
17 against the door frame -- well, my whole back did,
18 but my shoulder blade is what really hit, and then
19 he grabbed my face with one hand and my left
20 breast with his other hand. His face was in my
21 face.

22 Q When you say he grabbed your breast, did it
23 appear to be an intentional --

24 A Absolutely.

25 Q How did he grab it?

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 A Just grabbed it (indicates).

2 Q Okay. And he was grabbing your face trying
3 to force you to kiss him?

4 A He had his hand on my face like he was
5 trying to position my face to kiss me.

6 Q Was he doing that with some sort of force?

7 A Enough to make me angry.

8 Q You said when he was doing that, you
9 screamed, No; right?

10 A Yeah.

11 Q And you pushed him away?

12 A Yeah.

13 Q And what did he do when you pushed him
14 away?

15 A He acted surprised. I guess he didn't
16 think I would react that way.

17 Q And when he was acting surprised, did he
18 leave the store on his own freewill?

19 A No. No.

20 Q What did you have to do?

21 A I literally turned that man around and
22 shoved him. I started shoving him, and I was so
23 angry I was yelling at him the whole time. You
24 know, How did we go from vegetables to this, you
25 know? What made you think this? I told him I was

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 going to call the cops, and by that time I had
2 gotten him to the front door. He turned around
3 and stuck his hand out like he was going to shake
4 my hand, and I slapped his hand away and shoved
5 him out the door.

6 Q When you were pushing him out, was he
7 walking out with you?

8 A He was not walking. His feet were not
9 moving. I shoved that man out.

10 Q Once you got out of the store, what did you
11 do?

12 A I ran next door to our tenants, and Bob
13 came out with me on the sidewalk. I knew I
14 couldn't go back in my shop. I didn't have a
15 phone or keys or anything. So Bob came out and we
16 watched the defendant go around my building, pick
17 up a bicycle and ride off on the bicycle.

18 Q Okay. Now, once you saw that, what did you
19 do?

20 A Our tenant's wife came out and she said,
21 You have got to call the police. You have to call
22 the police. So she went in the shop with me. I
23 could not dial the phone. She had to dial 911 for
24 me.

25 Q Why couldn't you dial the phone?

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 A I was shaking so bad, I couldn't even dial.

2 Q Before we get to the officers arrival, you
3 said that your back and shoulder blade were shoved
4 into the door frame?

5 A Yes.

6 Q Did you have any injures, however slight?

7 A Well, maybe a bruise, you know, but...

8 Q And how -- since this, how has this crime
9 affected you?

10 A Well, I always thought people that had
11 panic attacks were being ridiculous, but, you
12 know, I found out and ended up in the back of an
13 ambulance. I was driving a car having a panic
14 attack, and I thought I was dying. So I've had
15 counseling and medication for anxiety.

16 Q Did you have any of this before this?

17 A I had -- I've always had some anxiety, but
18 it's always been stuff like, you know, my kids
19 behaving and all of that, but, no.

20 Q Has this affected your ability to work in
21 the store?

22 A Yes, it has.

23 Q How is that?

24 A Well, the first months afterwards, some
25 days I would be sitting in there and all of the

KYM BECKHAM - DIRECT BY MR. SPRATLIN

1 sudden, I couldn't stay. I would just get up and
2 close the store up and go home. We've since put
3 in a security system. And if I have to go to the
4 lady's room, I lock myself in.

5 Q Did you do any of this before this
6 happened?

7 A No. I always took my cell phone in the
8 restroom with me, because my husband told me I had
9 to.

10 Q When the officers arrived, did you give
11 them a description?

12 A Yes, I did.

13 Q And was it pretty much the description you
14 gave this court earlier?

15 A Yes.

16 Q How long after the call was made to the
17 police did they respond to your shop?

18 A Within a few minutes.

19 Q At some point, did they ask you to identify
20 somebody?

21 A Yes.

22 Q How were you transported from your shop --
23 let me ask you. Were you transported to where
24 that person was, or was he transported to you?

25 A Yes. Officer McIntyre took me in his

KYM BECKHAM - CROSS BY MS. KNOWLES

1 patrol car a few blocks away where they had him
2 detained, and I positively identified him.

3 Q How certain were you that the person you
4 identified was the person that assaulted you in
5 your shop?

6 A I was absolutely 100 percent positive.

7 Q Do you see the person that assaulted you in
8 your shop here today?

9 A Yes, I do.

10 Q Would you point him out and identify an
11 article of clothing he's wearing.

12 A White shirt (indicates).

13 Q You said that your shop is in downtown
14 Myrtle Beach. What county is that in?

15 A Horry.

16 Q And all of the events you described
17 occurred on or about March 13, 2012?

18 A Yes.

19 MR. SPRATLIN: Thank you, Ms. Beckham.
20 That is all the questions I have. Please answer
21 any questions Ms. Knowles may have.

22 THE COURT: Ms. Knowles.

23 CROSS-EXAMINATION

24 BY MS. KNOWLES:

25 Q Good morning, Ms. Beckham.

KYM BECKHAM - CROSS BY MS. KNOWLES

- 1 A Good morning.
- 2 Q How are you?
- 3 A Good. Thanks.
- 4 Q Now, you stated that you are a business
- 5 owner of this -- is it Nest Consignment?
- 6 A Nest, uh-huh.
- 7 Q You said it was a family business?
- 8 A Right.
- 9 Q But you have no employees; is that right?
- 10 A Right.
- 11 Q So you were the only one working on
- 12 March 13th?
- 13 A Correct.
- 14 Q And in your previous testimony, you said
- 15 that my client came in your store and he looked
- 16 around and the two of you engaged in small talk;
- 17 is that right?
- 18 A That's correct.
- 19 Q Can you not hear me?
- 20 A No, I can't see you.
- 21 Q Now, you also told police about what
- 22 happened immediately after it happened, right?
- 23 You provided a statement to them?
- 24 A I did.
- 25 Q But did you ever make a written statement?

KYM BECKHAM - CROSS BY MS. KNOWLES

1 A I was never asked to.

2 Q So the two of you after he walks in and
3 engages in conversation, you acknowledge that he
4 was looking around --

5 A Correct.

6 Q -- the store? And it wasn't until the two
7 of you walked towards your office, so you both
8 were walking towards your office at the point that
9 this alleged incident occurred, right?

10 A Right.

11 Q Now, is that area restricted?

12 A Well, I try to keep it restricted. At this
13 point -- I have since put up a barricade, because
14 there is two entrances to my office.

15 Q So you then -- if you felt it was
16 restricted even though you didn't have the
17 barricades, why then was he allowed to even be in
18 that area?

19 A He was not in my office. I was standing in
20 the doorway. My office was behind me. He was in
21 a room where I have merchandise for sale.

22 Q Okay. Now, you indicated moments ago that
23 my client looked you up and down and it made you
24 feel uncomfortable. You never told that to
25 officers initially, did you?

KYM BECKHAM - CROSS BY MS. KNOWLES

1 A Yes.

2 Q You did? Have you read the report that was
3 written?

4 A No, I have not.

5 Q Would you like to see it?

6 A No. I believe you. That was an important
7 change in the game.

8 Q Okay. You stated that he attempted to kiss
9 you, and your claim is it came out of nowhere?

10 A Correct.

11 Q And that you pushed him away and while you
12 were attempting to push him away, that's when this
13 touch took place, correct?

14 A No. No.

15 Q I think you need to read the officer's
16 report. I think that is very important.

17 MR. SPRATLIN: I'll object to this line
18 of questioning of Ms. Knowles asking about what
19 the officer wrote in his report.

20 THE COURT: You can ask her what she
21 told the officer, what she remembers. If she
22 needs to look at the report to refresh her
23 memory, fine.

24 Q (BY MS. KNOWLES) : Would you like to look at
25 the report to refresh your memory?

KYM BECKHAM - CROSS BY MS. KNOWLES

1 A No, thank you.

2 Q Okay. I'm just telling you what was
3 indicated to be your story based upon -- since you
4 didn't provide a written statement, based upon the
5 evidence that was provided to me, okay.

6 So is it your statement, then, that you
7 were pushing him away when the touch occurred?

8 A He touched me and I immediately pushed --
9 started pushing him away. He lunged at me,
10 touched me and I said, No, and shoved him
11 (indicates), started shoving him away, and that's
12 what happened.

13 Q Do you recall telling the officers a
14 statement that he made to you?

15 A Yeah. He said -- he asked me if I was
16 sure, and I said, Am I sure? Is that what you're
17 talking about?

18 Q No. It was regarding a wrong assumption,
19 an assumption that was made.

20 A I don't remember.

21 Q You don't recall stating or telling the
22 officers that he told you that he made the wrong
23 assumption, that line specifically?

24 A He didn't say that to me. Well, you know
25 what, it's been a year-and-a-half, I'm not sure.

KYM BECKHAM - CROSS BY MS. KNOWLES

1 I don't recall.

2 Q Like I said, I'm not trying to frustrate
3 you, I'm just trying to go on what the report has
4 indicated, okay.

5 So it's your testimony, then, there's
6 absolutely no way -- no way at all -- that this
7 touch could have been inadvertent?

8 A No.

9 Q But you just testified that he acted
10 surprised by your reaction, correct?

11 A Well, who wouldn't be? Look at me, I'm a
12 grandmother.

13 Q He acted surprised.

14 A He acted surprised that I wasn't going to
15 allow him to further evade my space, touch my
16 body. Nobody does that to me.

17 Q Wouldn't that surprise indicate that maybe
18 he made a wrong assumption?

19 A Well, you know what, it may have.

20 Q Now, at the time that you spoke with
21 officers, did you report any injury?

22 A I do not remember. I was so upset that I
23 could not dial a telephone, talk coherently to my
24 friend, and by the time the officer got there, he
25 was doing a very good job of trying to calm me

KYM BECKHAM - CROSS BY MS. KNOWLES

1 down so I could get my story out.

2 Q So you would say that his account that is
3 referenced in this report is a better account of
4 what actually happened, given that it was recorded
5 immediately and it was fresh on your mind at that
6 time?

7 A I guess.

8 Q You stated that you had received counseling
9 as a result of this?

10 A Yes.

11 Q Who was your doctor?

12 A At that point, it was my primary care,
13 Dr. Belden, in Myrtle Beach. He referred me to a
14 counselor who specialized in this sort of anxiety.

15 Q And who was that?

16 A Lisa Smith.

17 Q And you stated you had anxiety issues prior
18 to this --

19 A Nothing like this. I never in my life had
20 a panic attack. I did not even know -- I thought
21 I was dying when I had it.

22 Q Had you been taking any sort of medication
23 at all before this?

24 A Not on a regular basis, no. I had a
25 prescription for Xanax from years ago, but I did

KYM BECKHAM - REDIRECT BY MR. SPRATLIN

1 not take it.

2 Q Okay. All right.

3 MS. KNOWLES: Let me double check that I
4 have nothing further.

5 (A brief pause in the proceedings.)

6 MS. KNOWLES: I have nothing further,
7 Your Honor.

8 REDIRECT-EXAMINATION

9 BY MR. SPRATLIN:

10 Q Ms. Beckham, did you say or do anything
11 that, in your opinion, insinuated to the defendant
12 that he had a right to touch you?

13 A No, I did not.

14 Q Again, what were you talking about?

15 A Gardening, tomatoes.

16 Q How were you dressed that day?

17 A I had on a purple mock turtle neck, it was
18 a chilly day. A gray and purple flannel shirt,
19 long blue jeans and brown Mary Jane shoes?

20 Q At any point, did you give the defendant
21 any indication that he could approach you, try to
22 kiss you or grab your breast?

23 A None.

24 Q When he grabbed your breast, how did he
25 grab it?

KYM BECKHAM - RECROSS BY MS. KNOWLES

1 A He grabbed it, okay, the top of my breast.

2 Q Could it have been something where he was
3 attempting to push you away?

4 A No.

5 Q It was a grab?

6 A It was a grab. It was what it was.

7 MR. SPRATLIN: Thank you, Ms. Beckham.
8 That is all the questions I have. She has more
9 questions.

10 MS. BECKY: I'm sorry.

11 RECROSS-EXAMINATION

12 BY MS. KNOWLES:

13 Q You can remember to a "T" what you were
14 wearing, but you can't remember what was said and
15 how this all took place, who did what first?

16 A You want to know why I remember what I was
17 wearing? Because I don't have those clothes
18 anymore, I threw them away.

19 Q I'm just asking a question. I just wanted
20 the answer.

21 THE COURT: And she answered it.

22 MS. KNOWLES: Thank you very much.

23 MR. SPRATLIN: The State calls Officer
24 McIntyre to the stand.

25 (MARK MCINTYRE, having been duly sworn,

MARK MCINTYRE - DIRECT BY MR. SPRATLIN
1 testified as follows:)

2 THE CLERK: Please state your name and
3 spell your last.

4 MR. MCINTYRE: Name is Mark Douglas
5 McIntyre, M-C-I-N-T-Y-R-E.

6 DIRECT-EXAMINATION

7 BY MR. SPRATLIN:

8 Q This may be an obvious question, where are
9 you employed?

10 A The City of Myrtle Beach Police Department.

11 Q How long have you worked there?

12 A A little over two-and-a-half years.

13 Q What is your current position?

14 A Private first class on patrol.

15 Q As a patrol officer, what are some of your
16 duties and obligations?

17 A We respond to emergency calls, take reports
18 of larcenies, respond to assault calls, make
19 arrests, work traffic accidents, assist the public
20 as needed.

21 Q Were you in that position back in March of
22 2012?

23 A Yes, sir, I was.

24 Q Did you have a chance to respond to the
25 consignment shop located on Broadway Street in

MARK MCINTYRE - DIRECT BY MR. SPRATLIN

1 Myrtle Beach?

2 A Yes, I did.

3 Q What was that response in regards to?

4 A I was dispatched to a reported assault that
5 just occurred at that location.

6 Q And when you got there, who did you talk
7 with?

8 A I talked to Ms. Beckham, the victim.

9 Q And how did Ms. Beckham appear to you?

10 A When I got there, she was extremely -- like
11 she described, shaky, panicky. She told me what
12 had just happened and gave me a description of the
13 person who had done it.

14 Q Do you remember what description she gave
15 you?

16 A Yes, sir, I do.

17 Q What was that description?

18 A She said a white male that appeared to be
19 in his late 30s or early 40s. She described him
20 as wearing light color pants and a tan Polo shirt.
21 She said the shirt had a logo on the left chest
22 area, but she didn't know what the logo was of.
23 She said he was wearing a tan baseball cap that he
24 was wearing backwards, and she described him
25 having sunglasses stuck on top of the hat. She

MARK MCINTYRE - DIRECT BY MR. SPRATLIN

1 said he was dark tan like he worked outside, and
2 he was about my height, which is 5'9". He left
3 the store headed on Oak Street on a bicycle
4 heading towards Third Avenue South.

5 Q Do you recall how long it was from when the
6 call came out until you responded to the scene,
7 how long did it take you to get there?

8 A Yeah. It was less than a couple of
9 minutes. I was on actually right at Broadway
10 Street and Highway 501 area when the call came,
11 which is down the street from the shop.

12 Q Did Ms. Beckham tell you that the defendant
13 said he made the wrong assumption?

14 A I did my report -- I know the defense asked
15 about a written statement. I didn't get her to
16 write a written statement that day because she was
17 so upset, but at the conclusion of talking to her
18 about what happened, she did say that he told her
19 the part about are you sure after she started
20 pushing him away, and she did say that he made
21 comment about making the wrong assumption.

22 Q And she did tell you that he reached out
23 and grabbed her breast?

24 A Yes, and that is what I have in my report.

25 Q Okay. Now, Officer McIntyre, once you were

MARK MCINTYRE - DIRECT BY MR. SPRATLIN

1 given the description by Ms. Beckham for the
2 individual that assaulted her, what did you do
3 with that information?

4 A I did that pretty much as soon as I got
5 there. So she told me she got assaulted, I asked
6 her for a description of who had done it, and she
7 gave it to me. I broadcasted it over the radio to
8 the other patrol officers that were working.

9 Q How soon did you receive any information
10 about a possible suspect?

11 A It was less than a couple of minutes after
12 I gave the description out.

13 Q What did you do when you got a call that
14 there was a possible suspect?

15 A I asked Ms. Beckham if she thought she
16 could recognize the person who had done this to
17 her, and she said yes. She went out and got in my
18 police car, and we rode to the location where the
19 defendant was stopped at.

20 Q And was Ms. Beckham able to identify that
21 person?

22 A Yes, she was.

23 Q In your opinion, did you also have a chance
24 to observe that person?

25 A I did, yes, sir.

MARK MCINTYRE - DIRECT BY MR. SPRATLIN

1 Q How closely did he match the description
2 that had been given to you by Ms. Beckham?

3 A How she described him, he was wearing light
4 colored khaki pants, wearing a tan type of golf
5 shirt that did have a logo on it, did have a
6 baseball hat with sunglasses, and he was
7 straddling a bicycle when I saw him.

8 Q So was there anything that stood out to you
9 that didn't match the description?

10 A No, sir.

11 Q And was Ms. Beckham able to identify that
12 person?

13 A Yes, she was.

14 Q And what did she say about that person?

15 A As we were getting close to him on the
16 street, we turned off of the -- as we started
17 getting close to him, she said, That's him. As we
18 got a little bit closer to him, I said, Let's get
19 right next to him so you can look to be sure of
20 that. As we pulled up, I almost got to a stop as
21 I was coming to him slowly and she looked at him
22 when she got a good visual of his face and said,
23 Yeah, that's definitely the person.

24 Q In your opinion, did she have any
25 uncertainty at all about the identification?

MARK MCINTYRE - CROSS BY MS. KNOWLES

1 A No, sir. She was certain.

2 Q The place you went where the defendant was
3 being detained, how far away was that from the
4 Nest shop where Ms. Beckham worked?

5 A It was like three blocks down the street
6 and one block over, so I would say about four
7 blocks.

8 Q So fairly close?

9 A Yes, sir.

10 Q All right. The person on the street that
11 day who was identified by Ms. Beckham, do you see
12 him in the courtroom today?

13 A Yes, I do.

14 Q Would you point him out and identify an
15 article of clothing?

16 A In the defendant's chair wearing a white
17 dress shirt.

18 MR. SPRATLIN: That is all the questions
19 I have. Please answer any question Ms. Knowles
20 might have.

21 THE COURT: Ms. Knowles.

22 CROSS-EXAMINATION

23 BY MS. KNOWLES:

24 Q Good morning, Officer McIntyre. How are
25 you?

MARK McINTYRE - CROSS BY MS. KNOWLES

1 A I'm good. How are you?

2 Q I'm good. You were the responding officer
3 in this case, right?

4 A Yes, ma'am.

5 Q And as the responding officer, part of your
6 duties are to make notes and record what any
7 alleged victim or witnesses tell you, correct?

8 A Yes.

9 Q While it is still fresh on their mind?

10 A Yes.

11 Q You responded to the scene within minutes,
12 right?

13 A Yes, ma'am.

14 Q And do you recall -- actually, you have a
15 copy of your report, don't you?

16 A Yes, ma'am.

17 Q Let me go to Paragraph 3. If you could,
18 read the second -- actually, the third sentence.

19 A Okay. Just the third sentence?

20 Q Just to clarify, if you could, read it
21 aloud.

22 A She advised that while she was attempting
23 to push the offender away, he reached out and
24 grabbed her breast.

25 Q And then the next statement?

MARK MCINTYRE - CROSS BY MS. KNOWLES

1 A Victim stated that at this point the
2 offender told her, I made the wrong assumption.

3 Q Okay. And in that same paragraph, what's
4 the last sentence?

5 A It says, She avows she was not injured and
6 did not want EMS to respond.

7 Q My client was never interviewed by you or
8 anyone else, to your knowledge?

9 A Not to my knowledge, no.

10 Q So then his version of what happened was
11 never recorded, right?

12 A No, ma'am.

13 Q No one spoke to him?

14 A Not unless an investigator did, that I'm
15 unaware of.

16 Q Okay. So then wouldn't you agree it is
17 fair to say that we can't be certain, can't even
18 speculate, as to what his intent was?

19 A I mean, I can't say that. I think if you
20 lunge at somebody --

21 Q I'm saying that if no one spoke to him and
22 got his side of the story, how can we make an
23 assumption on what his intent was? Wouldn't you
24 agree with that?

25 A I mean, I would -- I don't agree with that.

MARK McINTYRE - REDIRECT BY MR. SPRATLIN

1 I assume if he lunges at somebody and tries to
2 kiss them and grabs the breast, that's what his
3 intent was.

4 Q But you are basing that only on one
5 person's account of what happened, right?

6 A Well, yeah. I mean, personal -- I mean,
7 just...

8 Q And to get a full picture and understanding
9 of what goes on, you have to hear both sides,
10 don't you?

11 A Sometimes. I mean, if it was a homicide,
12 we wouldn't hear both sides.

13 Q Right. I understand.

14 MS. KNOWLES: Thank you.

15 REDIRECT-EXAMINATION

16 BY MR. SPRATLIN:

17 Q Officer McIntyre, can you make a defendant
18 talk to you?

19 A No, sir.

20 Q What are their rights under Miranda
21 regarding their right to remain silent, do they
22 have the right?

23 A They do.

24 Q And they don't have to talk to you unless
25 they want to?

MARK MCINTYRE - REDIRECT BY MR. SPRATLIN

1 A That's right.

2 Q All right. Now, Ms. Knowles asked you to
3 read a portion of a paragraph from your report
4 under the Rule of Completeness, I'll ask that you
5 read the entire paragraph to the jury.

6 A The paragraph reads: She advised he pushed
7 her against the door frame of her office and
8 attempted to kiss her. She avows she told him to
9 stop, and she pushed him away. She avows while
10 she was attempting to push the offender away, he
11 reached out and grabbed her breast. The victim
12 stated that at this point the offender told her, I
13 made the wrong assumption. The victim stated he
14 continued to -- she continued telling him to stop
15 and kept pushing him away. She avows as he was
16 pushing him towards the door to the store, he
17 again reached out and attempted to grab her
18 breast. During this time, he asked her, Are you
19 sure. She avows she was not injured, and she did
20 not want EMS to respond.

21 MR. SPRATLIN: Thank you, Officer.

22 Those are all the questions I have.

23 MS. KNOWLES: One question.

24

25

MARK MCINTYRE - RECROSS BY MS. KNOWLES

RECROSS-EXAMINATION

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BY MS. KNOWLES:

Q That same paragraph, what happens first?
Read -- you don't have to repeat it, but just read
that and give me your opinion.

A In my opinion, it sounds like he approached
her and attempted to kiss her and --

Q. And she pushed him away, right?

A Yeah. I mean, it's like simultaneously,
the way it looks to me.

Q And that's when -- well, that's when the
touch occurred, based on how your report is
written?

A Well, the way it appears written, but it is
hard to write -- you can't write sentences on top
of each other if it is occurring at the same time,
you can't describe that in writing.

Q Okay. Thank you.

MR. SPRATLIN: Nothing further, Your
Honor.

THE COURT: Thank you, Officer McIntyre.
You may step down.

MR. SPRATLIN: The State calls Officer
Mike Guthinger to the stand.

(MIKE GUTHINGER, having been duly sworn,

MIKE GUTHINGER -, DIRECT BY MR. SPRATLIN
1 testified as follows:)

2 THE CLERK: State your name and spell
3 your last name.

4 MR. GUTHINGER: G. Michael Guthinger,
5 G-U-T-H-I-N-G-E-R.

6 DIRECT-EXAMINATION

7 BY MR. SPRATLIN:

8 Q Mr. Guthinger, this may be a fairly obvious
9 question, where do you work?

10 A City of Myrtle Beach Police Department.

11 Q How long have you worked there?

12 A 14 years.

13 Q What is your current job there?

14 A I'm the administrative sergeant over
15 training.

16 Q Is that the same position you were in back
17 in March of 2012?

18 A No. I was patrol supervisor assigned to
19 the beach patrol unit.

20 Q As a patrol supervisor, what is your job
21 obligations?

22 A I supervise a unit that is assigned to an
23 area of the beach, specifically the beach, and
24 then we assist our regular patrol units as needed.

25 Q Now, Officer Guthinger, were you involved

MIKE GUTHINGER - DIRECT BY MR. SPRATLIN

1 at all in an assault call regarding a consignment
2 shop on March 13, 2012?

3 A Yes, I was.

4 Q What involvement did you have?

5 A A call came out. Dispatch put a
6 be-on-the-lookout for a subject with a
7 description. The officer on the scene put out a
8 description. I responded to the immediate area of
9 the call to search for the person.

10 Q Did you find someone who matched that
11 description?

12 A Yes, I did.

13 Q How many people did you find that matched
14 that description?

15 A Just one.

16 Q Do you see the person you found that
17 matched the description?

18 A Yes, I do.

19 Q Point him out and identify an article of
20 clothing?

21 A Over here wearing a white dress shirt.

22 Q The description you were given over the
23 radio, was there anything about the defendant that
24 day that did not match the description?

25 A Not that I'm aware of.

MIKE GUTHINGER - DIRECT BY MR. SPRATLIN

1 Q How closely did he match the description?

2 A Very good.

3 Q Was he on a bicycle?

4 A Yes, he was.

5 Q Was he wearing a baseball cap?

6 A Yes, backwards.

7 Q Did it have sunglasses on top?

8 A Yes, it did.

9 Q Was the clothing he was wearing, did it
10 match?

11 A Yeah. He had tannish colored pants, Polo
12 shirt with a logo on the left side.

13 Q When you located the defendant, what did
14 you do?

15 A He was with two juveniles at the time
16 speaking with them. I stopped, talked to the
17 group, identified myself, said I was investigating
18 a complaint. I asked him for ID and I ran him
19 through our local NCIC computer through our
20 dispatch radio.

21 Q Okay. The two juveniles with him, did they
22 match the description at all?

23 A No. They were wearing like white dress
24 shirts and a tie.

25 Q Okay. Now, once he was detained, did you

MIKE GUTHINGER - DIRECT BY MR. SPRATLIN

1 do anything to verify this was, in fact, the
2 person involved in the assault?

3 A We really -- I didn't detain him. I sat
4 there and spoke with him. He was still on his
5 bicycle, and I asked him for ID. I called the
6 officer on the radio who was on scene. I said I
7 have somebody that fits that description who is in
8 the area, and then he brought the victim from
9 where the initial crime took place and brought
10 them to where I was.

11 Q And did you ever get a chance to talk with
12 the victim that day?

13 A No, I did not. Never saw the victim.

14 Q And you didn't have any involvement in
15 anything -- so you never talked to her at all?

16 A Not at all.

17 Q Your job was to detain -- or hold the
18 individual there until an identification could be
19 made?

20 A Correct.

21 Q All right.

22 MR. SPRATLIN: Officer Guthinger, that
23 is all the questions I have. Answer any
24 questions Ms. Knowles might have.
25

MIKE GUTHINGER - CROSS BY MS. KNOWLES

1 CROSS-EXAMINATION

2 BY MS. KNOWLES:

3 Q Good morning, Officer. I'll be very brief.

4 A Good morning.

5 Q Your involvement in this case was only to
6 locate the person that matched the description
7 that was reported in this case?

8 A Yes. I was in the area, so I went over
9 there.

10 Q So you never actually spoke with
11 Ms. Beckham?

12 A No, I did not.

13 Q And did you speak with my client, Mr.
14 Longworth, at any point in time?

15 A Just on the street encounter there when I
16 asked him for ID. I ran a NCIC through our
17 national crime computer and locals to see if there
18 was any warrants, information came back, I asked
19 where he lived and what was he in the area for.

20 Q And was he cooperative?

21 A Yes, he was.

22 Q And did you arrest him? Were you the
23 arresting officer as well?

24 A No. After the witness identified him as
25 being the subject, then there was another officer

MIKE GUTHINGER - CROSS BY MS. KNOWLES

1 also on scene, a transport officer, and I believe
2 he's the actual one that did the handcuffing.

3 Q And that person would have been responsible
4 to Mirandize him and all of that?

5 A Yes, if they were going to question him on
6 anything further.

7 Q Okay. But you just asked him basic
8 questions about where he had been and what he was
9 doing, right?

10 A Yeah. I asked a group, the two kids that
11 were with him, just general questions.

12 Q And he gave you no problems?

13 A No. He just said he was in the area and
14 gave me his information. I didn't go into any
15 questions about any criminal activity.

16 Q Okay. You stated that to your knowledge
17 you don't know if he was ever interviewed or given
18 the opportunity to tell his side of the story?

19 A No, that would have been something --

20 Q For an arresting officer?

21 A Yeah, the arresting officer there.

22 MS. KNOWLES: I have nothing further.

23 MR. SPRATLIN: Nothing further, Your
24 Honor.

25 THE COURT: You may step down.

STATE RESTS - MOTION FOR DIRECTED VERDICT

1 MR. SPRATLIN: The State would rest at
2 this time.

3 THE COURT: Very well. Take the jury to
4 the jury room, Mr. Ropp, if you would.

5 (The jury exits at 10:49, and the
6 following is heard out of the presence of the
7 jury.)

8 THE COURT: Do you have any motions,
9 Ms. Knowles?

10 MS. KNOWLES: At this time, the defense
11 would move for directed verdict based upon the
12 insufficiency of the evidence, not establishing
13 all of the elements of this offense.

14 THE COURT: I would respectfully deny
15 your motion. There is ample evidence of the
16 defendant's guilt which the jury could turn a
17 verdict of guilty.

18 Have you discussed with your client his
19 right to testify?

20 MS. KNOWLES: I have.

21 THE COURT: Does he intend to testify?

22 MS. KNOWLES: Your Honor, he's been
23 back-and-forth with regard to that issue. It
24 might be best if you ask him.

25 THE COURT: I'm going to inform him of

JOHNNY LONGWORTH - EXAMINATION BY THE COURT

1 his rights. Mr. Longworth, if you would, please
2 stand and raise your right hand. Place him
3 under oath, Madam Clerk.

4 (JOHNNY LONGWORTH, having been duly
5 sworn, testified as follows:)

6 THE COURT: Mr. Longworth, at this time
7 I'll explain to you certain rights. If you do
8 not understand anything I say, please ask me to
9 repeat it and let me know that you do not
10 understand. Do you understand what I'm saying?

11 MR. LONGWORTH: Yes, sir. I understand.

12 THE COURT: Now, we've reached the stage
13 where you may present your defense. You have a
14 right to claim the protection that is granted
15 you or given to you by the Fifth Amendment to
16 the Constitution of the United States, and this
17 amendment says in part that no person shall be
18 compelled in any criminal case to be a witness
19 against himself. This means that you cannot be
20 required to testify in this case. You have the
21 right to testify on your own behalf, however, no
22 one can make you testify. This is a personal
23 right that you have. No one can waive this
24 right except you. If you decide that you want
25 to testify, you will be subject to the same

JOHNNY LONGWORTH - EXAMINATION BY THE COURT

1 rules that govern other witnesses. You may be
2 examined and cross-examined on any relevant
3 issue in the case. In addition, if you have any
4 convictions involving dishonesty or false
5 statements or for crimes punishable by
6 imprisonment for more than one year, and this
7 court determines that the probative value of
8 admitting this evidence outweighs its
9 prejudicial effect to you, the solicitor will be
10 able to introduce your record to attack your
11 creditability.

12 If you decide to testify, this decision
13 on your part must be freely, voluntarily and
14 intelligently made with knowledge of the
15 protections given to you by the Fifth Amendment
16 and the consequences of your decision to
17 testify. If you decide not to testify, I will
18 instruct the jurors that they cannot give the
19 fact that you did not testify any consideration,
20 whatsoever, and that there is no be absolutely
21 no prejudice to you because you did not testify.
22 It is left entirely up to you whether or not to
23 testify. You may talk with your attorney, your
24 family, friends, anyone else, but the final
25 decision is left entirely up to you. Do you

JOHNNY LONGWORTH - EXAMINATION BY THE COURT
1 understand what I explained to you?

2 MR. LONGWORTH: Yes, sir.

3 THE COURT: Do you have any questions
4 about what I explained to you?

5 MR. LONGWORTH: No, I do not.

6 THE COURT: Have you discussed with your
7 lawyer whether you should testify or not?

8 MR. LONGWORTH: I have discussed it.

9 THE COURT: Do you wish to talk with
10 your lawyer any more at this time?

11 MS. KNOWLES: Do you need a moment, is
12 what he's asking you.

13 THE COURT: Do you want to speak with
14 Ms. Knowles for a second?

15 MR. LONGWORTH: Just a second.

16 (A brief pause in the proceedings while
17 Ms. Knowles and Mr. Longworth converse.)

18 MR. LONGWORTH: No, I'm not going to
19 testify.

20 THE COURT: You do not wish to testify.
21 That's your right. Thank you. You may sit
22 down.

23 Ms. Knowles, will the defense put up any
24 other witnesses?

25 MS. KNOWLES: No, sir.

JOHNNY LONGWORTH - EXAMINATION BY THE COURT

1 THE COURT: Then you are about to rest?

2 MS. KNOWLES: Yes.

3 THE COURT: What I would like to do
4 then, at this time, is to take a quick break. I
5 want the attorneys to meet with me in my
6 chambers. We will have a conference concerning
7 the charge. Ms. Knowles, are you going to
8 request a charge on assault and battery in the
9 third degree?

10 MS. KNOWLES: If I could have one
11 moment. I've discussed this issue prior to now,
12 but...

13 (A brief pause in the proceedings while
14 Ms. Knowles and Mr. Longworth converse.)

15 MS. KNOWLES: We would request that
16 charge, Your Honor.

17 THE COURT: State?

18 MR. SPRATLIN: No objection.

19 THE COURT: Very well. Okay. We'll
20 take a quick break.

21 MS. KNOWLES: If we could, after we
22 speak with you, maybe 10 minutes for a bathroom
23 break?

24 THE COURT: We will -- well, as a matter
25 of fact, we'll just have a charge conference

BY THE COURT

1 right here on the record. Let me tell you what
2 I intend to charge. I'm going to give my usual
3 duties of the judge and the jury. I will charge
4 the indictment and remind the jury that the
5 indictment is not evidence and should not be
6 considered as evidence. I will give a charge on
7 the presumption of innocence, my usual charge.
8 I will give a charge on reasonable doubt that I
9 give. I will give a charge on the failure of
10 the defendant to testify. I'll give a charge of
11 direct and circumstantial evidence. I will give
12 a charge on identification, the credibility of
13 witnesses. I will charge assault and battery in
14 the second degree, and also charge that if a
15 jury fails to find -- finds that the State has
16 not met its burden on assault and battery in the
17 second degree, they may consider the defense of
18 assault and battery in the third degree. The
19 charge I'm giving, Ms. Knowles, is a limited
20 charge on the assault and battery second degree.

21 MS. KNOWLES: I apologize.

22 THE COURT: The charge I give on assault
23 and battery in the second degree will be -- I
24 left out the irrelevant parts of the statute.
25 I'll charge the jury that a person commits the

BY THE COURT

1 offense of assault and battery in the second
2 degree if a person unlawfully injures another
3 person or offers or attempts to injure another
4 person with the present ability to do so --
5 Ms. Knowles, please.

6 MS. KNOWLES: I'm trying to.

7 THE COURT: I'm the only important one
8 here, that's me. I'm trying to get this charge
9 done, and I'm going to ask you if you agree with
10 it. The charge I'm going to give on assault and
11 battery in the second degree is that a person
12 commits the offense of assault and battery in
13 the second degree if a person unlawfully injures
14 another person or offers or attempts to injure
15 another person with the present ability to do
16 so, and the act involves the non-consensual
17 touching of the private parts of another person
18 either under or above the clothing. Private
19 parts means the genitalia or buttocks of a male
20 or female or the breasts of a female.

21 I'm going to further charge if you find
22 the defendant is not guilty of assault and
23 battery in the second degree, you may consider
24 the lesser included offense of assault and
25 battery in the third degree. To find the

BY THE COURT

1 defendant of assault and battery in the third
2 degree, the State must prove beyond a reasonable
3 doubt the defendant unlawfully injured another
4 person or attempted to injure another person
5 with the present ability to do so, period.

6 MS. KNOWLES: You can remove that. He
7 no longer wants that lesser included
8 instruction.

9 THE COURT: He does not want a lesser
10 included offense?

11 MR. LONGWORTH: No. I want to go for
12 the all or nothing.

13 MR. SPRATLIN: The State has no
14 objection to it being taken out.

15 THE COURT: All right. I think you have
16 copies of my charge. It is my practice to
17 provide a copy of the charge for the jury.

18 All right. We will be back in the
19 courtroom in about -- try to be back in 10, 15
20 minutes, and we will proceed with closing
21 arguments, and I will charge the jury.

22 MR. SPRATLIN: May the last witness who
23 testified, Officer Guthinger, be excused?

24 THE COURT: Certainly, if there is no
25 objection.

BY THE COURT

1 MS. KNOWLES: No objection.

2 (A recess was taken from 11:00 to
3 11:25 a.m., and the following was had out of the
4 presence of the jury and defendant.)

5 THE COURT: Thank you. You may be
6 seated. I've provided you each with copies of
7 my proposed charges. We've had an opportunity
8 to go over it in chambers as well. You
9 understand it's been my policy to always give
10 the jury a copy of the charge. Any additions or
11 deletions to the charge as proposed, Mr.
12 Spratlin?

13 MR. SPRATLIN: No, Your Honor.

14 THE COURT: Ms. Knowles?

15 (Whereupon, the defendant enters the
16 courtroom.)

17 THE COURT: Let me ask that question, I
18 didn't realize the defendant was not in the
19 courtroom. The charge as proposed is acceptable
20 to the defense. Ms. Knowles, is the charge as
21 proposed acceptable to the defendant?

22 MS. KNOWLES: Yes, sir.

23 THE COURT: Okay. Let's bring in the
24 jury. I'll have you rest on the record when the
25 jury comes in.

CLOSING ARGUMENTS BY MR. SPRATLIN

1 (Whereupon, the jury enters at
2 11:28 a.m., and the following was had in the
3 presence of the jury.)

4 THE COURT: Ladies and gentlemen of the
5 jury, as you heard before I sent you out, the
6 State has rested, and at this point the defense
7 has an opportunity to call any witnesses it
8 chooses.

9 Will the defense call any witnesses,
10 Ms. Knowles?

11 MS. KNOWLES: No, Your Honor.

12 THE COURT: Does the defense rest?

13 MS. KNOWLES: The defense rests.

14 THE COURT: Mr. Spratlin, I believe you
15 would be required to go first.

16 MR. SPRATLIN: That's correct. Are you
17 ready to proceed?

18 THE COURT: Yes.

19 MR. SPRATLIN: Ladies and gentlemen, I
20 hope I didn't disappoint any of you with this
21 case being so short. Most of you probably
22 booked up your whole week and thought you would
23 be here four, five days. It only took about two
24 hours. The one thing I don't want you to do is
25 think that since this was a short case, it

CLOSING ARGUMENTS BY MR. SPRATLIN

1 doesn't matter, because it does. It matters to
2 her, and it matters to him, and that is why you
3 are here. That is why all 12 of you are sitting
4 here, because it does matter.

5 It is a simple case with simple facts,
6 and now it is up to you to make a simple
7 decision based on the evidence that you've
8 heard, that the defendant is guilty. Let me
9 talk to you about what the law in this case is.
10 First off, I want to talk to you about the
11 presumption of innocence, because as Ms. Knowles
12 said in the opening argument, the defendant is
13 presumed innocent. The best way I've ever heard
14 it described is picture the old time scales, the
15 one that -- this courtroom doesn't have them,
16 most of the modern ones don't, but you've seen
17 them, a lady holding an old set of scales. When
18 the defendant comes into the courtroom, the
19 scale is tipped all the way in his favor. He's
20 presumed not guilty. The burden is on the
21 State, me, the victim and law enforcement
22 officers to bring enough evidence to convince
23 you that the defendant is guilty.

24 Now, we don't just have to tip it half
25 way, we have to tip it to reasonable doubt. Not

CLOSING ARGUMENTS BY MR. SPRATLIN

1 all the way, because reasonable doubt is not
2 proof beyond all reasonable doubt, but what
3 reasonable doubt is, it is proof that leaves you
4 firmly convinced of the defendant's guilt. I
5 submit to you the evidence you heard today
6 should leave you firmly convinced that the
7 defendant committed the crime of assault and
8 battery, second degree.

9 Before I get into exactly what assault and
10 battery in the second degree is, because you've
11 heard thrown around a lot and you may not have any
12 idea what it is. Jury trials are a whole lot like
13 those word problems you had in math class when you
14 were in school, the ones where you learned how to
15 add when they give you a problem where two people
16 have cookies, two other people want cookies, how
17 do you divide them. Jury trials are different.
18 Instead of being told how to add in the beginning
19 on what the law is, you are told that at the end,
20 because the only time you'll hear exactly what the
21 law is, is when the judge charges you on it after
22 I finish closing and Ms. Knowles finishes closing.

23 So you are given all the facts, and then
24 here is the thing you have apply to the facts to.
25 It works. As you will see back in the jury room,

CLOSING ARGUMENTS BY MR. SPRATLIN

1 it will work well.

2 In the beginning of Ms. Knowles' argument,
3 she talked about criminal intent. I was a little
4 bit of a nerd when I was a kid. If you asked
5 ten-year-old Martin what he thought -- how he
6 thought that in 2013 we would be proving what
7 someone intended, I would have told you that we
8 would have a machine, you could put them in and
9 say here is his intent. That is not what we have.
10 You have to infer that. You infer intent based on
11 what happened, based on the circumstances
12 surrounding the crime.

13 Assault and battery second, what does that
14 mean? It's injuring or attempting to injure
15 another person. Ladies and gentlemen, Ms. Beckham
16 told you she wasn't seriously hurt. She wasn't,
17 as far as physically. Her back hurt a little bit,
18 but, seriously, she wasn't hurt. She was still
19 injured a little bit physically, but emotionally,
20 you heard how she had panic attacks after this.
21 Never had panic attacks before. She has trouble
22 running her store. Sometimes she shuts the store
23 down because she's so scared being in there alone.
24 That's injury. That is injury the law recognizes,
25 and that is injury you need to recognize as a

CLOSING ARGUMENTS BY MR. SPRATLIN

1 juror in this case.

2 Now, not only do you have to injure or
3 attempt to injure another person in this case,
4 what makes it assault and battery second degree is
5 that it involved a non-consensual touching of the
6 private parts of another person, that being the
7 breast of Ms. Beckham.

8 Ladies and gentlemen, the evidence you have
9 been presented with from all the witnesses who
10 testified, most importantly Ms. Beckham, is that
11 on that date the defendant came into her shop all
12 of 10, 15 minutes talked about historical
13 buildings, a little bit about Charleston and
14 talked about growing stuff in a garden, 10, 15
15 minutes. Then when he's within 4 or 5 feet of
16 her, looks her up and down, lunges at her and
17 assaults her. That is what the facts were
18 presented to you. That is what happened that day,
19 and that is what the evidence showed you, and that
20 is what you have to make your decision on, the
21 evidence seen here today.

22 A couple of questions that Ms. Knowles was
23 focused on, and I'm in a position to figure out
24 what she'll argue, so I can address it because
25 she'll address what I'm arguing. She wanted you

CLOSING ARGUMENTS BY MR. SPRATLIN

1 to focus on seems to be questions that focus on
2 whether or not the grabbing of Ms. Beckham's
3 breast occurred before or after she said no and
4 shoved him away. It doesn't matter. He grabbed
5 her breast, that's what matters, and without her
6 consent. You heard her. She didn't give him any
7 reason to think that he had permission to touch
8 her breast. They were talking about historical
9 buildings. They were talking a little about
10 Charleston. She knew him 10, 15 minutes. They
11 were talking about growing stuff in a garden.
12 None of that gave him the right to grab her face,
13 try to force his mouth on hers and grab her
14 breast. None of that gave him the right.

15 I don't know what was going through that
16 man's mind, but from the circumstances surrounding
17 the crime, I can tell you he didn't have any
18 reasonable belief that she consented to him
19 touching her that way.

20 Now, as I said, ladies and gentlemen, the
21 defendant is charged with assault and battery
22 second. He's not charged with attempted rape, not
23 charged with any higher crime, assault and battery
24 second, because that is what he did. That's why
25 you need to convict him of what he did.

CLOSING ARGUMENTS BY MR. SPRATLIN

1 I talked a little bit about criminal intent
2 and how you enter it to the circumstances. So
3 let's talk about circumstances. Let's talk about
4 the defendant's reaction. Didn't run out of the
5 store immediately, had to be shoved out. He did
6 act surprised when she shoved him, and I bet he
7 didn't think she would fight back. I bet you he
8 thought, Here is this 50-some-year-old woman,
9 we're in a room alone. He already knew no one
10 else was there, he was walking around the store.
11 He was surprised. I'll give you that. He was
12 surprised that she pushed him away and yelled no.
13 He was surprised because she continued to push him
14 away, and she pushed him out the store. What did
15 he do once he was out? Did he stand and wait on
16 the police to show up so he could explain what
17 happened? No. He left. Rode away on his
18 bicycle.

19 The only mistake he made that day, ladies
20 and gentlemen, was he picked on Ms. Beckham, and
21 that's a mistake I need you to hold him
22 accountable for today. That is what the evidence
23 showed you what happened, and that is why you must
24 return a verdict of guilty. Thank you.

25 THE COURT: Ms. Knowles.

CLOSING ARGUMENTS BY MS. KNOWLES

1 MS. KNOWLES: Ladies and gentlemen,
2 whenever we began this trial, I told you that
3 you were going to be vital in this defense. I
4 told you that you would form a human shield
5 around Mr. Longworth here, and it is your duty
6 to ensure that he receives a fair trial that is
7 based on the evidence that is presented. It is
8 your duty to demand that the State do its job in
9 order to ensure that his rights are protected.

10 Like I said in the beginning of this,
11 even the best of intentions do not amount to
12 proof beyond a reasonable doubt. For any crime,
13 including this one, you must have a culpable
14 state of mind and engage in conduct that is
15 unlawful. Without both of those, there is no
16 crime.

17 I submit to you based upon the evidence
18 that has been presented, the testimony you have
19 heard, that my client was acting under a
20 mistaken belief of fact. You heard what his
21 initial reaction was, that he acted surprised by
22 the conduct and her reaction, and that he said I
23 must have made a wrong assumption. Ladies and
24 gentlemen, that right there is a reasonable
25 doubt. There was no intent. If you don't have

CLOSING ARGUMENTS BY MS. KNOWLES

1 intent, it doesn't matter how despicable the
2 action may be, you have to have both. Each and
3 every element of this crime must be established
4 by the State with proof beyond a reasonable
5 doubt. Their evidence has to be so sturdy and
6 rock solid that it can't be shaken by the
7 defense. There can be no room for reasonable
8 doubt. By your oath, you cannot convict my
9 client when after careful consideration of the
10 evidence there still remains one reasonable
11 doubt as to whether he is guilty, all awhile
12 remembering the presumption of innocence that he
13 walked into this courtroom wearing and should be
14 afforded.

15 Let's look at the elements of this
16 offense. The first element is injury. You've
17 heard Ms. Beckham's testimony and the testimony
18 of the responding officer, Officer McIntyre, in
19 this case. She could not recall, really, what
20 she told officers the day this all happened, but
21 his report seems to reflect what her account was
22 when it was fresh in her mind. In that report,
23 it indicated -- she said there was no injury.

24 Now, she mentioned some sort of
25 treatment she's received, but she also

CLOSING ARGUMENTS BY MS. KNOWLES

1 acknowledged the fact she had been prescribed
2 Xanax before all of this took place. If you
3 don't have evidence of injury, the first element
4 has not been met. The State has failed to meet
5 its burden of proof, and it is your duty to
6 return a verdict of not guilty.

7 All that we ask of you, and I'll close
8 with this, is that you weigh what you've heard
9 today and the lack of evidence that was
10 presented, as well as the evidence that was
11 presented. Weigh the case, apply the burden of
12 proof and let the evidence speak for itself.
13 There are two sides of the scales of justice. I
14 believe Mr. Spratlin mentioned that in his
15 closing. My opinion, one side is guilty, and
16 the other is reasonable doubt. If there is a
17 feather's weight of reasonable doubt on the
18 scale of justice, the law commands you that a
19 verdict must be not guilty, no matter how much
20 was received on the other side.

21 I believe that there is reasonable doubt
22 in this case, and I hope that you agree with me
23 given what you've heard today. I thank you for
24 your time, and we would just ask that you return
25 a verdict of not guilty in this case.

JURY CHARGE - BY THE COURT

1 THE COURT: Ladies and gentlemen, let me
2 remind you that during this trial you and I have
3 certain duties to perform. As a trial judge, it
4 is my duty and responsibility to preside over
5 the trial of the case. I also have the duty to
6 rule on the admissibility of evidence offered
7 during the trial. You are to consider only the
8 competent evidence before you. If there was any
9 evidence ordered stricken from the record in
10 this case, you must disregard that testimony.

11 You are to consider only the testimony
12 which has been presented from this witness
13 stand, any exhibits which have been made a part
14 of the record in this case, and any stipulations
15 of counsel. I have the additional duty to
16 charge you the law applicable to this case. As
17 presiding judge, I am the sole judge of the law
18 of the case. It is your duty as jurors to
19 accept the law and apply the law as I state it
20 to you. If you already have any ideas as to
21 what the law is or what the law ought to be and
22 it does not agree with what I now tell you
23 what the law is, you must abandon that idea
24 because are sworn to accept the law and apply
25 the law exactly as I state it to you.

JURY CHARGE - BY THE COURT

1 In every case tried in this court before
2 a jury, the jury becomes the sole and exclusive
3 judge of the facts in the case. A trial judge
4 cannot intimate, state, comment on or make any
5 statement to a trial jury about the facts in a
6 case. Since you, the jury, are the sole judges
7 of the facts in this case, you are not to infer
8 from what I've said during the progress of this
9 trial in ruling on the admissibility of
10 evidence, or otherwise, or anything that I say
11 now during the course of this instruction to you
12 that I have any opinion about the facts in the
13 case. The law does not allow me to have an
14 opinion about the facts in the case. This is a
15 matter solely for you, the jury, to determine.
16 As jurors, it is your duty to determine the
17 effect, value, weight and truth of the evidence
18 presented during this trial.

19 The indictment in this case charges the
20 defendant with assault and battery in the second
21 degree. I remind you that the fact that the
22 defendant was arrested, charged and indicted in
23 this case is not evidence in this case and
24 cannot be considered by you as evidence of guilt
25 in the case, nor does it create any presumption

JURY CHARGE - BY THE COURT

1 or inference of guilt. This document is simply
2 the formal written instrument which contains the
3 charge made against the defendant. It is the
4 formal document by which the case is brought
5 into court. The defendant has plead not guilty
6 to the indictment, and that plea puts the burden
7 on the State to prove the defendant guilty. A
8 person charged with committing a criminal
9 offense in South Carolina is never required to
10 prove himself innocent. I charge you that it is
11 an important rule of the law that the defendant
12 in a criminal trial, no matter what the
13 seriousness of the charge may be, will always be
14 presumed to be innocent of the crime for which
15 the indictment was issued unless guilt has been
16 proved by evidence satisfying you of that guilt
17 beyond a reasonable doubt.

18 This presumption of innocence does not
19 end when you begin your deliberations, but it
20 accompanies the defendant throughout the trial
21 until you reach a verdict of guilt based on
22 evidence satisfies you of that guilt beyond a
23 reasonable doubt. The presumption of innocence
24 is like a road of righteousness placed about the
25 shoulders of the defendant, which remains with

JURY CHARGE - BY THE COURT

1 the defendant until it has been stripped from
2 the defendant by evidence satisfying you of the
3 defendant's guilt beyond a reasonable doubt.

4 The presumption of innocence is not a
5 mere legal theory. It is not just a legal
6 phrase. It is a substantial right which every
7 defendant is entitled to unless you, the jury,
8 are satisfied from the evidence of the
9 defendant's guilt beyond a reasonable doubt.

10 As I said, the State has the burden of
11 proof of proving the Defendant's guilt beyond a
12 reasonable doubt. Some of you may have served
13 as jurors in a civil case where you were told
14 that it is only necessary to prove that a fact
15 is more likely true than not true, such as by
16 the greater weight or preponderance of the
17 evidence. In criminal cases, the State's proof
18 must be more powerful than that. It must be
19 beyond a reasonable doubt. Proof beyond a
20 reasonable doubt is proof that leaves you firmly
21 convinced of the defendant's guilt. There are
22 very few things in the world that we know with
23 absolute certainty, and in criminal cases, the
24 law does not require proof that overcomes every
25 possible doubt. If based on your consideration

JURY CHARGE - BY THE COURT

1 of the evidence you are firmly convinced that
2 the defendant is guilty of the crime charged,
3 you must find the defendant guilty. If, on the
4 other hand, you think there is a real
5 possibility that the defendant is not guilty,
6 you must give the defendant the benefit of the
7 doubt and find him not guilty.

8 There are two types of evidence which
9 are generally presented during a trial, direct
10 and circumstantial evidence. Direct evidence is
11 the testimony of a person who claims to have
12 actual knowledge of a fact, such as an
13 eyewitness. It is evidence which immediately
14 establishes or proves the main fact to be
15 proved. Circumstantial evidence is proof of a
16 chain of facts and circumstances indicating the
17 existence of a fact. It is evidence which
18 immediately establishes collateral facts from
19 which the main fact may be inferred.

20 Circumstantial evidence is based on
21 inference and not on personal knowledge or
22 observation. The law makes absolutely no
23 distinction between the weight or value to be
24 given either to direct or circumstantial
25 evidence, nor is a greater degree of certainty

JURY CHARGE - BY THE COURT

1 required of circumstantial evidence than of
2 direct evidence. You should weigh all the
3 evidence in the case, and after weighing all of
4 the evidence, if you are not convinced of the
5 guilt of the defendant beyond a reasonable
6 doubt, you must find the defendant not guilty.

7 Necessarily, you must determine the
8 credibility of the witnesses who have testified
9 in this case. Credibility simply means
10 believability. It becomes your duty as jurors
11 to analyze and evaluate the evidence and
12 determine which evidence convinces you of its
13 truth. In determining the believability of
14 witnesses who have testified in this case, you
15 may believe one witness over several witnesses,
16 or several witnesses over one witness. You may
17 believe a part of the testimony of a witness,
18 and reject the remaining part of the testimony
19 of that same witness. You may believe the
20 testimony of the witness in its entirety, or
21 reject the testimony of a witness in its
22 entirety. You may consider whether any witness
23 has exhibited to you any interest, prejudice or
24 bias or other motive in this case. You may also
25 consider the appearance and manner of a witness

JURY CHARGE - BY THE COURT

1 while on the stand.

2 An issue in this case is the
3 identification of the defendant as the person
4 who committed the crime charged. The State has
5 the burden of proving identity beyond a
6 reasonable doubt. You must be satisfied beyond
7 a reasonable doubt of the accuracy of the
8 identification of the defendant before you may
9 convict the defendant. Identification testimony
10 is an expression or belief or impression by a
11 witness. You must determine the accuracy of the
12 identification of the defendant. You must
13 consider the believability of each
14 identification witness in the same way as any
15 other witness. You may consider whether the
16 witness had an adequate opportunity to observe
17 the offender at the time of the offense. This
18 will be affected by things like how long or how
19 short a time was available, how far or close the
20 witness was, the lighting conditions and whether
21 the witness had the chance to see or know the
22 person in the past.

23 Once again, I instruct you the burden of
24 proof on the State extends to every element of
25 the crime charged, and this specifically

JURY CHARGE - BY THE COURT

1 includes the burden of proving beyond a
2 reasonable doubt the identity of the defendant
3 as the person who committed the crime. If after
4 examining the testimony you have a reasonable
5 doubt as to the accuracy of the identification,
6 you must find the defendant not guilty.

7 A person commits the offense of assault
8 and battery in the second degree if the person
9 unlawfully injures another person or offers or
10 attempts to injure another person with the
11 present ability to do so, and the act involves
12 the non-consensual touching of the private parts
13 of a person either under or above clothing.
14 Private parts means the genital area or buttocks
15 of a male or female, or the breast of a female.

16 I instruct you and emphasize that the
17 fact that the defendant did not testify is not a
18 factor to be considered by you in any way in
19 your deliberations and in your consideration of
20 the question of guilt or innocence of the
21 defendant. It must not be considered by you in
22 any manner, whatsoever. A defendant has the
23 constitutional right to remain silent, and the
24 assertion of this right must not be considered
25 by you in your deliberations. I repeat, under

JURY CHARGE - BY THE COURT

1 your oath, you are to draw no conclusions,
2 whatsoever, from the fact that the defendant in
3 this case did not testify. The fact that the
4 defendant did not testify should not even be
5 discussed in the jury room. The burden of proof
6 as I've stated to you is on the State. The
7 defendant is not required to prove his
8 innocence. The burden remains on the State to
9 prove his guilt beyond a reasonable doubt.

10 There are two possible verdicts which
11 you may find in this case, guilty and not
12 guilty, and there is no significance,
13 whatsoever, in the order which I state these
14 possible verdicts except that one must be stated
15 first. Ladies and gentlemen, your verdict must
16 be an unanimous one. Mr. Foreperson, when the
17 jury agrees on a verdict, you will write the
18 verdict on the verdict form, which I have
19 provided, and sign your name as foreperson.
20 Knock on the jury room door and inform the
21 bailiff you've reached a verdict. At that time,
22 I'll receive you back in the courtroom.

23 I'm going to ask you now to return to
24 your jury room, but do not begin your
25 deliberations until you are told to by the clerk

JURY CHARGE - BY THE COURT

1 or bailiff. There are some matters which must
2 be discussed with the attorneys before you begin
3 your deliberations.

4 Ladies and gentlemen, let me state
5 further that I do something that is a little
6 unusual. I don't really know any other judge
7 that does it, but we're permitted to, and that
8 is to provide the jury with a copy, a
9 transcript, of the judge's charge. You may have
10 noticed I was reading my prepared charge as I
11 instructed you. I do that because I have to --
12 if I'm going to provide you with a copy, I have
13 to give you a verbatim copy. I will have this
14 document marked as an exhibit, Court's exhibit.
15 It's not evidence, but I will have it marked as
16 a Court's exhibit, and I will send it in with
17 you for your use during your deliberations.

18 Again, let me say, I don't anticipate
19 this taking very long. We'll wait until I have
20 sent in the jury form and the jury instruction
21 before you begin your deliberations. I don't
22 think there are any exhibits introduced, were
23 there?

24 MR. SPRATLIN: No, Your Honor.

25 THE COURT: So when I send this in, this

JURY CHARGE - BY THE COURT

1 will be your signal to begin your deliberations.
2 If I need to see you again before you begin your
3 deliberations, I'll bring you out. If I send in
4 the verdict form and the charge, that's your
5 signal to begin your deliberations and to knock
6 on the door once you have reached a verdict.
7 All right, sir, Mr. Ropp, will you segregate the
8 alternate and put the jurors in their jury room.

9 (The jury exits at 11:55 a.m., and the
10 following is heard out of the presence of the
11 jury.)

12 THE COURT: Any deletions or additions,
13 Ms. Knowles?

14 MS. KNOWLES: No, sir.

15 THE COURT: Mr. Spratlin?

16 MR. SPRATLIN: No, Your Honor.

17 THE COURT: Any reason why the jury
18 should not begin its deliberations?

19 MR. SPRATLIN: None from the State, Your
20 Honor.

21 MS. KNOWLES: For preservation of the
22 record, I'm not sure if I'm supposed to make
23 another motion for directed verdict at this
24 time since the jury has been relieved.

25 THE COURT: I'll let you put it on the

MOTION FOR DIRECTED VERDICT

1 record. Let's send it into the jury. Mr. Tony,
2 if you would, take the verdict form and the
3 charge, take it back and have Mr. Ropp give it
4 to the jurors.

5 (Court's Exhibit 2 marked.)

6 MS. KNOWLES: At this time, the defense
7 would, again, make the motion for directed
8 verdict based upon the insufficiency of the
9 evidence that has been presented to establish
10 each and every element of the crime charged.

11 THE COURT: Mr. Spratlin.

12 MR. SPRATLIN: Your Honor, the burden on
13 the directed verdict motion is that if there is
14 any competent evidence in the record from which
15 a reasonable jury could find the defendant
16 guilty, and I believe in this case there has
17 been substantial evidence which a jury could
18 enter.

19 THE COURT: I would agree and
20 respectfully deny the motion.

21 We're at ease while we wait on the
22 jury's deliberations. Can you bring the
23 alternates?

24 (Whereupon, the alternate jurors, Mr.
25 Foley and Mr. Carpenter, enter the courtroom.)

VERDICT

1 THE COURT: Mr. Foley, Mr. Carpenter, we
2 have submitted this matter to the jury and your
3 services are no longer required. You are
4 excused for the day. Please call back at
5 6:00 o'clock. Thank you very much.

6 (Whereupon, the jury starts
7 deliberations at 11:58 a.m.)

8 (Whereupon, the jury enters at 12:18 p.m.)

9 THE COURT: Have you reached a verdict?

10 FOREPERSON: Yes, we have. .

11 THE COURT: Was it an unanimous verdict?

12 FOREPERSON: Yes, it is.

13 THE COURT: Please give the verdict to
14 the clerk.

15 THE COURT: Would you please tell the
16 verdict.

17 THE CLERK: Indictment 2012-GS-26-3641,
18 State of South Carolina, County of Horry versus
19 Johnny Ray Longworth, as to the charge of
20 assault and battery in the second degree, we the
21 jury unanimously find the defendant guilty.
22 Dated July 23, 2013, signed by Foreperson, Tracy
23 Kundy.

24 Ladies and gentlemen of the jury, if
25 this is your verdict, so signify by raising your

SENTENCING

1 right hand.

2 THE COURT: Let the record reflect that
3 they have all indicated that is their verdict.
4 Any request for individual voir dire, individual
5 polling?

6 MS. KNOWLES: No, Your Honor.

7 THE COURT: All right. Any reason why
8 sentencing should not take place at this time?

9 MR. SPRATLIN: The State has the
10 sentence sheet prepared.

11 THE COURT: Mr. Spratlin, is there any
12 prior record or anything further from the State?

13 MR. SPRATLIN: Yes, Your Honor. The
14 defendant does have a prior record, which the
15 State would ask that you consider in regards to
16 sentencing the defendant. Beginning in 1980,
17 criminal trespass; '81, car theft; 1983, arson;
18 1980, trespass; 1982, unauthorized use of a
19 motor vehicle; 1984, grand larceny, robbery and
20 aggravated robbery, and all of those charges in
21 the '80s stretched over Georgia, Texas and
22 Florida. In 1989, in Nevada, the defendant was
23 convicted of what is called sexual assault first
24 degree, which is equivalent of rape. He was
25 sentenced to a life sentence, but was paroled

SENTENCING

1 out in 2009 serving parole for life in South
2 Carolina.

3 Once the defendant has been adjudicated
4 guilty in this charge, he will be transferred
5 back to Nevada for a proper disposition of the
6 Nevada parole.

7 THE COURT: Ms. Knowles, I'll hear from
8 you.

9 MS. KNOWLES: Your Honor, my client is
10 50, is single, has no children, lives in Cross,
11 South Carolina. We just would ask that you take
12 into consideration the time he has spent in
13 jail. He tells me that he has been incarcerated
14 since his arrest on March 13, and we would ask
15 for credit for that time.

16 THE COURT: You understand this would be
17 a violation in terms of the parole?

18 MS. KNOWLES: Yes, sir. I've discussed
19 that with him.

20 THE COURT: Before we get there,
21 Ms. Knowles, let me ask you if you have any
22 motions.

23 MS. KNOWLES: No, sir -- actually, I do.
24 We would make a motion for a new trial in rest
25 of judgment based upon the jury's verdict.

SENTENCING

1 THE COURT: All right. Are you
2 attempting to make a motion for judgment
3 notwithstanding the verdict?

4 MS. KNOWLES: Yes, sir.

5 THE COURT: Okay. And I have viewed the
6 evidence, and all reasonable inferences from --
7 to be drawn from that evidence in a light most
8 favorable to the State as I'm required to, and I
9 find that the jury verdict should not be
10 disturbed. There is ample evidence to support
11 the jury's verdict. In fact, I don't know how
12 the jury could reach any other conclusion in
13 this matter, so I'll respectfully deny your
14 motion. Is he ready to be sentenced?

15 MS. KNOWLES: Yes, sir.

16 THE COURT: The maximum is three years.
17 I think based upon his prior conviction for a
18 sexual crime and the fact he's on parole for
19 life for that, and his other substantial
20 criminal record, that a sentence in the maximum
21 amount would be appropriate, and I sentence him
22 to three years incarceration. He will have
23 credit for time served.

24 MR. SPRATLIN: Thank you, Your Honor.

25 THE COURT: Ladies and gentlemen of the

SENTENCING

1 jury, I want to thank you for your service.
2 This was not a long trial, but it was important.
3 It was important for the State, important for
4 the defendant. It is important to our
5 community. You have served a substantial civic
6 duty here, a very important duty and you've done
7 it well. I appreciate your service and would
8 ask you to call back at 6 o'clock to see if we
9 need you for the rest of the week. Thank you.
10 You are excused.

11 (Whereupon, the jury exits at 12:23 p.m.)

12 THE COURT: Anything further, Mr.
13 Spratlin?

14 MR. SPRATLIN: No, sir.

15 THE COURT: Anything further,
16 Ms. Knowles?

17 MS. KNOWLES: No, sir.

18 THE COURT: Okay. Thank you.

19 (Whereupon, the trial concluded.)
20
21
22
23
24
25

172



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
Joan Moore, Vice Chair
Jane B. Jones
Everard Rutledge, PhD
J. Buxton Terry

June 6, 2013

Division of Inpatient Services
G. Werber Bryan Psychiatric Hospital
Forensic Evaluation and Treatment Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-6586

STATE DIRECTOR

John H. Magill
Martin Spratlin
Assistant Solicitor
1301 2nd Avenue
Conway, SC 29526

Re: The State of South Carolina vs. Longworth, Johnny
DMH Case #: 1026-7701
Horry County, Court of General Sessions

Dear Assistant Solicitor Spratlin:

In accordance with the court order issued by the Honorable Carmen Mullen, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 7 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

6/6/13
Date

Jeffrey E. Musick, Ph.D., ABPP
Jeffrey E. Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: Melinda Knowles, Attorney at Law, PO Box 1666, Conway, SC 29528

JM/tl

MISSION STATEMENT

To support the recovery of people with mental illnesses



JKm

Report on Competency to Stand Trial

Name: Longworth, Johnny

Date of Birth (Age): [REDACTED]

Date of Interview: 05/28/2013

Date of Report: 06/05/2013

Examiners: Michael D. Gassen, Psy.D. (presiding)
Carol David, LISW-CP

Referral Information

Mr. Longworth is a 49-year-old male who is charged with Assault and Battery – 1st Degree and Assault and Battery – 2nd Degree (2 counts). The State of South Carolina, County of Horry, Court of General Sessions issued an order to evaluate his competency to stand trial. Pursuant to this order, Mr. Longworth was evaluated on 05/28/2013 at the Forensic Evaluation Service of the South Carolina Department of Mental Health (SCDMH). At the time of the evaluation, Mr. Longworth was detained at the J. Reuben Long Detention Center, and he was returned to that facility following the evaluation.

Notification

Prior to the interview, Mr. Longworth read aloud a form that explains he was being seen for a court-ordered evaluation of his competency to stand trial, and the information he provided could therefore be communicated to the defense counsel, solicitor, and judge. He subsequently stated he was here for an evaluation ordered by the judge, and, on questioning about the recipients of the evaluation report, he said, "The judge . . . the attorney . . . [and] the solicitor." He agreed to proceed with the evaluation.

Sources of Information

- State of South Carolina, County of Horry, Court of General Sessions order for competency to stand trial evaluation (not dated)
- County of Horry Arrest Warrant M-974742
- Municipality of Myrtle Beach Arrest Warrant M-350897
- Myrtle Beach Police Department records for case number 12-004263
- J. Reuben Long Detention Center records for the alleged offenses
- A search of the SCDMH patient database for Mr. Longworth
- Records from J. Reuben Long Detention Center/Southern Health Partners (from 03/11/2013 to 05/28/2013)
- Clinical/forensic interview of Mr. Longworth on 05/28/2013 (approximately 1.75 hours)

Records were requested from Oasis Christian Counseling Center in Moncks Corner, SC. At the time this report was completed, a response had not been received from that facility.

174

Background Information

Family History

Mr. Longsworth reported he was born in Asheville, NC, and was raised by his grandparents until age ten. He said he was thereafter raised in foster homes and a reform school. When asked to describe his childhood, he stated, "I didn't like it," and he added that his grandparents "always talked bad about everybody." He said he was "verbally abused all day long." He indicated there is a family history of mental illness, but, on questioning about the specific types of disorders among his family members, he responded, "I don't know; I'm not a psychologist." He said there is a family history of abusing alcohol, cocaine, "speed," and prescription medications.

Mr. Longsworth reported he has never married or had any children. Prior to his current detention, he reportedly was living in Shallotte, NC, "at my sister's."

Educational History

Mr. Longsworth reported he discontinued his education during the sixth grade but later completed his high school diploma and two years of college courses. He said he earned "straight A's" in college but primarily was given D's and F's during elementary school. He denied a history of being placed in special education classes, but he acknowledged he was retained once in the sixth grade. In regards to behavior problems at school, he stated he was in trouble for fighting, writing notes, skipping classes, disrespecting teachers, and being "disruptive in class." He said he was expelled once "because I hit the teacher with a chair because she hit me in the hand with a ruler."

Employment History

Mr. Longsworth reported he worked in landscaping, dishwashing, data processing, prostitution, and as a porter at a casino. He said his longest period of employment was cleaning bathrooms in prison for approximately six months. He stated he was fired from his casino position after he tried to fight the pit boss. A history of receiving disability benefits was denied.

Medical History

Mr. Longsworth denied a history of diabetes, a thyroid disorder, or seizures. On questioning, he reported he sustained a head injury at age 11 after he fell off of a porch. He indicated he lost consciousness "for a few hours." He reported he incurred another head injury in 1989 during a fight while he was in prison, and he indicated he "woke up four to five days later" and "didn't know my name [or] prisoner number." Aside from experiencing migraine headaches after this incident, he did not report ongoing problems related to the head injury.

JEM

Substance Use History

Mr. Longworth reported he first consumed alcohol at around age 17, and he said he has had periods in which he drank alcohol "every day, all day long." On questioning, he acknowledged he has developed a tolerance to alcohol, experienced alcohol-related blackouts, and suffered withdrawal symptoms upon cessation of use. He said he last consumed alcohol prior to his most recent arrest. Regarding illicit substances, he stated he first used marijuana "when I was a kid," and he said he would use it "when I could get it." He said he has not used that substance since age 15 or 16. Mr. Longworth also reported he began using methamphetamine at age 15, and he stated he would use it for "five to six days then crash, not do it for a week, and then use a couple days." He noted that it is "my drug of choice" and that he has had difficulty discontinuing his methamphetamine use. Nonetheless, he said he did not use it from 1996 until 2010, and he stated he used it for a three week period in July 2010. He said he has not used it since that time. Mr. Longworth also said he has used or experimented with LSD, psilocybin mushrooms, heroin, powder cocaine, and crack cocaine. He indicated he has a history of abusing sedative/hypnotic medications. Mr. Longworth also indicated he huffed gas and glue daily at age nine or ten. He reported he has received substance abuse treatment at a facility in Nevada and attended substance abuse classes during a prior incarceration.

Mental Health History

Mr. Longworth reported he has received mental health treatment at "Pathways," a Christian counseling practice in Moncks Corner, and Southern Nevada Mental Health Center. Regarding symptoms, he said a mental health professional has "tried to talk me into telling people I heard voices" in order to receive disability benefits. He said, "I've heard voices, but that was when I was on meth." He stated he otherwise does not have a history of hearing voices. He reported he does have a history of "ADHD," feeling anxious, and experiencing depressive symptoms. He said he attempted suicide on one occasion at age 18. Mr. Longworth was asked if he wrote threatening letters to government officials, and he said he wrote letters to President Obama and Nancy Pelosi in which he said "I was gonna kill 'em." He explained, "I don't have anything against 'em," and he said his letters were an attempt to obtain a federal charge so he could "parole to a federal parole house." He stated he is currently taking Wellbutrin and has taken Ambien, Ritalin, Seroquel, and Paxil in the past.

According to records from J. Reuben Long Detention Center/Southern Health Partners (from 03/11/2013 to 05/28/2013), Mr. Longworth denied a history of inpatient psychiatric mental health treatment to detention center staff, and there is no documentation of him reporting or presenting with current mental illness symptoms during his current detention. On admission, he acknowledged he attempted suicide on one occasion. He also endorsed a history of consuming alcohol and methamphetamine use. He has been prescribed ibuprofen and bupropion HCL (an antidepressant) during his current detention.

Current Presentation

Mr. Longworth is a 49-year-old Caucasian male of average height and thin build who appears his stated age. He presented for the interview in inmate garb and shackles. His grooming and hygiene were adequate, and no physical abnormalities were observed. His motor activity was

JSN

176

within normal limits. Mr. Longworth was alert and attentive throughout the interview, and he offered a normal amount of eye contact. His speech was of normal rate, rhythm, and volume, and no difficulties in articulation or other language disturbances were noted. On questioning, Mr. Longworth accurately stated his name, the city and state of the evaluation location, and the current month and year. At the outset of the interview, he asked about why he was brought to FES, and he responded, "Judge me competent for trial." He repeated a list of three words, and he recalled two of the words after approximately five minutes had elapsed and the third word when a clue was provided. His ability to recall events from his recent and remote past appeared generally intact. On questioning, he named five big cities, and he listed U.S. Presidents in reverse chronological order from President Obama to President Eisenhower correctly. Based on his explanation of a common proverb and responses to questions about classifying similar objects, his capacity for abstract thinking appeared above average. His judgment for a hypothetical situation was appropriate. His intellectual functioning appeared to be in the high average range. When asked to describe his mood, he responded, "Not been that bad," and his affect (i.e., observed emotional expression) was generally normal and consistent with the content of his speech. His thought processes appeared generally clear and coherent, though he exhibited a tendency to ramble and digress to issues related to the topic of the interview. A history of recent hallucinatory experiences (e.g., hearing voices) was denied, and he did not appear to be experiencing or responding to internal stimuli during the interview. He did not voice any odd beliefs or make any statements indicative of a current delusion (i.e., a false, fixed belief). He denied any current suicidal or homicidal intent.

Diagnostic Impressions

Mr. Longworth reported he has a history of feeling anxious and depressed, and he indicated he attempted suicide on one occasion. It is unclear if those symptoms were the result of situationally-based stressors or a mood or anxiety disorder. Additionally, he reported he heard voices in the past, but he stated this was due to methamphetamine use. Regardless, there is little evidence from his report, presentation, or records to suggest he currently is experiencing symptoms of a mood disorder, anxiety disorder, or psychotic disorder. Given this information, no mental illness diagnosis is given at this time.

Mr. Longworth also reported a history of developing a tolerance to alcohol, experiencing blackouts due to alcohol consumption, and suffering alcohol withdrawal symptoms. He also indicated he has a history of abusing methamphetamine, continuing to use it despite adverse psychological effects, and unsuccessful attempts at discontinuing his use of that substance. Diagnoses of alcohol dependence and amphetamine dependence, with the specifier in a controlled environment for both diagnoses, are given at this time. The specifier, in a controlled environment, refers to the fact that he is currently detained and theoretically does not have access to those substances.

Competency to Stand Trial

A determination of whether Mr. Longworth is competent to stand trial is within the domain of the Court. Nonetheless, an opinion is offered by these examiners, and it is opined that Mr. Longworth currently has the capacity to understand the proceedings against him and to assist his attorney in his own defense.

JEM

Mr. Longworth demonstrated a basic understanding of the difference between felonies and misdemeanors, the meaning of guilty, not guilty, and not guilty by reason of insanity (NGRI); being placed on probation; perjury; plea bargaining; the use of evidence in the courtroom; and the roles of the judge, jury, defense attorney, solicitor, and witnesses. For example, he described plea bargaining as, "Saying you did it in order to get a lesser amount of time or lesser charge or something." As another example, he described the role of the judge as, "At a bench trial, decides guilty or not guilty and goes by sentencing guidelines to sentence you." He added that the judge "instructs [the] jury" and "decides what evidence can be admitted." Although he stated he did not know the meaning of no contest, he was able to learn and retain a basic definition of this plea. Indeed, this plea was explained to him, and at the end of the interview, he defined it as, "Not saying whether you did it or not."

Regarding his current legal situation, Mr. Longworth stated he is charged with "Assault and Battery." When asked how many counts he has of this charge, he replied, "One from the street and one from county jail." On questioning, he described the alleged acts that led to his Assault and Battery – 1st Degree charge as, "Say I attempted to kiss a woman and that I grabbed her breast." In regards to the actions that led to his other charge, he stated it is alleged "I hit someone and they suffered a nasal fracture." Mr. Longworth stated that he considered his Assault and Battery – 1st Degree charge to be serious because it "could carry up to ten years." He added, however, "Doesn't matter . . . because I just can't make it in society . . . can't get a job, pay the rent." He stated that charge allegedly occurred in a store in Myrtle Beach on 03/13/2012. He said the events that led to his Assault and Battery – 2nd Degree charge allegedly occurred in the county jail in September 2012. He identified ten years in prison as his maximum sentence for Assault and Battery – 1st Degree, and he said he would go to a mental hospital if he were found NGRI. He reported he would "go to North Carolina" if he is found not guilty. On questioning, he identified and rationally discussed evidence that could be presented at his trials.

Regarding his ability to assist in his own defense, Mr. Longworth stated his attorney is Melinda Knowles. He stated he can "write her a letter" or "call public defender's office" if he needs to communicate with her. When asked to describe Ms. Knowles, he said, "She's controlling, dominating." He was asked if he has confidence in her, and he responded, "I did until I wrote the letter to the President. She may think I'm cuckoo. She didn't talk to me about it." Nonetheless, he reported he believes she is trying to do a good job for him, and he stated he agrees with how she has handled his case so far. When asked how he would respond if Ms. Knowles suggests an action he does not like, he responded, "Go along with it." When asked how he would respond if his attorney advised him to refrain from providing testimony, he stated, "I'm not going to – I trust her." On questioning, Mr. Longworth provided clear and coherent accounts of events that occurred at the times of the alleged offenses. When asked how he would react if a witness told a lie about him in court, he reported he would "sit there and don't say nothing." He was told he could quietly inform his attorney if this occurs. Mr. Longworth voiced no odd beliefs about his attorney or legal situation.

In summary, Mr. Longworth demonstrated an understanding of the vast majority of the general legal and case-specific information we discussed, and he displayed an ability to readily learn and retain pertinent information he may be lacking. Additionally, he interacted in a polite and appropriate manner throughout the interview, and he displayed the ability and a willingness to

178

assist his attorney in his own defense. As such, it is the opinion of these examiners that he has the capacity to understand the proceedings against him and to assist his attorney in his own defense.

Michael Gassen, Psy.D. 6/5/2013
Michael Gassen, Psy.D. Date
Chief Psychologist

JSN

WITNESSES

Mark McIntyre Myrtle Beach Police Department

The State of South Carolina
County of Horry

Candice Lively

12H01229

COURT OF GENERAL SESSIONS

September, 2012 TERM

ARREST WARRANT NUMBER

2012GS2603641

CDR: 3412 16-03-0600(C)(1)

DOA 3/14/2012

THE STATE

vs.

Johnny Ray Longworth
W/ M

Cross, SC 29436-3523

ACTION OF GRAND JURY

TRUE BILL

SEP 27 2012

Foreperson of Grand Jury

Date

VERDICT

ATTORNEY: Knowles, Melinda

Indictment for

ASSAULT AND BATTERY FIRST DEGREE

ORIGINAL

J. Gregory Hembree, Solicitor

Foreperson of Petit Jury

Date

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

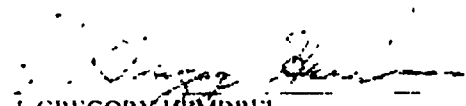
At a Court of General Sessions, convened on September 27, 2012, the Grand Jurors of Horry County present upon their oath:

ASSAULT AND BATTERY FIRST DEGREE

(CDR: 3412 16-03-600(C))

That Johnny Ray Longworth did in Horry County on or about March 13, 2012 commit, offer to commit or attempt to commit an unlawful act of injury with the present ability to do so to Kym Beckham and the act involved the nonconsensual touching of the private parts of the victim with a lewd lascivious intent, in violation of Section 16-3-600(C), S. C. Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. GREGORY HEMBRIEL
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Johnny Ray Longworth

AKA:

Race: WHITE Sex: M Age: 49

DOB: SS#:

Address:

City, State, Zip: Cross, SC 29436-3523

DL#: 0102261965 SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault & Battery 2nd degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS2603641

A/W#: 2012GS2603641

Date of Offense: 3/13/2012

S.C. Code § : 16-03-0600(C)(1)

CDR Code #: 3412

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0600(D)(1) of the S.C. Code of Laws, bearing CDR Code # 3413

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

SCB77061

Spratlin, Martin D.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCC/A Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL		\$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ 25.00 beginning 06/23/14

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

2152

7-23-13

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

This 14th day of January, 2014.

Susan B. Hackett

Susan B. Hackett

Appellate Defender

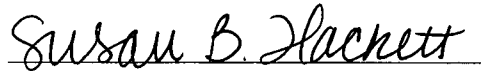
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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This 14th day of January, 2014.


Susan B. Hackett
Appellate Defender

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(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Larry B. Hyman, Jr., Circuit Court Judge

RECEIVED

JAN 14 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

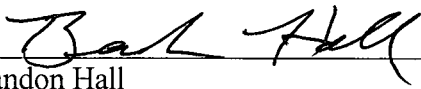
V.

JOHNNY LONGWORTH

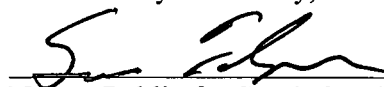
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Johnny Longworth, at 1636 Poplar Hill Road, Cross, SC, 29436, this 14th day of January, 2014.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of January, 2014 .

 (L.S)
Notary Public for South Carolina
My Commission Expires: October 30, 2022 .