

Friday September 6, 2012.

The Honorable DANIEL E. SHEAROUSE,
Clerk of THE South Carolina Supreme Court
Post Office Box 11336
Columbia, South Carolina

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SEP 11 2012
S.C. SUPREME COURT

Raymond Magazine v. State of
South Carolina, C/A NO: 2008-CP-43-2824.
APPELLATE C/A NO: 2012-212606.

DEAR MR. Shearouse:

Enclosed For Filing in a notice of Appeal
in the above case is my Filing of Motion and
Return Pursuant To S.C. RCP, Rule 60 (b)(1)(2)
And (3). Fraud upon THE Court under
Extrinsic Fraud, under extrinsic Fraud
There is No barred are successive and
1st as being untimely Nor There is No
statute of Limitations To Rule 60 (b)
However, Rule 60 (b) under Extrinsic
Fraud are my respond To Rule 243 (c)
of the South Carolina Appellate Court
Rules, However, Rule 60 (b) extrinsic
Fraud.

Date: Sept 6, 2012
Columbia S.C.

Respectfully Submitted
S/ Raymond Magazine
Raymond Magazine, 254723
BRCE-murphy-unit-RM-163
4460 Broad River Rd
Columbia, SC. 29210

August 5, 1998 Trial Transcript

DR. FITZ - CROSS BY BROOKS

1 LOOKED AT SEVEN DIFFERENT GENETIC SITES.

2 INSTANCE, WE ONLY LOOKED AT TWO DIFFERENT GENETIC

3 SITES----

4 Q UH-HUH.

5 A -- AND WE DETERMINE THE FREQUENCY WITHIN THE

6 POPULATION THAT THESE TWO GENETIC SITES OCCUR, IT MAY BE

7 TEN PERCENT OF THE POPULATION SHARES THESE TWO GENETIC

8 SITES. SO YES, IT COULD POINT TO SOMEBODY ELSE.

9 SO THAT IS THE REASONING BEHIND GETTING AS MANY

10 DIFFERENT GENETIC SITES AS YOU CAN.

11 Q OKAY. THANK YOU, DOCTOR.

12 A IT'S---

13 THE COURT: RE-DIRECT, MS. DOMKE?

14 MS. DOMKE: NO FURTHER QUESTIONS, YOUR HONOR.

15 THE COURT: THANK YOU, DR. FITZ. YOU CAN STEP

16 DOWN.

17 (WHEREUPON THE WITNESS LEFT THE STAND).

18 MS. DOMKE: YOUR HONOR, WE'D REQUEST THE WITNESS BE

19 PERMITTED TO LEAVE.

20 THE COURT: LEAVE THAT ON THE RAIL. THANK YOU. ANY

21 OBJECTION TO THE WITNESS BEING EXCUSED?

22 MR. BROOKS: NO OBJECTION.

23 THE COURT: THANK YOU, DOCTOR. YOU ARE EXCUSED TO

24 GO BACK TO WORK. THANK YOU, SIR.

25 (WHEREUPON THE WITNESS LEFT THE COURTROOM).

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U.S. SUPREME COURT

August 5, 1998 Trial Transcript

DR. FITZ - CROSS BY BROOKS

1 TWINS WOULD MATCH EACH OTHER.

2 Q OKAY. A D N A TEST LIKE THE ONE THAT YOU PERFORM --
3 A D N A TEST CANNOT DETERMINE WHETHER OR NOT THE ALLEGED
4 SEXUAL INTERCOURSE WAS -- WHETHER IT WAS RAPE OR WHETHER
5 IT WAS CONSENT NOW; COULD IT?

6 A NO, IT COULD NOT.

7 Q ALL RIGHT. AND WITH THAT POSSIBLE EXCEPTION OF
8 IDENTICAL TWINS THAT YOU TALKED ABOUT, WITH THAT
9 EXCEPTION, THAT DOES LEAD TO THE POSSIBILITY FOR ANY TYPE
10 OF ERROR TO OCCUR; DOESN'T IT? DOES IT NOT?

11 A IF YOU COULD DEFINE A SPECIFIC AREA THAT'S --
12 THAT'S -- IS THERE A SPECIFIC AREA YOU ARE TRYING TO REFER
13 TO?

✓ 14 Q I WAS JUST ASKING. YOU KNOW MORE ABOUT D N A THAN I
15 DO. ALL RIGHT. NOW, SAID THAT THERE WAS A POSSIBILITY
16 THAT IDENTICAL TWINS COULD HAVE THE SAME CODE.

17 A OR THEY DO HAVE.

18 Q THEY DO HAVE THE SAME CODE?

19 A THEY DO HAVE THE SAME.

✓ 20 Q OKAY. KNOWING THAT, THAT LEAVES THAT THERE IS A
21 POSSIBILITY OF A MISTAKE IN POINTING TO THE DEFENDANT;
22 IS THAT CORRECT?

✓ 23 EVEN THOUGH IT MAY BE SLIGHT, IT DOES LEAVE A
✓ 24 POSSIBILITY OF A MISTAKE; IS THAT CORRECT?

25 A IT -- IF I -- WHAT IT MEANS -- FOR INSTANCE, WE

INDEX OF ALL DOCUMENTS **RECEIVED**

SEP 11 2012

SEE APPENDIX - B - 14.

U.S. SUPREME COURT

- (1) SEE, APPENDIX - A, United State Court of Appeal "Judgment"
- (2) SEE, APPENDIX - A-1, UNITED State Appeal Court, "unPublished"
- (3) SEE, Exhibit - A-5, Arrest Warrant # F-176312. CSC 2nd
- (4) SEE, Exhibit - A-6, Arrest Warrant # F-176313. ABWIK.
- (5) See Exhibit - A-7 Arrest Warrant # F-176314. Kidnapping.
- (6) see Exhibit - A-1 on 5-5-99, Letter to Atty Brooks.
- (7) SEE Exhibit - A-2 Letter, From Clerk of Court Sending me, COPY of, Arrest Warrant, Waiving Preliminary Hearing, And COPY of Indictment.
- (8) SEE Exhibit - A-3, COPY of Arrest Warrant Waiving P-H.
- (9) SEE Exhibit - B, Urgent Message, DNA Matches Magazine
- (10) SEE Exhibit - B-1, Tub of Blood From Magazine October 26, 1996 Case.
- (11) SEE Exhibit - B-2, Victim Sexual Assault Kit, and outer Clothing Bag of Victim.
- (12) See Exhibit - C-1-8, August 5, 1998 Transcript of Record.
- (13) See Exhibit - D-1, Sentence Sheet, Kidnapping.
- (14) see Exhibit - D-2, Sentence Sheet, ABHAN.
- (15) see Exhibit - D-3, Sentence Sheet, CSC 2nd degree.
- (16) See Exhibit - E-#1, First Man in Weekend Rape Case.
- (17) SEE Exhibit - E-#2, Second Man arrested in Weekend Rape Case.
- (18) See Exhibit - F-1, 2, and 3, Indictment #98-GS-43-745.
- (19) SEE Exhibit - G-1, 2, 3, 4, Had To Subpoena Record From MY TRIAL Atty MR. Charles BROOKS III
- (20) SEE Exhibit - I-1, Petition for writ of Certiorari denied on. October 1, 2007, United States Supreme Court.
- (21) SEE Exhibit - I, Petition For Rehearing is denied, on December 10, 2007, United State Supreme Court.
- (22) SEE Exhibit - L-#1-5, Notice, of Motion and motion For Fast and Speedy Trial.
- (23) SEE Exhibit - L-2, CSC 2nd degree WARRANT, "dismissed."
- (24) See Exhibit - E-3, Kidnapping, Warrant "dismissed" F-176312.
- (25) See Exhibit - L-4, ABWIK, Warrant "dismissed" F-176314
- (26) See Exhibit - M-1-15, December 2-2, 1998 Transcript of Record
- (27) See Exhibit - N-2, Subpoena Record Filed "Discovery"
- (28) see Exhibit - J-1, Sumter Police Arrest Report.
- (29) see Exhibit - J-2, -JVA-3082, NCI
- (30) See Exhibit - J-3, Communication Any Help is Appreciate.

- SEE Exhibit - J-4, WANTED POSTED OF MAGAZINE.
- 1) SEE Exhibit - J-5, CSC 1st degree Warrant # F-562755.
- 2) SEE Exhibit - J-7, Waiver of Extradition.
- 3) SEE Exhibit - J-8, Magistrate's order for Fugitive.
- 4) SEE Exhibit - U-1, Verdict Form.
- 5) SEE Exhibit - W-1, General Examination, Chief Complaint.
- 6) SEE Exhibit - W-2, Wet Prep.
- 7) SEE Exhibit - H-2 CC Culture, "NONE"
- 8) SEE Exhibit - H-3, Culture, Chlamydia, "NONE Detected"
- 9) SEE Exhibit - 5, General Examination, Wet Prep, "None"
- 10) MISCELLANEOUS TESTS (NEGATIVE).
RPR - NON REACTIVE.
- 11) SEE Exhibit - X-1, 2, Evidence Processing, Results of Examination (s).
- 12) SEE Exhibit - Z-1, 2, 3, Serology and DNA Analysis.
Results of Examinations:
- 13) SEE Exhibit - #3, October, 26, 1996 Case.
- 14) SEE Exhibit - APP-Pg - #26, Photos,
- 15) SEE Exhibit - #96-1 October, 27, 1996 Indictment
- 16) SEE Exhibit - #98 - December 06, 2004 "Reversed"
- 17) SEE Exhibit - 1, G.E. July 19, 1997, General Examination.
(Treatment Record)
- 18) SEE Exhibit - 2, General Examination.
- 19) SEE Exhibit - 3, General Examination.
- 20) SEE Exhibit - 4, Pelvic Examination.
- 21) SEE Exhibit - #6, 7, 8, Chief Complaint, Data/Action/Response.
- 22) SEE Exhibit - PCR Order, July 26, 2002 "Reverser"
- 23) SEE Exhibit - #96-1 and -2. Indictment, November 27, 1996 Case,
- 24) SEE Exhibit - #98 - and -98-2, Discovery Response By The Office of Attorney General.
- 25) SEE Exhibit - #26-2. Consent To Give Samples.
- 26) SEE Exhibit - #97-G15. S.C. Law Enforcement Division - Forensic Sciences Request.
- 27) SEE Exhibit - #97-154, - (A) and (B). Serology and DNA Analysis, October 27, 1996 Case.
- 28) SEE Exhibit - APP-Pg - #406, July 19, 1997. Motion for Jury Selection.
- 29) SEE Exhibit - APP-Pg - #395 End of Requested Transcript OF Record.
- 30) SEE Exhibit - #386, December 1-2, 1998 Trial.
"VERDICT", Line - #1 - 25.

INDEX OF ALL DOCUMENTS

- (61). SEE, Exhibit- #387, December 1-2, 1998 TRIAL, "Polling of The Jury." Line-#3-25.
- (62). SEE, Exhibit- #394. December 1-2, 1998, TRIAL. THE "Sentenceing of THE Defendant, Line-#1-25."
- (63). See Exhibit - APP-Pg-#445, THE STATE ATT, MS MCMAHON, Strated THE OPENING OF THE PCR COURT UP BY misleading THE COURT with The wrong information," FRAUD THE Court."
- (64) SEE Exhibit - APP-Pg-#446, MR. Wilson OPEN THE COURT UP WITH THE RIGHT BASICS, TO MY CLAIMS FOR RELIEF IN THE PCR COURT. Line-#1-25, ALSO, Pg-#465, -THRU - 611.
- (65) See Exhibit - APP-Pg-#446, ONLY Arrested on one warrant, Line-#20-21, And 22-24, ALSO, Exhibit-APP-Pg-#556, Line #9-25, AND Line-#1-3, And Line-#12-14 on APP-Pg-#557. ALSO, ATT General, MS. MCMAHON, Stated herself That AS FAR AS She Know, ONLY ONE Warrant. ALSO, See APP-Pg No: -594, Line-#12-15, And ALSO, Line-#24-25. on Page #594, ALSO, APP-Pg-#610, Line-#7-9.
- (66) SEE Exhibit-APP-Pg-#446, Line-#22, He was Never Served with an indictment. ALSO, APP-Pg-#465, Line-#23-24, ALSO, APP-Pg-#557, Line-#10-11, ALSO, Line-#15-19, ALSO, APP-Pg-#594, Line-#22-23, ALSO, APP-Pg-#610, Line-#3-25.
- (67). SEE Exhibit-APP-Pg-#446, Line-#22-24, HE WAS Never Arraigned in the August 5, 1998 Trial, Nor Never Served with any other warrant on any other Charges. ALSO, See APP-Pg-#557, Line-#7-9, ALSO, Line-#15-19. ALSO, APP-Pg-#594, Line-#16-21, Never have in THE August 5, 1998 Trial.

SEE, Exhibit - Pg - #250 Trial Transcript

DR. ALLEN BRUNER - DIRECT BY DOMKE

1 MS. DOMKE: NO FURTHER QUESTIONS.

2 THE COURT: YOU CAN STEP DOWN, MR. TURNER. MADE YOU
3 GET BACK UP THERE FOR NOTHING. THANK YOU.

4 (WHEREUPON THE WITNESS LEFT THE STAND).

5 MR. BROOKS: JUDGE, CAN I MOVE THIS? DOES THE NEXT
6 WITNESS NEED THIS?

7 MS. DOMKE: NO, SIR. I'LL MOVE IT, SIR.

8 THE COURT: SHE'S GOING TO MOVE IT.

9 (WHEREUPON THERE WAS A PAUSE).

10 THE COURT: ALL RIGHT. THANK YOU.

11 MS. DOMKE: YOUR HONOR, THE STATE CALLS DR. ALLEN
12 BRUNER.

13 DR. ALLEN BRUNER, BEING FIRST
14 DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MS. DOMKE:

16 Q DR. BRUNER, WHAT COUNTY ARE YOU A RESIDENT OF?

17 A SUMTER.

18 Q SIR, WHAT IS YOUR OCCUPATION?

19 A I'M A FAMILY PRACTICE DOCTOR.

20 Q HOW LONG HAVE YOU BEEN A DOCTOR, SIR?

21 A FORTY YEARS.

22 Q AND WHAT IS YOUR AREA OF PRACTICE IN, PRACTICING
23 MEDICINE?

24 A FAMILY PRACTICE.

25 Q OKAY. CAN YOU TELL THE JURY BRIEFLY YOUR

Decembia 1-2, 1998. Trial

JAMIE TURNER - CROSS BY BROOKS

1 A NO, SIR.

2 Q ALL RIGHT. NOW, YOU KNOW HOW MANY HOUSES ALONG THIS
3 BLOCK HERE AND ON THE OTHER SIDE OF THE HIGHWAY?

4 A ESTIMATING PROBABLY THREE TO FOUR BEFORE YOU GET TO
5 THE HOUSE. PROBABLY THREE OR FOUR MORE IN THIS AREA
6 HERE. AND THERE'S A LOT MORE ON THE OTHER SIDE OF THE
7 ROAD -- ON THIS SIDE.

8 Q ON THE OTHER SIDE YOU SAY THERE'S MORE THAN FIVE?

9 A YES.

10 Q MORE THAN TEN?

11 A I COULDN'T TELL YOU. I DIDN'T COUNT THEM.

12 Q BETWEEN FIVE AND TEN?

13 A MORE OR LESS.

14 Q OKAY. ALL RIGHT. YOU ALSO STATED THAT YOU FOUND A
15 FOOTPRINT; IS THAT CORRECT?

16 A RIGHT.

17 Q AND YOU DON'T HAVE ANY IDEA WHO PUT THAT FOOTPRINT
18 THERE; DO YOU?

19 A NO, SIR.

20 Q YOU HAVE NO IDEA HOW LONG IT HAD BEEN THERE?

21 A NO, SIR.

22 Q OKAY.

23 MR. BROOKS: JUDGE, I HAVE NO OTHER QUESTIONS.

24 THE COURT: THANK YOU. YOU CAN TAKE THE STAND, MR.
25 TURNER. REDIRECT, MS. DOMKE?

December 1-2, 1998 Trial

DR. ALLEN BRUNER - DIRECT BY DOMKE

1 EDUCATIONAL BACKGROUND.

2 A GOT AN UNDERGRADUATE DEGREE FROM THE CITADEL. WENT
3 TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA IN CHARLESTON
4 AND DID A ROTATING INTERNSHIP AT THE OLD COLUMBIA HOSPITAL
5 WHICH IS NOW RICHLAND MEMORIAL.

6 Q SIR, DID YOU HAVE AN OPPORTUNITY TO DRAW BLOOD FROM
7 THE DEFENDANT IN THIS CASE, MR. RAYMOND MAGAZINE?

8 A I DID.

9 Q OKAY. AND WHERE DID THIS OCCUR?

10 A AT MY OFFICE. 11 WEST CALHOUN STREET.

11 Q DO YOU RECALL WHO WAS PRESENT AT THAT TIME?

12 A TWO OFFICERS. I DO NOT REMEMBER THEIR NAMES.

13 Q OKAY.

14 MR. BROOKS: YOUR HONOR, EXCEPTION. WANT
15 CLARIFICATION. WE KNOW THIS WITNESS IS AN EXPERT.

16 THE COURT: I DON'T THINK HE'S GOING TO BE TESTIFYING
17 AS TO ANY OPINIONS OR CONCLUSIONS; IS THAT RIGHT?

18 MS. DOMKE: NO, SIR.

19 THE COURT: HE IS A FACT WITNESS. SO HE'S -- HE'S --
20 SHE HASN'T ATTEMPTED TO QUALIFY HIM.

21 (WHEREUPON QUESTIONING RESUMED).

22 Q DR. BRUNER, I'D LIKE TO SHOW YOU STATE'S EXHIBIT NO
23 18 A FOR IDENTIFICATION AND ASK YOU IF YOU CAN IDENTIFY
24 THAT ENVELOPE, SIR.

25 A YES, SIR. THAT'S MY SIGNATURE.

DR. ALLEN BRUNER - DIRECT BY DOMKE

1 Q IS THAT YOUR SIGNATURE ON THERE?

2 A CORRECT.

3 Q OKAY. AND SIR, ENVELOPE 18 C. IS THAT YOUR
4 SIGNATURE ON THERE?

5 A YES.

6 Q OKAY. AND YOUR SIGNATURE -- CAN YOU READ THE
7 SUSPECT'S NAME AND YOUR SIGNATURE ON THERE?

8 A RAYMOND MAGAZINE IS THE SUSPECT'S NAME ABOVE MY
9 SIGNATURE.

10 Q OKAY, SIR. NOW, YOU'RE DR. BRUNER. YOU HAD AN
11 OPPORTUNITY TO TAKE THOSE BLOOD SAMPLES; IS THAT
12 CORRECT?

13 A YES, MA'AM.

14 Q OKAY. AND WHEN YOU TAKE THE SAMPLE, YOU WRITE THE
15 NAME OF THE INDIVIDUAL AND SIGN YOUR NAME, CORRECT, AT THE
16 BOTTOM?

17 A IT'S ON THE VIAL. THE ACCUSED WATCHES ME DO IT.
18 WATCHES ME LABEL THE ENVELOPE.

19 Q AND THEN DO YOU HAND THAT TO THE OFFICER WHO WAS
20 PRESENT?

21 A IT'S PLACED IN A ENVELOPE AND A SEAL IS PUT ON IT, AN
22 OFFICIAL SLED SEAL. I SIGN IT AND THE TIME AND THE
23 RECEIVING OFFICER SIGNS IT BEYOND MY NAME.

24 Q ALL RIGHT.

25 MS. DOMKE: YOUR HONOR, AT THIS TIME THE STATE WOULD

DR. ALLEN BRUNER - CROSS BY BROOKS

1 MOVE INTO EVIDENCE STATE'S 18A AND 18C.

2 THE COURT: WITHOUT OBJECTION, 18A AND 18C INTO
3 EVIDENCE.

4 (STATE'S EXHIBIT NO. 18A AND 18C MARKED FOR
5 EVIDENCE).

6 (WHEREUPON QUESTIONING RESUMED).

7 Q DR. BRUNER, AFTER YOU TOOK THE SAMPLE OF BLOOD, YOU
8 TURNED IT OVER TO THE OFFICER WHO WAS THERE.

9 AND THEN YOU DOCUMENT ON THE VIAL THE BLOOD THAT
10 YOU HAVE TAKEN FROM THE NAME OF THE PERSON, YOU SIGN IT;
11 CORRECT?

12 A CORRECT.

13 Q ALL RIGHT. AND AFTER THAT IN THIS CASE, DID YOU
14 HAVE ANY OTHER INVOLVEMENT IN THIS CASE?

15 A NONE. NONE.

16 MS. DOMKE: NO FURTHER QUESTIONS, YOUR HONOR.

17 THE COURT: THANK YOU. ANY CROSS-EXAMINATION, MR.
18 BROOKS?

19 CROSS-EXAMINATION BY MR. BROOKS:

20 Q DR. BRUNER, OTHER THAN TAKING THE BLOOD SAMPLE, YOU
21 HAVE NO KNOWLEDGE OF ANYTHING THAT HAPPENED IN THIS
22 CASE; US THAT CORRECT?

23 A THAT'S CORRECT.

24 Q AND YOU HAVE BEEN TAKING -- YOU HAVE BEEN PRACTICING
25 FOR WELL OVER FORTY YEARS; IS THAT CORRECT?

December 1-2, 1998, Trial

DR. ALLEN BRUNER - CROSS BY BROOKS

1 A CORRECT.

2 Q AND TAKING BLOOD SAMPLES FOR A SIGNIFICANT AMOUNT OF
3 TIME; IS THAT CORRECT?

4 A CORRECT. AND THE PROCEDURE HAS CHANGED. IT WASN'T
5 THIS GOOD EARLY ON.

6 Q OKAY. ALL RIGHT. IT IS POSSIBLE THAT A MISTAKE
7 COULD HAVE BEEN MADE; ISN'T IT?

8 A I DON'T SEE HOW. EVERYTHING IS DOCUMENTED SO
9 WELL.

10 Q BUT EVEN WITH EVERYTHING BEING DOCUMENTED SO WELL, IT
11 IS STILL POSSIBLE; IS THAT CORRECT?

12 A IT'S ALWAYS A POSSIBILITY .

13 MR. BROOKS: NO OTHER QUESTIONS, YOUR HONOR.

14 THE COURT: THANK YOU. REDIRECT, MS. DOMKE?

15 MS. DOMKE: NO QUESTIONS, YOUR HONOR.

16 THE COURT: THANK YOU, DOCTOR. YOU MAY STEP DOWN AND
17 CAN BE EXCUSED.

18 (WHEREUPON THE WITNESS LEFT THE STAND).

19 MS. DOMKE: YOUR HONOR, THE STATE CALLS
20 INVESTIGATOR -- I AM SORRY, SIR.

21 (WHEREUPON THERE WAS A PAUSE).

22 MS. DOMKE: THE STATE CALLS INVESTIGATOR TOMMY BARRON
23 TO THE STAND.

24 THE COURT: INVESTIGATOR BARRON, COME FOWARD, PLEASE
25 AND BE SWORN.

December 1-2, 1998, Trial

TOMMY BARRON - DIRECT BY DOMKE

1 TOMMY BARRON, BEING FIRST DULY
2 SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MS. DOMKE:

4 Q INVESTIGATOR BARRON, WHAT IS YOUR CURRENT OCCUPATION?

5 A I'M AN INVESTIGATOR WITH THE SUMTER COUNTY SHERIFF'S
6 DEPARTMENT.

7 Q AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
8 DEPARTMENT?

9 A BEEN WITH THE SHERIFF'S DEPARTMENT APPROXIMATELY
10 ALMOST FOUR YEARS NOW AND ALSO HAVE FOURTEEN PRIOR YEARS
11 WITH OTHER AGENCIES.

12 Q ALL RIGHT. AND SIR, WERE YOU INVOLVED IN OBTAINING
13 SAMPLE OF THE DEFENDANT'S BLOOD FOR ANALYSIS?

14 A YES, MA'AM.

15 Q OKAY. BEFORE TAKING THE SAMPLE, DID YOU ADVISE THE
16 DEFENDANT OF HIS CONSTITUTIONAL RIGHTS?

17 A YES, MA'AM. I DID.

18 Q OKAY. WHAT DID YOU TELL HIS -- TELL THE DEFENDANT
19 IN RELATION TO HIS CONSTITUTIONAL RIGHTS?

20 A I ADVISED HIM THAT I WANTED TO TAKE HIM TO THE DOCTOR
21 TO GET AN ANALYSIS FOR D N A AND HE DIDN'T HAVE TO GO.
22 IT WAS UP TO HIM.

23 AND HE, OF COURSE -- HE CONSENTED FOR ME TO TAKE
24 HIM AND TO HAVE IT DONE.

25 Q OKAY. AND IN YOUR OPINION, WAS THE DEFENDANT ABLE

See, Exhibit - pg - # 255

December 1-2, 1998 TRIAL

TOMMY BARRON - DIRECT BY DOMKE

1 TO UNDERSTAND WHAT YOU WERE TELLING HIM?

2 A YES, MA'AM.

3 Q OKAY. AND DID HE IN FACT CONSENT TO PROVIDING A
4 SAMPLE OF HIS BLOOD?

5 A HE DID.

6 Q OKAY. AND IN YOUR OPINION, WAS HIS CONSENT FREE AND
7 VOLUNTARILY GIVEN?

8 A YES, IT WAS.

9 Q DID YOU THREATEN HIM OR COERCE HIM IN ANY MANNER TO
10 OBTAIN HIS CONSENT?

11 A NO, MA'AM. I DIDN'T.

12 Q DID HE SIGN A CONSENT FORM?

13 A YES, MA'AM.

14 Q I WOULD LIKE TO SHOW YOU COURT'S EXHIBIT NO. 1 A FOR
15 IDENTIFICATION ONLY AND ASK YOU IF THAT IS THE CONSENT
16 FORM WE ARE TALKING ABOUT.

17 A YES, MA'AM.

18 Q OKAY. AND SIR, IF YOU WOULD PLEASE, WITH -- WOULD
19 YOU READ THE CONSENT FORM TO THE JURY.

20 A YES, MA'AM. IT'S A CONSENT FORM THAT WE USE AT THE
21 SUMTER COUNTY SHERIFF'S DEPARTMENT. IT HAS I RAYMOND
22 MAGAZINE VOLUNTARILY CONSENT TO PROVIDE THE SUMTER COUNTY
23 SHERIFF'S DEPARTMENT WITH HAIR, SALIVA AND BLOOD SAMPLES
24 FROM MY PERSON FOR ANALYSIS IN REFERENCE TO A CRIME OF
25 CRIMINAL SEXUAL CONDUCT.

See, Exhibit - pg. # 256

December 1-2, 1998, Trial

TOMMY BARRON - DIRECT BY DOMKE

1 THIS CONSENT IS GIVEN FREELY AND IS ON MY OWN
2 CHOICE. NO ONE HAS THREATENED, COERCED ME IN ANY WAY OR
3 PROMISED ME SPECIAL TREATMENT.

4 TO SHOW THAT I AM CONSENTING TO THIS PROCEDURE,
5 I AM SIGNING MY NAME IN THE SPACE BELOW.

6 Q AND DID HE -- DID YOU SEE THE DEFENDANT SIGN HIS
7 NAME?

8 A YES, MA'AM. I DID.

9 Q DID YOU SIGN THE FORM AS WELL?

10 A YES, MA'AM.

11 Q IS THERE ANY OTHER SIGNATURE ON THE FORM?

12 A DR. BRUNER'S.

13 Q OKAY. AND DID YOU SEE DR. BRUNER SIGN THE FORM AS
14 WELL?

15 A YES, I DID.

16 Q OKAY. AND AFTER THAT, DID YOU WITNESS DR. BRUNER
17 TAKE A BLOOD SAMPLE FROM THE DEFENDANT?

18 A YES, MA'AM.

19 Q OKAY. AND YOU WERE PRESENT AT THAT TIME.

20 A YES, MA'AM.

21 Q AND DID YOU RECEIVE THE SAMPLE FROM DR. BRUNER?

22 A I DID.

23 Q AND DID YOU TRANSPORT THAT TO THE EVIDENCE CUSTODIAN
24 AT THE SUMTER COUNTY SHERIFF'S DEPARTMENT?

25 A YES, MA'AM. AND AT THE TIME IT WAS INVESTIGATOR

See, Exhibit - pg. # 257

December 1-2, 1998, Trial

TOMMY BARRON - CROSS BY BROOKS

1 RAYMOND MAGAZINE -- I MEAN INVESTIGATOR MACKESSEY.

2 MS. DOMKE: NO FURTHER QUESTIONS, YOUR HONOR.

3 THE COURT: THANK YOU. CROSS-EXAMINATION, MR.

4 BROOKS?

5 MR. BROOKS: BEG THE COURT'S INDULGENCE, YOUR HONOR.

6 THE COURT: ALL RIGHT, SIR.

7 (WHEREUPON THERE WAS A PAUSE)

8 CROSS-EXAMINATION BY MR. BROOKS: ATTORNEY.

9 Q INVESTIGATOR BARRON, HOW ARE YOU DOING TODAY?

10 A FINE.

11 Q OTHER THAN TAKING MR. MAGAZINE'S BLOOD SAMPLE, YOU
12 DON'T HAVE ANY PERSONAL KNOWLEDGE OF WHAT TOOK PLACE; IS
13 THAT CORRECT?

14 A THAT'S CORRECT.

15 Q NO OTHER KNOWLEDGE ABOUT THIS CASE.

16 A NO OTHER KNOWLEDGE ABOUT THIS CASE.

17 Q OKAY.

18 MR. BROOKS: NO OTHER QUESTIONS, YOUR HONOR.

19 THE COURT: THANK YOU. YOU CAN STEP DOWN, OFFICER
20 BARRON. THANK YOU, SIR.

21 MS. DOMKE: YOUR HONOR, THERE'S NO FURTHER
22 QUESTIONS.

23 (WHEREUPON THE WITNESS LEFT THE STAND).

24 MS. DOMKE: YOUR HONOR, THE STATE CALLS MELISSA
25 BRADLEY TO THE STAND.

December 1-2, 1998 TRIAL.

MELISSA BRADLEY - DIRECT BY DOMKE

1 THE COURT: MRS. BRADLEY, COME FORWARD, PLEASE AND BE
2 SWORN.

3 MELISSA BRADLEY, BEING FIRST DULY
4 SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION BY MS. DOMKE:

6 Q MELISSA, IS WHAT IS YOUR CURRENT OCCUPATION?

7 A EVIDENCE CUSTODIAN FOR THE SUMTER SHERIFF'S OFFICE.

8 Q OKAY. AND CAN YOU TELL ME WHAT WAS YOUR INVOLVEMENT
9 IN THIS CASE.

10 A I'M RESPONSIBLE FOR KEEPING ALL THE EVIDENCE AND I
11 TRANSPORTED THE C.S.C. CASE TO -- I AM SORRY -- KIT -- TO
12 SLED.

13 Q OKAY. AND AS EVIDENCE CUSTODIAN, YOU ARE
14 RESPONSIBLE THEN FOR TAKING WHAT'S IN THE EVIDENCE LOCKER
15 AT THE SHERIFF'S DEPARTMENT TO THE SOUTH CAROLINA LAW
16 ENFORCEMENT DIVISION?

17 A THAT'S CORRECT.

18 Q I'D LIKE TO SHOW YOU STATE'S EXHIBIT NO. 17 AND ASK
19 YOU IF YOU CAN IDENTIFY THAT.

20 A YES, I CAN. IT'S A -- HAS MY INITIALS.

21 Q DID YOU INITIAL THE ITEMS THAT YOU ARE IN FACT
22 SEALING AND TAKING TO SLED?

23 A YES, I DO.

24 Q OKAY. AND IS THAT THE SEXUAL ASSAULT KIT FOR
25 MELISSA HAYES?

SEE, Exhibit - pg - # 259.

December 1-2, 1998, TRIAL.

MELISSA BRADLEY - DIRECT BY DOMKE

1 A RIGHT. IT'S THE ACTUAL CONTENTS THAT WERE INSIDE.

2 Q OKAY. AND THEN YOU TOOK THAT TO SLED THEN; IS THAT
3 CORRECT?

4 A THAT'S CORRECT.

5 Q ALL RIGHT. DO YOU HAVE YOUR EVIDENCE CARDS WITH YOU
6 TODAY?

7 A I DO.

8 Q OKAY. WOULD YOU PLEASE LOOK AT THOSE CARDS AND LET
9 THE JURY KNOW WHERE YOU WERE IN THE CHAIN OF CUSTODY IF
10 YOU IN FACT BROUGHT ANY EVIDENCE BACK FROM SLED TO THE
11 SUMTER SHERIFF'S DEPARTMENT?

12 A YES. ON JULY 24TH, I TOOK THE KIT UP TO SLED. AND
13 THE SEROLOGY PORTION WHICH IS THIS PIECE WAS RETURNED ON
14 OCTOBER 31ST, 97, BY MYSELF.

15 Q OKAY. AND THERE IS ANOTHER EVIDENCE CUSTODIAN, IS
16 THERE NOT, WHO WOULD HANDLE OTHER EVIDENCE IN ADDITION TO
17 YOU.

18 A THAT'S CORRECT.

19 Q OKAY. AND IS THAT INVESTIGATOR RAYMOND MACKESSEY?

20 A IT IS.

21 Q OKAY. NOW, CAN YOU TELL ME FROM LOOKING AT THE --
22 THE KIT IN FRONT OF YOU -- THAT IS IN SUBSTANTIALLY THE
23 SAME CONDITION AS YOU RECEIVED IT WHEN IT WAS RETURNED
24 FROM SLED?

25 A YES.

See, Exhibit - pg - # 260

December 1-2, 1998 Trial

MELISSA BRADLEY - DIRECT BY DOMKE

1 Q OKAY. AND WHILE IT WAS IN YOUR CUSTODY AND OR
2 CONTROL, YOU DID NOT OPEN IT? OPEN THE KIT FOR ANY
3 REASON?

4 A NO, MA'AM.

5 Q OKAY. AND THE VICTIM'S SAMPLES ACTUALLY CAME TO YOU
6 FROM WHICH OFFICER?

7 A THEY WERE PLACED IN THE PATROL REFRIGERATOR FROM
8 INVESTIGATOR WINGATE.

9 Q OKAY. AND YOU HAVE A -- BROUGHT THE EVIDENCE
10 YESTERDAY AND TODAY. YOU HAVE BEEN IN THE COURTROOM AND
11 YOU HAVE BROUGHT THE EVIDENCE WITH YOU?

12 A RIGHT.

13 Q AND YOU HAVE UNSEALED THE PACKAGES AS I REQUESTED
14 THEM?

15 A THAT'S CORRECT.

16 Q OKAY.

17 MS. DOMKE: COURT'S INDULGENCE, PLEASE.

18 THE COURT: YES, MA'AM.

19 (WHEREUPON THERE WAS A PAUSE).

20 (WHEREUPON QUESTIONING RESUMED).

21 Q NOW MRS. BRADLEY, I'D LIKE TO SHOW YOU COURT'S
22 EXHIBIT NO. 5 AND ASK YOU IF YOU WILL LOOK ON YOUR
23 EVIDENCE CARD.

24 DID YOU HAVE AN OPPORTUNITY TO -- TO BRING THE
25 SUSPECT SAMPLES BACK FROM SLED TO LAW ENFORCEMENT? WOULD

SEE, Exhibit - Pg - # 261

December 1-2, 1998 TRIAL.

MELISSA BRADLEY - DIRECT BY DOMKE

1 YOU LOOK ON YOUR EVIDENCE CARDS AND SEE IF YOU BROUGHT THE
2 SUSPECT KIT BACK FROM SLED.

3 A I'M -- I DON'T HAVE THAT CARD WITH ME.

4 Q IS THAT IN THE POSSESSION OF INVESTIGATOR RAYMOND
5 MACKESSEY?

6 A YES, IT IS.

7 Q OKAY.

8 MS. DOMKE: I HAVE NO FURTHER QUESTIONS AT THIS
9 TIME. I REQUEST TO BE ABLE TO RECALL THIS WITNESS WHEN
10 INVESTIGATOR MACKESSEY ARRIVES.

11 THE COURT: THAT WILL BE FINE. CROSS-EXAMINATION,
12 MR. BROOKS?

13 MR. BROOKS: NONE AT THIS TIME, YOUR HONOR.

14 THE COURT: THANK YOU. YOU CAN STEP DOWN, MRS.
15 BRADLEY, SUBJECT TO RECALL. THANK YOU.

16 (WHEREUPON THE WITNESS LEFT THE STAND).

17 MS. DOMKE: YOUR HONOR, MAY WE APPROACH ON A
18 SCHEDULING MATTER?

19 THE COURT: SURE.

20 (WHEREUPON A BENCH CONFERENCE WAS HELD).

21 THE COURT: ALL RIGHT. MS. DOMKE, CALL YOUR NEXT
22 WITNESS.

23 MS. DOMKE: YES, SIR, YOUR HONOR. YOUR HONOR, THE
24 STATE CALLS JUDGE WILLIAM SANDERS TO THE STAND.

25 THE COURT: JUDGE SANDERS, COME FORWARD, PLEASE, SIR

SEE, Exhibit - pg - # 262.

DECEMBER 1-2, 2012.

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 FACE. HE GRABBED MY CHEST FROM -- HE DID A LOT OF THINGS
2 TO ME THAT -- HE WOULD DO ANYTHING HE COULD TO MAKE ME DO
3 WHAT HE WANTED ME TO DO.

4 Q AND WHAT HAPPENED?

5 A WHEN HE -- WHILE HE WAS CHOKING ME, IT TOOK
6 EVERYTHING I HAD TO FINALLY TELL HIM OKAY SO THAT HE WOULD
7 LET ME GO, LET ME HAVE SOME AIR. AFTER HE LET ME GO, I
8 TOOK MY PANTS OFF AND...

9 Q AND WHAT HAPPENED?

10 A HE TOOK ALL MY CLOTHES OFF AND HE RAPED ME.

11 Q AND WHAT SPECIFICALLY DID HE DO, MELISSA?

12 A HE CLIMBED ON TOP OF ME, KISSING ME AND PENETRATING
13 ME.

14 Q DID HE EJACULATE?

15 A I BELIEVE SO.

16 Q DID YOU PLEAD WITH HIM?

17 A YES, I DID. I BEGGED HIM NOT TO DO IT, TELLING HIM
18 THAT I WANTED TO GO HOME. I HAD A BABY. I PLEADED WITH
19 HIM NOT TO KILL ME. I TOLD HIM -- TOLD HIM I WOULD DO
20 ANYTHING AS LONG AS HE DIDN'T KILL ME.

21 Q DID HE SAY ANYTHING TO YOU?

22 A TOLD ME AS LONG AS I DID WHAT HE TOLD ME TO DO, THAT
23 HE WOULD LET ME LIVE.

24 Q ALL RIGHT. DID HE HAVE -- STILL HAVE THE KNIFE AT
25 THIS TIME?

SEE, Exhibit - PG-# 102

December 1-2, 1998 Trial

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 A YES, MA'AM. HE DID HAVE THE KNIFE THE WHOLE TIME.

2 Q DID YOU AT ANY TIME TRY AND GRAB THE KNIFE?

3 A YES, MA'AM. I DID TRY TO GRAB THE KNIFE.

4 Q WHAT HAPPENED?

5 A WHEN I TRIED TO GRAB THE KNIFE AWAY FROM MY THROAT,
6 HE HAD GOTTEN MAD AND STABBED IT DOWN INTO THE DIRT AND
7 THAT'S -- THAT'S THE POINT WHEN HE HIT ME IN THE FACE.

8 Q OKAY. WHAT HAPPENED NEXT, MELISSA?

9 A AFTER HE WAS DONE, HE -- I BEGGED HIM TO LET ME GO,
10 THAT I HAD DONE WHAT HE TOLD ME TO DO. PLEASE LET ME GO
11 HOME.

12 HE TOLD ME HE -- HE WANTED MORE OF THAT STUFF,
13 THAT IT WAS GOOD, HE WASN'T GOING TO LET ME GO. HE
14 GATHERED UP MY CLOTHES.

15 HE HAD THE KNIFE IN HIS HAND AND HE MADE ME WALK
16 DOWN THE HIGHWAY 15 WITH NOTHING ON. I ASKED HIM FOR AT
17 LEAST SOME SHOES.

18 I HAD A PAIR OF SANDALS AND HE LET ME HAVE
19 THOSE. SO I PUT MY SANDALS ON. AS WE WERE WALKING
20 DOWN, I THOUGHT THAT IF I -- YOU KNOW -- THREW MY SHOES
21 SO MAYBE SOMEBODY WOULD FIND THEM AND START LOOKING FOR
22 ME.

23 I DIDN'T KNOW WHAT WAS GOING TO HAPPEN TO ME AT
24 THAT TIME. SO I THREW ONE SHOE WHERE WE WERE THE FIRST
25 TIME.

See, Exhibit - Pg - # → 103

December 1-2, 1998 Trial

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 AND AS WE WERE WALKING DOWN THE HIGHWAY 15,
2 THERE WAS A WHITE VAN THAT CAME BY AND I THREW MY SHOE AT
3 THE VAN HOPING THAT THEY WOULD BE UPSET IF IT HIT THEIR
4 CAR IN ORDER TO STOP THEM.

5 Q WERE YOU STANDING RIGHT OUT THERE IN FRONT OF THE VAN
6 IN FRONT OF---

7 A YES, MA'AM.

8 Q HOW WERE YOU WALKING WITH HIM?

9 A IF THERE WAS TRAFFIC COMING TOWARDS US, HE WOULD KIND
10 OF PUSH ME BEHIND HIM. HE WAS TRYING TO HIDE ME NOT
11 WEARING ANYTHING. I KNOW PEOPLE HAD TO SEE WHAT WAS
12 GOING ON.

13 THEY -- HE WOULD PUT ME BEHIND HIM IF TRAFFIC
14 COMING TOWARDS US. AND IF ANYTHING COMING FROM BEHIND US,
15 HE WOULD PUT ME IN FRONT TO HIDE ME, BUT -- WALKING DOWN
16 THE ROAD WITH NOTHING ON.

17 Q DID ANYBODY STOP?

18 A YES, MA'AM. WE -- WE WERE WALKING FURTHER DOWN AND
19 THIS VAN HAD COME BACK BEHIND US AND HE HAD HIT THE
20 BRAKES.

21 WHEN HE SEEN THE BRAKE LIGHTS, HE PUSHED US DOWN
22 LIKE HE WAS HIDING AND---

23 MR. BROOKS: OBJECTION, YOUR HONOR.

24 THE COURT: I'M SORRY. THE OBJECTION?

25 MR. BROOKS: I DIDN'T HEAR WHAT HE SAID. SOUNDED

See, Exhibit - pg - # → 104

December 1-2, 1998 Trail

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 SOMETHING LIKE...

2 THE COURT: YOU CAN REPEAT YOUR ANSWER IF YOU WOULD
3 PLEASE, MRS. WELCH, SO WE CAN HEAR. YOU SAID HE PUSHED
4 YOU DOWN LIKE -- AND AT THAT POINT...

5 THE WITNESS: HE PUSHED ME DOWN. HE PUSHED US DOWN
6 TOWARDS THE GROUND. AND WHEN HE'D SEEN THE CAR HIT THE
7 BRAKE LIGHTS, HE CUT UP THROUGH A HOUSE -- BESIDE A HOUSE
8 AND BACK THROUGH SOME WOODS.

9 WENT OVER A FENCE AND INTO THE BACK THROUGH
10 THESE WOODS WHERE THERE WAS A SWAMP WHERE HE RAPED ME
11 AGAIN. HE STOPPED THERE AND...

12 (WHEREUPON QUESTIONING RESUMED).

13 Q LET ME ASK YOU A COUPLE OF QUESTIONS FIRST; OKAY.
14 YOU SAID THAT YOU SAW THE CAR -- PULLED YOU OFF INTO THE
15 WOODS?

16 A YES, MA'AM.

17 Q AT THIS TIME, STILL WALKING TOWARDS SUMTER?

18 A SUMTER. YES.

19 Q OKAY. WERE THERE ANY LIGHTS IN THE WOODS?

20 A NO, MA'AM. THERE WAS NO LIGHTS.

21 Q OKAY. YOU SAID YOU WERE GOING -- YOU WENT THROUGH
22 THE WOODS AND THEN YOU WENT TO...

23 A YES, MA'AM. HE CUT UP A HILL. THERE WAS A HOUSE
24 THERE ON THE RIGHT OF US AND TO THE LEFT THERE WAS NOTHING
25 BUT WOODS.

See, Exhibit - pg - # -> 105

December 1-2, 1998 Trial

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 AND HE WENT OVER THE FENCE AND THE RUN DOWN -- A
2 FENCE, A BROKEN FENCE AND THROUGH THE WOODS THERE WHERE HE
3 WENT BACK THERE. THERE'S A POND, A SWAMP, SOMETHING LIKE
4 THAT.

5 Q BACK IN THE WOODS?

6 A YES, MA'AM.

7 Q OKAY. AND WHEN YOU -- DURING THE TIME THAT HE'S
8 TAKING YOU THROUGH THE WOODS, WHERE ARE YOUR CLOTHES?

9 A HE HELD MY CLOTHING IN HIS ARM WITH THE KNIFE.

10 Q DID HE SAY ANYTHING ELSE TO YOU AS HE'S TAKING YOU
11 THROUGH THE WOODS?

12 A HE WAS JUST ASKING ME MY NAME AND THINGS LIKE THAT.
13 NOTHING...

14 Q OKAY. DID HE STILL HAVE THE KNIFE?

15 A YES, MA'AM. HE HAD THE KNIFE.

16 Q WHEN YOU GET INTO THE BACK AREA WHERE YOU SAID
17 THERE'S A SWAMP, POND, WHAT HAPPENED THERE?

18 A HE STOPPED THERE AND PUSHED ME DOWN ON THE GROUND AND
19 HE MADE HE -- HE PUT HIS PENIS IN MY MOUTH. MADE ME...

20 Q GO ON, MELISSA.

21 A HE TOLD ME TO IN HIS WORDS TO SUCK HIS DICK. AND SO
22 HE DID THAT FOR A FEW MINUTES AND THEN HE WENT -- HE WENT
23 DOWN ON ME.

24 TOLD ME HE WANTED TO EAT -- I DON'T USE THE
25 WORDS LIKE THAT, BUT HE SAID HE WANTED TO EAT MY P U S S Y

See, Exhibit - pg. # -> 106

December 1-2, 1998 Trial

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 AND HE DID.

2 AND AFTER THAT, THEN HE BEGAN RAPING ME AGAIN.

3 Q DID HE PENETRATE YOU AGAIN?

4 A YES, MA'AM. HE DID.

5 Q WERE YOU STILL STRUGGLING?

6 A I WAS STILL PLEADING WITH THE MAN THAT HE WOULD LET
7 ME GO. AND HE TOLD ME IF I DID WHAT HE WANTED ME TO DO,
8 THAT HE WOULD LET ME GO.

9 Q WHAT WERE YOU THINKING AT THAT TIME?

10 A I WAS THINKING ABOUT MY LITTLE BOY. ME AND MY
11 SISTER-IN-LAW WERE PLANNING HIS BIRTHDAY PARTY. HE WOULD
12 BE A YEAR OLD.

13 AND I DIDN'T THINK I WOULD EVER GET TO SEE HIM
14 AGAIN. I WAS PRAYING TO GOD JUST LET ME GO.

15 Q DO YOU THINK HE EJACULATED AGAIN?

16 A YES, MA'AM. I DO.

17 Q OKAY. COULD YOU TELL ANYTHING ABOUT THE PATH YOU
18 WERE GOING THROUGH THE WOODS?

19 A NO, MA'AM. I DIDN'T KNOW ANYTHING ABOUT THE WOODS
20 BACK THEN.

21 Q OKAY.

22 A IT WASN'T REALLY A PATH. HE WAS JUST CUTTING -- HE
23 WAS JUST GOING THROUGH THE WOODS.

24 Q NOW, AT THE -- AFTER THE INCIDENT AT THE POND, OKAY,
25 AND THE DEFENDANT HAD FINISHED, WHAT HAPPENED NEXT?

See, Exhibit - pg - H → 107

December 1-2, 1998 Trial

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 A HE GATHERED MY CLOTHES UP AGAIN AND HE SAID HE WAS
2 GOING TO GO DOWN HERE AND GET A MOTEL ROOM, THAT HE STILL
3 WASN'T DONE WITH ME.

4 SO HE PICKED MY CLOTHES UP. HE CARRIED ME. HE
5 CARRIED ME OUT. WE WALKED SOME THROUGH -- THROUGH SOME OF
6 THE WOODS.

7 AND THEN AT ONE POINT, HE PICKED ME UP AND TOTED
8 ME OVER HIS SHOULDERS THROUGH SOME BRANCHES THAT THEY HAD
9 DOWN FROM SOME TREES WHERE IT CAME OUT TO A CLEARING WHERE
10 HE WALKED BACK OUT ON TO HIGHWAY 15 AND CONTINUED TO WALK
11 DOWN THE HIGHWAY 15 WHERE HE ENDED UP AT THE DELUXE
12 MOTEL. AND---.

13 Q NOW, THROUGH THE WOODS AND CARRYING YOU -- WERE THERE
14 ANY LIGHTS BACK THERE AT ALL?

15 A NO, MA'AM. NO, MA'AM. THERE'S NO LIGHTS BACK THERE.

16 Q COULD YOU SEE WHERE YOU WERE GOING?

17 A NO. JUST -- YOU KNOW -- WHAT LITTLE LIGHT FROM THE
18 MOON YOU COULD SEE.

19 Q OKAY. SO THE DEFENDANT WAS SHOWING YOU WHERE TO GO?

20 A YES. HE WAS DRAGGING ME THROUGH THE WOODS.

21 Q OKAY. WHEN YOU -- SO NOW YOU ARE BACK OUT ON
22 HIGHWAY 15 AT THE DELUXE MOTEL; CORRECT?

23 A YES.

24 Q AND WHEN YOU GET TO THE DELUXE MOTEL, WHAT HAPPENS?

25 A HE WENT TO THE BACK OF THE MOTEL. HE WAS TRYING TO

SEE Exhibit - pg # -> 108

December 1-2, 1998 Trial

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 FIND -- HE WAS GOING -- TRYING TO OPEN ALL THE DOORS TO --
2 I THINK HE MUST HAVE BEEN LOOKING FOR AN OPEN DOOR, SOME
3 WAY, SOME ROOM HE WOULD GET INTO.

4 AND OF COURSE, NONE OF THEM WERE OPEN. SO HE
5 WENT -- THEY HAD A COUPLE OF PLACES IN THE BACK WHERE THEY
6 STORED -- THEY HAD SOME STUFF IN THE BACK.

7 HE FOUND A SHEET OR TWO SHEETS AND THEN HE TOOK
8 THE SHEETS FROM THE WHERE THEY WERE LAYING, WENT INTO THE
9 BACK OF THE -- DARK CORNER OF THE MOTEL AND LAID THE
10 SHEETS OUT AND -- WHERE HE RAPED ME AGAIN.

11 Q ALL RIGHT. NOW, THE -- WHILE HE WAS TRYING TO GET
12 INTO THE MOTEL, WHERE ARE YOU?

13 A HE IS HOLDING MY ARM RIGHT BEHIND ME.

14 Q WHILE HE WAS GOING FROM DOOR TO DOOR?

15 A YES, MA'AM.

16 Q AND WHEN YOU SAY THAT HE PUT THE SHEETS DOWN IN THE
17 CORNER OF THE MOTEL, DO YOU MEAN THE BUILDING OR DO YOU
18 MEAN SOME PLACE ON THE PROPERTY?

19 A NO. IT'S ON THE PROPERTY, BUT IT'S -- IT'S A GOOD
20 WAYS AWAY FROM THE MOTEL. A LITTLE SECLUDED AREA WHERE
21 TREES ARE ALL AROUND IT.

22 Q OKAY. AND THEN WHAT DID HE DO WITH THE SHEETS?

23 A HE LAID THEM OUT ON THE GROUND AND---.

24 Q AND THEN WHAT HAPPENED?

25 A TOLD ME IF I DID WHAT HE TOLD ME TO DO, THAT HE WOULD

See Exhibit - pg - # -> 109

December, 1-2, 1998 Trial

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 LET ME LIVE. HE WOULD LET ME GO.

2 Q AND WHAT HAPPENED?

3 A AND HE RAPED ME AGAIN.

4 Q OKAY.

5 A AND DID SOME ORAL THINGS TO ME AGAIN.

6 Q HE DID -- WHAT DID YOU SAY?

7 A ORAL SEX ON ME AND HE PENETRATED ME AGAIN, RAPING
8 ME. AND THEN I WAS JUST TIRED AND BEGGING HIM PLEASE LET
9 ME GO. HE WOULDN'T. HE WASN'T GOING TO LET ME GO.

10 I DIDN'T THINK HE WAS EVER GOING TO LET ME GO.
11 AND WHEN HE FINISHED THAT TIME, HE GOT UP AND I ASKED HIM
12 COULD I GO THEN. HE TOLD ME NO, THAT HE WASN'T DONE.

13 I WAS TRYING TO DO ANYTHING AND EVERYTHING I
14 COULD JUST TO TRY TO GET AWAY FROM HIM.

15 AND I KNEW THAT THEY HAD WATER SPICKETS IN THE
16 BACK OF THE MOTEL, SO I ASKED HIM COULD I GO GET A DRINK
17 OF WATER.

18 AND HE DID TAKE ME -- HE TOOK ME OVER THERE AND
19 HE LET ME GET A DRINK OUT OF THE WATER FAUCET. THE SHEET
20 AND THE CLOTHES WERE STILL BACK THERE LAYING IN THE
21 WOODS.

22 HE STARTED TO WALK TO THE FRONT AND HE SAW
23 SOMEBODY AND HE TOLD ME IF I SCREAMED, THAT HE WOULD KILL
24 ME.

25 HE HAD THE KNIFE TO ME -- TO MY THROAT. WHEN

December 1-2, 1998 Trial

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 HE SAW THAT PERSON, HE TURNED AND RAN BACK TO THE -- WHERE
2 HE HAD LAID THE SHEET OUT AND HE MADE ME LAY DOWN AND HE
3 RAPED ME AGAIN.

4 Q OKAY. DID HE SAY ANYTHING ELSE TO YOU RIGHT AT THAT
5 TIME?

6 A I DON'T REMEMBER THINGS THAT HE TOLD ME.

7 Q OKAY. AND WHAT HAPPENED AFTER HE FINISHED THEN?

8 A HE FINALLY TOLD ME HE WAS GOING TO LET ME GO. HE
9 GAVE ME MY CLOTHES. I PUT MY SHIRT ON. HE GATHERED THE
10 SHEET UP.

11 HE WALKED -- HE AND I BOTH WALKED TOWARDS THE
12 FRONT. NOT TO THE FRONT OF THE BUILDING, BUT UP THE SIDE
13 OF THE BUILDING WHERE HE TOLD ME HE WAS FINALLY GOING TO
14 LET ME GO.

15 AND HE GAVE ME A HUG AND TOLD ME THAT HE REALLY
16 ENJOYED IT, TOLD ME GOODBYE AND ALL THIS. IT'S SICK.

17 Q WHAT ELSE DID HE TELL YOU?

18 A HE TOLD ME TO WATCH OUT GOING HOME BECAUSE YOU NEVER
19 KNOW WHO MIGHT BE OUT THERE. AND I WAS STILL PETRIFIED
20 AND SCARED AT THAT TIME.

21 AND WHEN HE TOLD ME I COULD GO, HE FINALLY DID
22 LET ME GO, THEN I JUST TURNED AND STARTED WALKING --
23 WALKING TOWARDS THE BUILDING UP TOWARDS THE FRONT OF THE
24 DELUXE MOTEL.

25 AND HE DID -- HE ASKED ME WAS I GOING TO TELL

SEE Exhibit - pg-[#] 111

See PCR Order - July 26, 2002.

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
JUL 23 10:40
IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
CASE NO.: 00-CP-43-539

Raymond Magazine,
S.C.D.C. #254726,

APPLICANT,

vs.

State of South Carolina,

RESPONDENT.

COURT
SUMTER COUNTY, S.C.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Angelia P. Pickering
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

ORDER

This matter comes before the Court by way of an Application for Post-Conviction Relief ("PCR") filed May 4, 2000. The Respondent (the "STATE") made its Return on August 30, 2000, requesting that an evidentiary hearing be held. An evidentiary hearing was convened at the Sumter County Courthouse on Thursday, April 4, 2002. The Applicant was present in court and represented by Harry E. Wilson, Jr., Esquire. Elizabeth R. McMahon, Esquire, of the South Carolina Office of the Attorney General represented the State. The Applicant was granted a Motion to Amend his Post-Conviction Relief Application at this time.

The Court had before it the Sumter County Clerk of Court records regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the Application for Post-Conviction Relief, the State's Return, the Amended Application, and the Appellate Court records, including the trial transcript.

SEE - PCR Order - July 26, 2002

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

JUDGMENT IN A CIVIL CASE

IN THE COURT OF COMMON PLEAS

CASE NO. 00-CP-43-539

Raymond Magazine

State of S.C.

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled); ☐ Other-
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCPP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacating or modify arbitration award; ☐ Other-

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court:

Dated at _____, South Carolina, this _____ day of _____, 2002.

PRESIDING JUDGE

This judgment was entered on the 26 day of July, 2002, and a copy mailed first class this 30 day of July, 2002 to attorneys of record or to parties (when appearing pro se) as follows:

Harry C. Wilson, Jr.

Elizabeth McMahon

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Angelica Pickering
CLERK OF COURT OR DEPUTY CLERK

See - PCR - Order - July 26, 2002

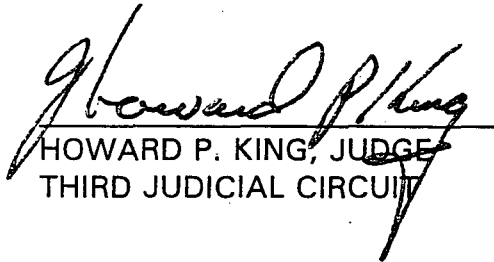
meet his burden of proof regarding them. Therefore, they are denied and dismissed with prejudice.

The Court advises the parties of record that any Notice of Appeal must be filed within thirty (30) days of service of the signed copy. Attention is directed to South Carolina Appellate Court Rule 227 for appropriate procedures on appeal.

IT IS, THEREFORE, ORDERED that Post-Conviction Relief on grounds 2, 3, 5, 7, 8, 9, 10, and 11 is **DENIED AND DISMISSED WITH PREJUDICE**; and

IT IS FURTHER ORDERED that Post-Conviction Relief on grounds 1, 4, and 6 is **GRANTED** and the Applicant is **GRANTED** a new trial.

AND IT IS SO ORDERED THIS 26 DAY OF JULY, 2002.


HOWARD P. KING, JUDGE
THIRD JUDICIAL CIRCUIT

Sumter, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

COURT OF GENERAL SESSIONS

STATE OF S.C.,)
PLAINTIFF)

VS.)

TRANSCRIPT OF RECORD

RAYMOND MAGAZINE,)
DEFENDANT)

SUMTER, SOUTH CAROLINA
DECEMBER 1, 1998

B E F O R E:

HONORABLE THOMAS W. COOPER, JR., JUDGE; AND A JURY.

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

JENEL DOMKE, ASSISTANT SOLICITOR
ATTORNEY FOR THE PLAINTIFF

CHARLES BROOKS, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

KATHLEEN M. SIMMONS

CIRCUIT COURT REPORTER

Exhibit - M - 1 - 15 - December 1, 1998.

AND 1

Exhibit - # 386; 394; 395.

I N D E X

WITNESSES DIRECT CROSS REDIRECT RECROSS

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SURESH KUMAR PATEL

DOMKE	139		143	
BROOKS		142		

MARIE MIMS

DOMKE	144		147	
BROOKS		146		148

LEROY M. WOODS

DOMKE	148			
BROOKS		152		

JACQUELINE CROSKEY

DOMKE	153			
BROOKS		168		

DANA WINGATE

DOMKE	177			
BROOKS		181		

Exhibit - M-[#]2-15.

WITNESSES DIRECT I N D E X
CROSS REDIRECT RECROSS

TERESA ELMORE

DOMKE 183
BROOKS 185

WILLIAM SANDERS

DOMKE 193
BROOKS 196

GWEN HEROD

DOMKE 204
BROOKS 206

JAMIE TURNER

DOMKE 214
BROOKS

MELISSA HAYES WELCH

DOMKE 228
BROOKS 232

KEVIN T. YOST

DOMKE 233
BROOKS 237

Exhibit - #3M-3-15

<u>WITNESSES</u>	<u>DIRECT</u>	<u>I N D E X</u> <u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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JAMIE TURNER

DOMKE	245			
BROOKS		245		

DR. ALAN BRUNER

DOMKE	250			
BROOKS		253		

TOMMY BARRON

DOMKE	255			
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MELISSA BRADLEY

DOMKE	259			
BROOKS		*NONE*		

WILLIAM SANDERS

DOMKE	263			
BROOKS		266		

GWEN HEROD

DOMKE	268			
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Exhibit in # 4-15.

<u>WITNESSES</u>	<u>DIRECT</u>	<u>I N D E X</u> <u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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MELLISSA BRADLEY

DOMKE	276			
BROOKS		276		

RAYMOND MACKESSEY

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BROOKS		279		

MATTHEW FITTS

DOMKE	280			
BROOKS		302		

RAYMOND MAGAZINE

THE COURT	306			
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CHARGE OF THE COURT: 336

VERDICT OF THE JURY: 386

SENTENCE OF COURT : 391

Exhibit - M - # 5-15.

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
<u>STATE'S EXHIBITS</u>			
1	B/W PHOTO		117
2	B/W PHOTO		117
3	B/W PHOTO		117
4	B/W PHOTO		117
5	B/W PHOTO		117
6	B/W PHOTO		117
7	PHOTO		120
8	PHOTO		120
9	PHOTO		120
10	PHOTO		120
11	PHOTO		120
12	PHOTO		120
13	PHOTO		120
14	BAG WITH CLOTHES		121
15	DEBRIS BAG		161
16	BAGGIE W/ PANTIES		166
17	BAG W/ SWABS		164
18	(BECAME COURT'S 1)		
18A	ENVELOPE		253
18B	*NOT INTRODUCED*		
18C	ENVELOPE		253

EXhibit-M-¹¹6-15

Nurs
didn't
date it →

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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STATE'S EXHIBITS

19	DIAGRAM		
20	FILM		293
21	FILM		298
22	FILM		298

COURT'S EXHIBITS

1	NEWSPAPER ARTICLE		
1A	CONSENT TO SAMPLES		
2	COPY OF ENVELOPE (SALIVA SAMPLES)	275	
3	COPY OF ENVELOPE (SEROLOGY DNA)	275	
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5	STATE'S 18- OUTER BAG	275	
6	PHOTO LINE-UP	228	
7	QUESTION OF JURY	384	
8	QUESTION OF JURY 5:40 P.M.	385	

Exhibit - M-[#]7-15.

1 MS. DOMKE: MAY IT PLEASE THE COURT, YOUR HONOR.

2 THE COURT: YES, MA'AM.

3 MS. DOMKE: STATE CALLS INDICTMENT 98-GS-43-745, THE
4 STATE OF SOUTH CAROLINA VERSUS RAYMOND MAGAZINE. MR.
5 MAGAZINE IS REPRESENTED BY ATTORNEY CHARLES BROOKS.

6 MR. MAGAZINE IS CHARGED WITH KIDNAPPING, ASSAULT
7 AND BATTERY WITH INTENT TO KILL, ATTEMPTED MURDER,
8 CRIMINAL SEXUAL CONDUCT FIRST DEGREE AND POSSESSION OF A
9 WEAPON DURING A VIOLENT CRIME. THE STATE IS READY FOR
10 TRIAL.

11 THE COURT: THANK YOU.

12 (WHEREUPON THERE WAS A PAUSE).

13 THE COURT: LADIES AND GENTLEMEN OF THE JURY, IF YOU
14 WILL GIVE ME YOUR ATTENTION FOR A FEW MOMENTS, PLEASE.
15 WE ARE ABOUT TO SELECT A JURY IN A CASE ENTITLED THE STATE
16 OF SOUTH CAROLINA VERSUS RAYMOND MAGAZINE.

17 THE DEFENDANT, MR. MAGAZINE, HAS BEEN INDICTED
18 BY THE GRAND JURY OF SUMTER COUNTY. THE INDICTMENT IS
19 NOT EVIDENCE OR PROOF OF THE CHARGES WHICH IT CONTAINS.

20 IT IS JUST A PIECE OF PAPER THAT HAS THOSE
21 CHARGES WRITTEN DOWN ON IT. GENTLEMEN, IF YOU ALL WILL
22 SECURE THE DOORS AT THE BACK.

23 ANYBODY NOT IN HERE NOW, WE DON'T NEED THEM IN
24 HERE. SO -- WE HAVE GOT ENOUGH FOLKS IN HERE TO COMPLETE
25 THE PROCESS WE ARE DEALING WITH RIGHT NOW WITHOUT ANY

Exhibit-M-[#]8-15

1 INTERRUPTIONS.

2 IT'S REAL IMPORTANT THE JURY PAY ATTENTION TO
3 WHAT I AM TELLING THEM. THE INDICTMENT IS NOT EVIDENCE
4 OR PROOF OF THE CHARGES WHICH IT CONTAINS.

5 IT'S JUST A PIECE OF PAPER THAT HAS THOSE
6 CHARGES WRITTEN DOWN ON IT. THE INDICTMENT READS IN PART
7 AS FOLLOWS.

8 § 16-3-910 COUNT ONE CHARGES MR. RAYMOND MAGAZINE WITH
9 KIDNAPPING AND IT ALLEGES THAT MR. RAYMOND MAGAZINE DID IN
10 SUMTER COUNTY ON OR ABOUT JULY THE 19TH OF 1997 UNLAWFULLY
11 SEIZE OR CONFINED OR INVEIGLE OR DECOY OR KIDNAP OR ABDUCT
12 OR CARRY AWAY MELISSA HAYES WITHOUT AUTHORITY OF LAW IN
13 VIOLATION OF THE LAW. AND AS A RESULT OF THAT, HE IS
14 CHARGED WITH KIDNAPPING.

15 COUNT TWO CHARGES ATTEMPTED MURDER AND IT
16 ALLEGES THAT MR. MAGAZINE DID IN SUMTER COUNTY AT THE SAME
17 TIME AND PLACE -- THAT IS JULY THE 19TH, 1997 --
18 FELONIOUSLY, WILLFULLY AND WITH MALICE AFORETHOUGHT
19 ATTEMPT TO KILL MELISSA HAYES BY MEANS OF SEVERELY BEATING
20 HER AND CHOKING HER WHILE HOLDING A DEADLY WEAPON,
21 SPECIFICALLY A KNIFE, TO HER THROAT IN VIOLATION OF THE
22 LAW.

23 § 16-3-620 COUNT THREE CHARGES ASSAULT AND BATTERY WITH
24 INTENT TO KILL AND IT ALLEGES MR. MAGAZINE DID AT THE SAME
25 TIME AND PLACE WITH MALICE AFORETHOUGHT COMMIT AN ASSAULT

Exhibit - M-9-15[#]

1 AND BATTERY UPON MELISSA HAYES BY SEVERELY BEATING AND
2 CHOKING HER WHILE HOLDING A DEADLY WEAPON, SPECIFICALLY A
3 KNIFE, TO HER THROAT WITH THE INTENT TO KILL HER IN
4 VIOLATION OF THE LAW.

5 COUNT FOUR CHARGES CRIMINAL SEXUAL CONDUCT IN
6 THE FIRST DEGREE. AND IT ALLEGES THAT MR. MAGAZINE DID
7 IN SUMTER COUNTY AT THE SAME TIME AND PLACE ENGAGE IN
8 SEXUAL BATTERY UPON AND WITH THE BODY OF MELISSA HAYES
9 WITHOUT HER CONSENT AND THAT SUCH SEXUAL BATTERY WAS
10 ACCOMPLISHED BY THE USE OF PHYSICAL FORCE OR PHYSICAL
11 VIOLENCE HIGH AND AGGRAVATED NATURE TO OVERCOME THE VICTIM
12 AND THAT INCLUDES THE THREAT OF THE USE OF A DEADLY
13 WEAPON, SPECIFICALLY A KNIFE, AND THAT THE VICTIM
14 SUBMITTED TO SEXUAL BATTERY BY THE ACTOR UNDER
15 CIRCUMSTANCES WHERE SHE WAS ALSO THE VICTIM OF KIDNAPPING
16 IN VIOLATION OF THE LAW.

17 * AND COUNT FIVE CHARGES POSSESSION OF A WEAPON
18 DURING A VIOLENT CRIME. AND IT ALLEGES THAT MR. MAGAZINE
19 DID IN SUMTER COUNTY AT THE SAME TIME AND PLACE VISIBLY
20 DISPLAY A KNIFE DURING THE COMMISSION OR ATTEMPTED
21 COMMISSION OF A VIOLENT CRIME IN VIOLATION OF THE LAW. *

22 TO THE CHARGES CONTAINED IN THE INDICTMENT,
23 LADIES AND GENTLEMEN, MR. MAGAZINE HAS ENTERED PLEAS OF
24 NOT GUILTY AND HAS REQUESTED A JURY TRIAL AT YOUR HANDS.

25 MR. MAGAZINE, WOULD YOU PLEASE STAND AND FACE

Exhibit-M-[#]10-15,

1 THE JURY BEHIND YOU.

2 (DEFENDANT STOOD).

3 THE COURT: LADIES AND GENTLEMEN, ARE ANY OF YOU ALL
4 RELATED BY BLOOD OR CONNECTED BY MARRIAGE TO MR. RAYMOND
5 MAGAZINE; IF SO, PLEASE STAND.

6 ARE ANY OF YOU FRIENDS OR CASUAL ACQUAINTANCES,
7 BUSINESS ASSOCIATES OR SOCIAL ACQUAINTANCES OR PEOPLE WHO
8 HAVE ANY DIRECT OR INDIRECT CONTACT WITH MR. MAGAZINE;
9 IF SO, PLEASE STAND. YES, MA'AM. YOUR NAME, PLEASE.

10 * JUROR: MY NAME IS SHIRLEY NELSON. *

11 THE COURT: MRS. NELSON. JUST ONE SECOND. LET US
12 GET YOU LOCATED ON THE JURY LIST. 142. MRS. NELSON IS
13 JUROR NUMBER 142. IN WHAT CONTEXT ARE YOU A FRIEND OR
14 NEIGHBOR OR CASUAL...

15 JUROR: VERY CLOSE FRIEND.

16 THE COURT: VERY CLOSE FRIEND?

17 JUROR: KNOWN HIM ALL MY LIFE. AS A MATTER OF FACT,
18 I DATED HIM FOR A WHILE.

19 THE COURT: YOU DID? UNDER THOSE CIRCUMSTANCES, MRS.
20 NELSON, DO YOU FEEL YOU COULD BE A FAIR AND IMPARTIAL
21 JUROR IN THE TRIAL?

22 JUROR: SAY THAT AGAIN.

23 THE COURT: IF YOU WERE SELECTED AS A JUROR IN THIS
24 CASE.

25 JUROR: UH-HUH.

1 THE COURT: WOULD YOU BE ABLE TO SET ASIDE AND PUT
2 OUT OF YOUR MIND YOUR PRIOR RELATIONSHIP WITH MR. MAGAZINE
3 FOR THE PURPOSE OF BEING A JUROR IN THIS CASE?

4 JUROR: CAN YOU ASK...

5 THE COURT: COULD YOU SET ASIDE THAT RELATIONSHIP AND
6 DECIDE THIS CASE BASED JUST UPON WHAT YOU WOULD HEAR IN
7 COURT WITHOUT REGARD TO THAT RELATIONSHIP?

8 JUROR: YES.

9 THE COURT: WILL YOU DO THAT, PLEASE?

10 JUROR: YES.

11 THE COURT: THANK YOU. LADIES AND GENTLEMEN,
12 POTENTIAL WITNESSES WHO MAY TESTIFY IN THIS TRIAL ON
13 BEHALF OF THE STATE -- AND I'M GOING TO READ A RATHER
14 LENGTHY LIST TO YOU.

15 WHEN I FINISH READING THIS LIST, I AM GOING TO
16 ASK YOU THE SAME QUESTION ABOUT THESE WITNESSES THAT I
17 JUST ASKED YOU ABOUT MR. MAGAZINE.

18 THAT IS, I'M GOING TO WANT TO KNOW IF YOU ARE
19 KIN TO THEM BY BLOOD OR BY MARRIAGE, GOING TO WANT TO KNOW
20 IF YOU HAVE ANY CONNECTION WITH THEM, EITHER BUSINESS,
21 PERSONAL, SOCIAL OR OTHERWISE. SO PLEASE LISTEN TO
22 THIS -- THIS LIST OF NAMES.

23 POTENTIAL WITNESSES WHO MAY TESTIFY ON BEHALF OF
24 THE STATE ARE MELISSA HAYES -- NOW MELISSA HAYES WELCH.
25 THANK YOU, MA'AM.

Exhibit-M-12-15.

1 CALVIN WELCH. SHURESH KUMAR PATEL. MARIE
2 MIMS. LEROY WOODS. LIEUTENANT ANTHONY BRADFORD.
3 JACQUELINE CROSKEY. DANA WINGATE. JAMIE TURNER. IS
4 THAT RIGHT?

5 MS. DOMKE: YES, SIR, YOUR HONOR.

6 THE COURT: TOMMY BARRON. DR. ALLEN BRUNER. THE
7 HONORABLE WILLIAM SANDERS. MELISSA BRADLEY. RAY
8 MACKESSEY. MATTHEW G FITTS.

9 GWEN HEROD. TERESA ELMORE. ROBIN TAYLOR.
10 MELISSA BENNETT AND LIEUTENANT JOSEPH POWELL.

11 LADIES AND GENTLEMEN, FIRST OF ALL, ARE ANY OF
12 YOU ALL RELATED BY BLOOD OR MARRIAGE OR CONNECTED BY
13 MARRIAGE TO ANY OF THESE POTENTIAL WITNESSES; IF SO,
14 PLEASE STAND.

15 ARE ANY OF YOU FRIENDS OR CASUAL ACQUAINTANCES
16 WITH ANY OF THEM, BUSINESS ASSOCIATES OR SOCIAL
17 ACQUAINTANCES OR PEOPLE WHO HAVE ANY DIRECT OR INDIRECT
18 CONTACT WITH ANY OF THOSE POTENTIAL WITNESSES; IF SO,
19 PLEASE STAND.

20 OKAY. WE WILL START RIGHT HERE WITH YOU,
21 MA'AM. YOUR NAME PLEASE MA'AM?

22 JUROR: KIM BELZ. NO. 5.

23 THE COURT: MRS. BELZ? TELL US FIRST OF ALL WHO THE
24 ASSOCIATION IS WITH, MRS. BELZ.

25 JUROR: THERE ARE TWO. I'M AN ACQUAINTANCE OF GWEN

Exhibit - M-[#]13-15 13

1 HEROD AND DR. BRUNER IS ALSO MY PHYSICIAN.

2 THE COURT: ALL RIGHT. YOUR ASSOCIATION FIRST OF
3 ALL WITH MRS. HEROD. IS IT A CLOSE PERSONAL RELATIONSHIP
4 OR IS IT A CASUAL RELATIONSHIP? HOW WOULD YOU
5 CHARACTERIZE IT?

6 JUROR: IT'S A CASUAL RELATIONSHIP.

7 THE COURT: WOULD YOUR ASSOCIATION WITH MRS. HEROD OR
8 DR. BRUNER'S OFFICE MAKE IT DIFFICULT FOR YOU TO BE A FAIR
9 AND IMPARTIAL JUROR IN THIS CASE IF YOU WERE ASKED TO
10 SERVE?

11 JUROR: NO.

12 THE COURT: WOULD YOU BE ABLE TO SET ASIDE THAT
13 ASSOCIATION AND DECIDE THIS CASE BASED JUST UPON WHAT YOU
14 WOULD HEAR IN COURT WITHOUT REGARD TO THAT?

15 JUROR: YES.

16 THE COURT: AND WOULD YOU DO THAT, PLEASE, MA'AM?

17 JUROR: YES, MA'AM.

18 THE COURT: THANK YOU, MRS. BELZ. YES, MA'AM. YOUR
19 NAME, PLEASE?

20 JUROR: BARBARA PENDARVIS. NUMBER 89.

21 THE COURT: THANK YOU, MA'AM. MRS. PENDARVIS, TELL
22 ME WHO THE ASSOCIATION IS WITH PLEASE, MA'AM, AND THE
23 EXTENT OF IT.

24 JUROR: I WORK WITH AND AM FRIENDS WITH MR.
25 MACKESSEY'S WIFE.

Exhibit-M-[#]14-15.

1 THE COURT: ALL RIGHT. IN THAT ASSOCIATION, HAVE YOU
2 ALSO COME IN CONTACT WITH MR. MACKESSEY HIMSELF FROM TIME
3 TO TIME?

4 JUROR: YES.

5 THE COURT: MA'AM?

6 JUROR: YES.

7 THE COURT: WOULD YOU CHARACTERIZE THIS AS A CASUAL
8 RELATIONSHIP OR BUSINESS RELATIONSHIP OR CLOSE PERSONAL
9 FRIENDSHIP? HOW WOULD YOU CHARACTERIZE IT?

10 JUROR: CASUAL.

11 THE COURT: CASUAL? WOULD YOUR ASSOCIATION IN THAT
12 REGARD WITH MR. MACKESSEY'S WIFE AND INDIRECTLY WITH MR.
13 MACKESSEY MAKE IT DIFFICULT FOR YOU TO BE A FAIR AND
14 IMPARTIAL JUROR IN THIS CASE IF YOU WERE ASKED TO SERVE?

15 JUROR: NO.

16 THE COURT: WOULD YOU BE ABLE TO SET ASIDE THAT
17 ASSOCIATION AND DECIDE THIS CASE BASED JUST UPON WHAT YOU
18 WOULD HEAR IN COURT?

19 JUROR: YES, SIR.

20 THE COURT: AND WOULD YOU DO THAT, PLEASE, MA'AM?

21 JUROR: YES.

22 THE COURT: THANK YOU, MRS. PENDARVIS. YES, MA'AM.
23 YOUR NAME, PLEASE, MA'AM?

24 JUROR: LAURA HARRIS. NUMBER 45.

25 THE COURT: THANK YOU. MRS. HARRIS, TELL ME WHO THE

Exhibit - M-[#]15-15.

1 ASSOCIATION IS WITH, PLEASE, MA'AM AND THE NATURE OF IT.

2 JUROR: DR. BRUNER. WORK ASSOCIATED. WHILE I WAS
3 WORKING IN NURSING, I WORKED WITH DR. BRUNER.

4 THE COURT: I COULD HEAR THE DR. BRUNER PART.

5 JUROR: AS A NURSE, I WORK WITH DR. BRUNER IN THE
6 HOSPITAL.

7 THE COURT: I SEE. YOU ARE A REGISTERED NURSE; IS
8 THAT RIGHT?

9 JUROR: NO. LICENSED PRACTICAL NURSE.

10 THE COURT: AN L P N. SO YOUR RELATIONSHIP WITH DR.
11 BRUNER IS RELATED TO THAT PROFESSIONAL RELATIONSHIP?

12 JUROR: THAT'S RIGHT.

13 THE COURT: OKAY. WOULD THAT MAKE IT DIFFICULT FOR
14 YOU TO BE A FAIR AND IMPARTIAL JUROR IF YOU WERE ASKED TO
15 SERVE?

16 JUROR: NO.

17 THE COURT: COULD YOU SET ASIDE THAT RELATIONSHIP AND
18 DECIDE THIS CASE BASED JUST UPON WHAT YOU WOULD HEAR IN
19 COURT?

20 JUROR: YES.

21 THE COURT: WOULD YOU DO THAT, PLEASE, MA'AM?

22 JUROR: YES.

23 THE COURT: THANK YOU, MRS. HARRIS. YOU'RE
24 QUALIFIED. YES, MA'AM. IN THE CENTER HERE IN THE DARK.

25 JUROR: PAMELA ANDERSON. NUMBER 146.

Exhibit-M-[#]16-15. 16

1 MR. RAY.

2 (WHEREUPON THE JURY ENTERED THE COURTROOM AT
3 5:49 P.M.).

4 V E R D I C T.

5 BAILIFF: MADAM FORELADY, HAVE YOU REACHED A VERDICT?

6 MADAM FORELADY: YES.

7 BAILIFF: IS YOUR VERDICT UNANIMOUS?

8 MADAM FORELADY: YES.

9 THE COURT: YOU MAY PUBLISH THE VERDICT.

10 BAILIFF: THANK YOU, YOUR HONOR. IN THE COURT OF
11 GENERAL SESSIONS, INDICTMENT NUMBER 98-GS-43-745, THE
12 STATE OF SOUTH CAROLINA VERSUS RAYMOND MAGAZINE, THE
13 DEFENDANT, AS TO THE CHARGE OF KIDNAPPING, WE THE JURY
14 FIND THE DEFENDANT RAYMOND MAGAZINE GUILTY.

15 AS TO THE CHARGE OF ASSAULT AND BATTERY WITH
16 INTENT TO KILL, WE THE JURY FIND THE DEFENDANT RAYMOND
17 MAGAZINE GUILTY OF ASSAULT AND BATTERY OF A HIGH AND
18 AGGRAVATED NATURE.

19 AS TO THE CHARGE OF CRIMINAL SEXUAL CONDUCT IN
20 THE FIRST DEGREE, WE THE JURY FIND THE DEFENDANT RAYMOND
21 MAGAZINE GUILTY.

22 AS TO THE CHARGE OF POSSESSION OF A WEAPON
23 DURING A VIOLENT CRIME, WE THE JURY FIND THE DEFENDANT
24 RAYMOND MAGAZINE NOT GUILTY.

25 DATED DECEMBER THE 2ND, 1998, SIGNED CATHERINE

140 COPY
SEE - Exhibit - # 387, December 1-2, 1998 TRIAL

1 CIDES, FOREPERSON. THIS BE YOUR VERDICT, SAY SO YE ALL
2 BY RAISING YOUR RIGHT HAND. THANK YOU.

3 THE COURT: DOES THE DEFENDANT DESIRE POLLING OF THE
4 JURY? MR. BROOKS?

5 MR. BROOKS: YES HE DOES, YOUR HONOR.

6 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THE
7 CLERK IS GOING TO POLL YOU. THAT MEANS HE IS GOING TO
8 CALL YOUR NAMES INDIVIDUALLY.

9 AS YOUR NAMES ARE CALLED INDIVIDUALLY, IF YOU
10 WILL PLEASE STAND IN PLACE RIGHT WHERE YOU ARE.

11 HE WILL ASK YOU ARE THESE YOUR VERDICTS OR WERE
12 THESE YOUR VERDICTS AND ARE THEY STILL YOUR VERDICTS. AND
13 YOU WILL SIMPLY GIVE THE APPROPRIATE ANSWER, WHATEVER THAT
14 ANSWER MIGHT BE. MR. RAY, IF YOU WILL POLL THE JURY,
15 PLEASE.

16 BAILIFF: THANK YOU, YOUR HONOR. SYBIL A
17 MCMILLAN. IS THIS YOUR VERDICT AND STILL YOUR VERDICT?

18 JUROR: YES.

19 BAILIFF: THANK YOU. YOU MAY BE SEATED. DEBRA
20 REED. IS THIS YOUR VERDICT AND STILL YOUR VERDICT?

21 JUROR: YES, SIR.

22 BAILIFF: YOU MAY BE SEATED. TAMMY W PLEMMONS. IS
23 THIS YOUR VERDICT AND STILL YOUR VERDICT?

24 JUROR: YES.

25 BAILIFF: THANK YOU. HERBERT M YATES. IS THIS

Exhibit - # 387,

387 December 1-2, 1998 TRIAL

3 ^{CURT}
See - Exhibit - # 394 - December 1-2, 1998.

1 ANY COMPASSION TO SENTENCE HIM NOT TO THE MAXIMUM, IF YOU
2 COULD. AND I DON'T KNOW IF HE WANTS TO SAY ANYTHING.

3 THE COURT: ALL RIGHT, SIR. MR. MAGAZINE? DO YOU
4 WANT TO ADD ANYTHING TO WHAT YOUR LAWYER TOLD ME ON YOUR
5 BEHALF?

6 THE DEFENDANT: NO, SIR.

7 THE COURT: MR. MAGAZINE, I'LL BEGIN WITH THE COUNT
8 OF THE INDICTMENT CHARGING CRIMINAL SEXUAL CONDUCT IN THE
9 FIRST DEGREE.

10 THE SENTENCE OF THE COURT IS YOU BE COMMITTED
11 THE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF THIRTY
12 YEARS. YOU'LL GET CREDIT FOR TIME THAT YOU ALREADY
13 SERVED.

14 ON THE COUNT OF ASSAULT AND BATTERY OF A HIGH
15 AND AGGRAVATED NATURE, THE SENTENCE OF THE COURT IS YOU BE
16 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A
17 PERIOD OF TEN YEARS.

18 THAT SENTENCE IS CONSECUTIVE TO CRIMINAL SEXUAL
19 CONDUCT COUNT.

20 THE CHARGE OF KIDNAPPING, COUNT ONE OF THE
21 INDICTMENT, THE SENTENCE IS THIRTY YEARS. THAT RUNS
22 CONCURRENT TO THE OTHER SENTENCES.

23 MR. BROOKS: THANK YOU, YOUR HONOR.

24 MS. DOMKE: THANK YOU, YOUR HONOR.

25 THE COURT: THANK YOU.

SEE - Exhibit - # 394 December 1-2, 1998 Trial

3 copy

-----END OF REQUESTED TRANSCRIPT OF RECORD-----

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Exhibit-APP-Pg-# 395

See Exhibit - G-1-

Lee, Erter, Wilson, James, Holler & Smith, L.L.C.

Jack W. Erter, Jr.
Harry C. Wilson, Jr.
George C. James, Jr.
David C. Holler*
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Facsimile: (803) 778-1643

J. Hugh Ryan, III

January 10, 2001

E-Mail Address: hryan@cpis.net

*Licensed in SC, NC & GA

Mr. Doug Leadbitter
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211-1549

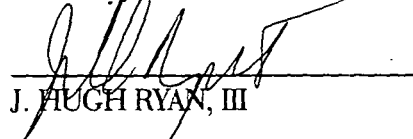
IN RE: Raymond Magazine v. State of South Carolina
2000-CP-43-539
My File No: W-C-00-081

Dear Doug:

I appreciate you speaking with me a few days ago about the above referenced action. As you informed me, this matter will not be heard until sometime in May. Again, please keep me informed as to whether or not you have a copy of the transcript from both the first trial, which ended in a mistrial, and the second trial. I look forward to hearing from you.

With kindest regards, I am

Sincerely,


J. HUGH RYAN, III

JHR,III/jb

cc: Raymond Magazine

Exhibit - G-1-

See-Exhibit-G-2,-

Lee, Erter, Wilson, James, Holler & Smith, L.L.C.

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J. Hugh Ryan, III

February 15, 2001

E-Mail Address: hryan@cpis.net

*Licensed in SC, NC & GA

LEGAL MAIL

Raymond Magazine
Broad River Correctional Institute
4460 Broad River Road
Monticello Unit #175
Columbia, SC 29210

RE: Raymond Magazine, Inmate #254723 or 254726
My File #: W00.081

Dear Raymond:

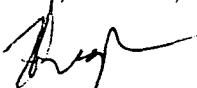
We received your amendment to the PCR application. It has been clocked in at the Sumter County Courthouse and we have forwarded a copy to the Attorney General's Office. Also, we have received the trial transcript from the South Carolina Office of Appellate Defense and also the brief filed by that office.

We have sent a subpoena to Charles Brooks to receive your file. At this time, we have not received the file but we will be writing a follow-up letter to check on the status of the file with Mr. Brooks.

In your correspondence or anything that you send us for signature, you will need to put Harry C. Wilson, Jr. as your attorney. I will be assisting Mr. Wilson but he is your court appointed attorney. If you have any questions, please do not hesitate to write us and we will keep you informed as this process continues.

Sincerely,

LEE, ERTER, WILSON, JAMES, HOLLER & SMITH


J. Hugh Ryan, III

JHR:clj
enclosures

See-Exhibit-G-2,-

See - Exhibit - G - 3, -

Lee, Erter, Wilson, James, Holler & Smith, L.L.C.

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J. Hugh Ryan, III

March 7, 2002

E-Mail Address: hughryan@sc.rr.com

*Licensed in SC, NC & GA

LEGAL MAIL

Raymond Magazine, Inmate #254723
Broad River Correctional Institute
4460 Broad River Rd.
Monticello Unit #174
Columbia, S.C. 29210

IN RE: Raymond Magazine
My File No: W C 00-081

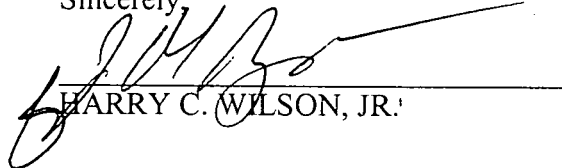
Dear Raymond:

The paper that was not a very good copy, was of your criminal background. Enclosed herewith please find a another copy of criminal background.

Also, enclosed is a copy of the transcript from August 5, 1998 hearing for your files, records and information. If you have any questions, please do not hesitate to contact me.

With kindest regards, I am

Sincerely,


HARRY C. WILSON, JR.

HCW,Jr/jb
Enclosure

See - Exhibit - G - 3, -

(Exhibit - "C-1" -) 7

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

COURT OF GENERAL SESSIONS

STATE OF S.C.,)
PLAINTIFF)

VS.)

TRANSCRIPT OF RECORD

RAYMOND MAGAZINE,)
DEFENDANT)

SUMTER, SOUTH CAROLINA
AUGUST 5, 1998

B E F O R E:

HONORABLE THOMAS W. COOPER, JR., JUDGE; AND A JURY.

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

JENEL DOMKE, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

CHARLES BROOKS, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

KATHLEEN M. SIMMONS

CIRCUIT COURT REPORTER

(Exhibit "C" → 1-7)

August 5, 1998 Trial

(Exhibit "C-2")

I N D E X

WITNESSES DIRECT CROSS REDIRECT RECROSS

MELISSA WELCH

MS. DOMKE 7 66
MR. BROOKS 47

SURESHKUMAR PATEL

MS. DOMKE 68
MR. BROOKS 71

MARIA MIMS

MS. DOMKE 72
MR. BROOKS 76

LEROY WOODS

MS. DOMKE 78 83, 86
MR. BROOKS 81 83

JACQUELINE CROSKEY

MS. DOMKE 86
MR. BROOKS 99

DANA WINGATE

MS. DOMKE 107
MR. BROOKS 112

(Exhibit "C" - 2)

August 5, 1998 TRIAL

(Exhibit - "C-3")

<u>WITNESSES</u>	<u>DIRECT</u>	<u>I N D E X</u> <u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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JAMES TURNER

MS. DOMKE	114			
MR. BROOKS		123		

DR. BRUNER

MS. DOMKE	124			
MR. BROOKS		127		

TOMMY BARRON

MS. DOMKE	129			
MR. BROOKS		*NONE*		

RAYMOND MACKESSEY

MS. DOMKE	133		138	
MR. BROOKS		136		

MELISSA BRADLEY

MS. DOMKE	138			
MR. BROOKS		140		

MIKE WINSTON

MS. DOMKE	146			
MR. BROOKS		148		

(Exhibit - "C" - 3)

(Exhibit "C - 4")

<u>WITNESSES</u>	<u>DIRECT</u>	<u>I N D E X</u> <u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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MATTHEW FITZ

MS. DOMKE	150			
MR. BROOKS		171		

WILLIAM SANDERS (OUT OF PRESENCE OF JURY)

MS. DOMKE	176			
MR. BROOKS		179		

WILLIAM SANDERS

MS. DOMKE	186		189	
MR. BROOKS		188		

GWEN HEROD

MS. DOMKE	190		193	
MR. BROOKS		192		

Exhibit "C" - 4

August 5, 1998 Trial

(Exhibit, "C-5")

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
<u>STATE'S EXHIBITS</u>			
1	PHOTO		32
2	PHOTO		32
3	PHOTO		32
4	PHOTO		32
5	PHOTO		32
6	PHOTO		32
7	PHOTO		34
8	PHOTO		34
9	PHOTO		34
10	PHOTO		34
11	PHOTO		34
12	PHOTO		34
13	PHOTO		34
14	BAG OF CLOTHES	34	36
15	BAGGIE		94
16	BAGGIE W/BAG AND UNDERWEAR	41	42
17	BAG WITH SWABS	97	
18	BAGGIE (OUTER BAG BECAME CT'S 5 126 169		
18A	ENVELOPE		
18B	ENVELOPE		
18C	ENVELOPE		

(Exhibit "C" - 5)

August 5, 1998 Trial

(Exhibit - "C-6")

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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STATE'S EXHIBITS

19	DIAGRAM		
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COURT'S EXHIBITS

1	CONSENT FORM	126	
2	PHOTOCOPY		
3	PHOTOCOPY		
4	PHOTOCOPY		
5	BAGGIE (WAS STATE'S 18)		
6	QUESTION OF JURY		

(Exhibit "C" - 6)

August 5, 1998 Trial

(Exhibit "C-7")

MELISSA HAYES WELCH - DIRECT BY DOMKE

1 THE COURT: THANK YOU, MR. BROOKS. MS. DOMKE, CALL
2 YOUR FIRST WITNESS.

3 MS. DOMKE: THANK YOU, YOUR HONOR. THE STATE CALLS
4 MELISSA HAYES WELCH TO THE STAND.

5 MELISSA HAYES WELCH, BEING FIRST
6 DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY MS. DOMKE:

8 Q MELISSA, REMEMBER TO SPEAK UP LOUDLY SO THAT THE JURY
9 ALL THE WAY IN THIS FAR CORNER CAN HEAR YOU; OKAY? ALL
10 RIGHT. WHAT COUNTY DO YOU LIVE IN?

11 A LEE COUNTY.

12 Q ALL RIGHT. WHAT IS YOUR OCCUPATION?

13 A HOUSEWIFE AND MOTHER.

14 Q OKAY. HOUSEWIFE AND MOTHER? IS YOUR HUSBAND IN THE
15 COURT TODAY?

16 A YES, MA'AM. RIGHT OVER THERE.

17 Q THIS GENTLEMAN HERE? WHAT IS HIS NAME?

18 A CALVIN WELCH.

19 Q OKAY. AND YOU SAID THAT YOU'RE A MOTHER?

20 A YES, MA'AM.

21 Q HOW MANY CHILDREN DO YOU HAVE?

22 A ONE.

23 Q AND IS IT A BOY OR GIRL?

24 A LITTLE BOY.

25 Q HOW OLD IS HE?

(Exhibit "C" - 7)

August 5, TRIAL 1998.

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-----END OF REQUESTED TRANSCRIPT OF RECORD-----

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SEE, Exhibit- APP-29- # 395

(Exhibit - "E")

1 THE COURT: ALL RIGHT. MS. MCMAHON?

2 MS. MCMAHON: MAY IT PLEASE THE COURT, YOUR HONOR.

3 THE COURT: YES, MA'AM.

4 MS. MCMAHON: THIS IS THE MATTER OF RAYMOND MAGAZINE
5 VERSUS THE STATE OF SOUTH CAROLINA. THIS IS A SUMTER
6 COUNTY CASE. MR. MAGAZINE IS PRESENT IN COURT THIS
7 MORNING ALONG WITH HIS P.C.R. COUNSEL, MR. BUNT WILSON.

8 YOUR HONOR, THE APPLICANT WAS INDICTED JULY 13TH
9 OF 1998 FOR KIDNAPPING, ATTEMPTED MURDER, ASSAULT AND
10 BATTERY WITH INTENT TO KILL, CRIMINAL SEXUAL CONDUCT IN
11 THE FIRST DEGREE, POSSESSION OF A WEAPON DURING THE
12 COMMISSION OF A VIOLENT CRIME.

13 THE APPLICANT DID PROCEED TO A JURY TRIAL ON
14 DECEMBER 1ST OF 1998 AND WAS CONVICTED OF ASSAULT AND
15 BATTERY OF A HIGH AND AGGRAVATED NATURE RECEIVING A TEN
16 YEAR SENTENCE, KIDNAPPING RECEIVING A 30 YEAR SENTENCE,
17 WHICH WAS CONCURRENT TO THE ABHAN CHARGE, CRIMINAL SEXUAL
18 CONDUCT IN THE FIRST DEGREE WHICH I BELIEVE, YOUR HONOR,
19 WAS CONSECUTIVE TO THE ABHAN CHARGE.

20 THE APPLICANT DID TAKE A DIRECT APPEAL OF THESE
21 CONVICTIONS AND SENTENCES. THE COURT OF APPEALS DISMISSED
22 THAT APPEAL ON APRIL 3RD OF 2000 AND THIS P.C.R.
23 APPLICATION WAS FILED APRIL 4TH OF 2000. 2

24 AND YOUR HONOR, THE APPLICATION HAS BEEN AMENDED
25 ON THREE OCCASIONS AND I BELIEVE THE STATE HAS PROVIDED

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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PLAINTIFF'S EXHIBITS

1	ARTICLE		33
2	JURY LIST		38
3	JURY INFORMATION		38
4	CLERK'S RECORDS		39
5	WARRANT		95

STATE'S EXHIBITS

1	TESTIMONY		134
---	-----------	--	-----

1 YOU WITH TWO OF THE AMENDMENTS, BUT ONE OF THE AMENDMENTS
2 HAS BEEN MADE THIS MORNING, AND I BELIEVE MR. WILSON HAS A
3 COPY OF THAT TO PROVIDE TO THE COURT.

4 THE COURT: OKAY. ALL RIGHT. MR. WILSON, IF YOU
5 WILL JUST TELL ME THE BASICS OF WHAT YOUR CLIENT CLAIMS TO
6 BE THE BASIS FOR HIS RELIEF AND THEN WE WILL BEGIN THE
7 TESTIMONY.

8 THE COURT: THANK YOU VERY MUCH, YOUR HONOR. MR.
9 MAGAZINE TAKES THE POSITION IN GENERAL THAT HE DID NOT
10 RECEIVE THE EFFECTIVE ASSISTANCE OF COUNSEL IN THIS CASE.

11 I CALL THE COURT'S ATTENTION BY WAY OF
12 BACKGROUND BRIEFLY THAT MR. MAGAZINE WAS TRIED IN AUGUST
13 OF '98 AND A MISTRIAL RESULTED. HE WAS THEN TRIED IN
14 DECEMBER OF '98 AND THE JURY VERDICT RETURNED AND THE
15 SENTENCE IMPOSED AS MS. MCMAHON HAS MENTIONED TO YOU.

16 THE COURT: WHAT CAUSED THE MISTRIAL, THE UNABLE
17 TO...

18 MR. WILSON: THE JURY WAS NOT ABLE TO REACH A
19 VERDICT. WHEN THE CASE WAS TRIED AGAIN, YOU WILL HEAR
20 THAT MR. MAGAZINE'S POSITION IS HE WAS ONLY ARRESTED ON A
21 WARRANT FOR CRIMINAL SEXUAL CONDUCT FIRST OFFENSE.

22 HE WAS NEVER SERVED WITH AN INDICTMENT. HE WAS
23 NEVER ARRAIGNED OR SERVED WITH ANY OTHER WARRANT ON ANY
24 OTHER CHARGES.

25 NOW, I TELL THE COURT THAT HE WENT TO TRIAL IN

1 BROOKS WAS SAVING STRIKES.

2 MR. WILSON: WELL, IF HE WAS, HE SAVED NINE STRIKES.

3 THE COURT: ALL RIGHT. GO AHEAD.

4 MR. WILSON: AND IN THIS PARTICULAR I CALL TO THE
5 COURT'S ATTENTION THIS LADY WHO WORKED FOR THE DEPARTMENT
6 OF JUVENILE JUSTICE, WAS A BLACK LADY AND THE ALTERNATE
7 WAS A WHITE LADY.

8 SO JUST THE JURY MAKEUP, YOU KNOW, WHETHER THAT
9 WAS CONSIDERATION OR NOT, I DON'T KNOW, BUT THAT'S WHAT
10 THEY DID. JUST POINTING THOSE FACTS OUT.

11 THE COURT: ALL RIGHT.

12 MR. WILSON: SO IT WOULD SEEM AT THAT POINT THAT IN
13 LIGHT OF THE EVIDENCE THAT WAS IN IS IN BECAUSE THEY
14 ALREADY HAD THE VICTIM TESTIFYING AND A MISTRIAL MOTION
15 WOULD HAVE BEEN REASONABLE AND APPROPRIATE.

16 THE COURT: OKAY.

17 MR. WILSON: NOW, I MENTION TO YOU ABOUT THE DNA, I
18 MENTIONED TO YOU ABOUT THE USE OF THE BLOOD AND FAILING TO
19 CONNECT IT UP AND THE CHAIN, BUT I CAN FIND -- AND FAILING
20 TO OBJECT TO IT COMING INTO EVIDENCE.

21 WE MENTIONED THE PRELIMINARY HEARING AND WE ALSO
22 MENTIONED THE ISSUES RAISED ABOUT THE VENUE ISSUE BY THE
23 APPLICANT INITIALLY, THE ISSUE THAT HE WAS NEVER SERVED
24 WITH OR PROVIDED A COPY OF THE INDICTMENT OR OTHER CHARGES
25 AND THE FACT THAT THERE WAS NOT AN EFFECTIVE SUPPRESSION

PCR, APP. PG. 24, Line 23, 24,

2 copy
Exhibit - 556, APP. PG. - LINE - 4. Throw APP. PG. - 557 - Line - 19.

1 Q ALL RIGHT. ARE THERE ANY NOTES FROM ANY OF THOSE
2 MEETINGS?

3 A NO.

4 Q DID YOU DISCUSS WITH MR. MAGAZINE THE NATURE OF THE
5 CHARGES AGAINST HIM?

6 A I TOLD HIM WHAT HE WAS CHARGED WITH, WHAT THEY WERE
7 SAYING ABOUT HIM AND WE -- WE TALKED ABOUT THIS ONE ALONG

8 WITH THE OTHER ONE HE WAS CHARGED WITH.

9 Q ALL RIGHT. TO YOUR KNOWLEDGE HOW MR. MAGAZINE WAS
10 ARRESTED, IT WAS ON A WARRANT FOR CRIMINAL SEXUAL CONDUCT?

11 A TO MY KNOWLEDGE HONESTLY WHAT -- WHAT I REMEMBER IS I
12 THOUGHT HE WAS CHARGED WITH CRIMINAL SEXUAL CONDUCT AND
13 KIDNAPPING. THAT MAY HAVE BEEN INFORMATION I GOT FROM THE
14 SOLICITOR'S OFFICE AFTER I GOT APPOINTED TO HIM.

15 Q ALL RIGHT, SIR. AND IN FAIRNESS TO YOU AND YOUR FILE
16 IS BROKEN DOWN INTO TWO FILES, A '96 FILE AND THREE
17 WARRANTS AND THEN MULTIPLE CHARGES IN '96 -- THE '97 CASE,
18 ONLY WARRANT I SEE IS ONE WE PUT IN EVIDENCE WHICH IS THE
19 CRIMINAL SEXUAL CONDUCT WARRANT.

20 NOW, IF YOU RECALL ANY OTHERS OR WANT TO REVIEW
21 YOUR FILE, PLEASE DO SO BECAUSE IT IS OUR POSITION THERE
22 IS -- ONLY WAS ONE WARRANT. NOW, IF YOU CAN'T AGREE WITH
23 THAT, THEN YOU BETTER LOOK AT THE FILE. MAYBE WE CAN
24 STIPULATE. YOU STIPULATE.

25 I THINK THE ONLY WARRANT WAS CRIMINAL SEXUAL

See - APP - PG - #556, 115 LINE #4 throw Line #25

Exhibit → 556

1 A I DON'T KNOW AN EXACT NUMBER, BUT I DID MEET WITH
2 HIM.

3 Q ALL RIGHT. IS THERE ANYTHING IN YOUR FILE TO SHOW
4 THE DATES AND TIMES THAT YOU MET WITH MR. MAGAZINE?

5 A NO.

6 Q IS THERE ANY -- ARE THERE ANY NOTES IN YOUR FILE TO
7 INDICATE THAT YOU MET WITH MR. MAGAZINE AND THE NATURE OF
8 THOSE DISCUSSIONS?

9 A NO, BUT I DID MEET WITH HIM SEVERAL -- I DO RECALL --
10 I DO RECALL THAT I MET WITH HIM SEVERAL TIMES.

11 Q ALL RIGHT. IS THAT -- SORRY. GO AHEAD.

12 A PRIOR TO THE AUGUST TRIAL.

13 Q ALL RIGHT. IF MR. MAGAZINE SAYS YOU CAME OUT THE
14 FRIDAY BEFORE THE TRIAL STARTED FOR THE SECOND VISIT AND
15 THE FIRST VISIT WAS WHEN YOU CAME OUT TO TELL HIM ABOUT

16 THE PRELIMINARY HEARING, WOULD THAT BE ACCURATE?

17 A NO.

18 Q THAT BE MORE THAN THAT?

19 A YEAH.

20 Q HOW MANY MORE TIMES?

21 A I DO KNOW I MET WITH HIM IN JANUARY OF '98 ALONG WITH
22 A NUMBER OF PEOPLE THAT I JUST GOT APPOINTED TO OUT AT THE
23 JAIL. I MEAN, THAT WAS FRESH, SO I KNOW I DO -- WE DID
24 MEET WITH HIM. I PROBABLY MET WITH HIM ONE OTHER TIME
25 BEFORE IN -- SO I WOULD SAY MAYBE TWO, NO MORE THAN THREE.

1 CONDUCT. IS THAT CORRECT? IN THIS CASE. CAN YOU
2 STIPULATE TO THAT? ONLY ONE WARRANT IN THIS CASE WAS
3 CRIMINAL SEXUAL CASE.

4 MS. MCMAHON: ONLY ONE WARRANT? AS FAR AS I KNOW.

5 MR. WILSON: ALL RIGHT.

6 (WHEREUPON QUESTIONING RESUMED).

7 Q NOW, WAS MR. MAGAZINE EVER ARRAIGNED ON ANY OTHER
8 CHARGE?

9 A NOT THAT I KNOW OF SINCE I HAD GOTTEN INVOLVED.

10 Q WAS ANY INDICTMENT EVER SERVED ON HIM?

11 A I -- I DON'T HAVE ANY KNOWLEDGE OF THAT.

12 Q OKAY. DO YOU KNOW IF ANY OTHER WARRANTS WERE ISSUED
13 IN THIS CASE?

14 A I DON'T KNOW.

15 Q OKAY. NOW, ARE YOU FAMILIAR WITH A LINE OF CASES
16 THAT INDICATES THE DEFENDANT NEEDS TO BE PUT ON NOTICE OF
17 THE CHARGES AGAINST HIM? DOES THAT MAKE -- DOES THAT
18 SOUND REASONABLE?

19 A YES.

APPENDIX, F-19,

20 Q NOW, WHEN YOU MET WITH MR. MAGAZINE, DID YOU
21 DETERMINE THAT HE WAS A HIGH SCHOOL GRADUATE?

22 A I DON'T RECALL.

23 Q DID YOU KNOW HOW LONG HE WORKED FOR SUMTER BUILDERS?

24 A I DON'T RECALL RIGHT NOW.

25 Q DID YOU PREPARE HIM FOR TESTIFYING?

1 A WE TALKED ABOUT HIM TESTIFYING.

2 Q RIGHT.

3 A AND WE BOTH AGREED THAT IT WAS PROBABLY -- IT WAS NOT
4 HIS BEST INTEREST TO TESTIFY.

5 Q WHAT BASIS DID YOU USE TO ADVISE HIM IF YOU DID NOT
6 TO TESTIFY?

7 A THE BASIS WAS THE FACT THAT HE WAS TELLING ME THAT HE
8 DIDN'T KNOW THE LADY, HE DIDN'T EVER BEEN WITH THE LADY,
9 NEVER TOUCHED HER OR WHATEVER. AND IN CONJUNCTION WITH
10 THE DNA EVIDENCE, WHEN I LOOKED AT HIS DNA EVIDENCE AND
11 SAID OBVIOUSLY IT'S CONTRARY, THAT'S WHAT -- THAT'S WHAT I
12 GUESS CALLED ME TO THE CONCLUSION MAYBE IT'S NOT IN HIS
13 BEST DECISION TO TESTIFY.

14 Q DID YOU ADVISE HIM NOT TO TESTIFY ON THAT BASIS?

15 A I DID.

16 Q NOW MR. BROOKS, BY THEN ALL THE EVIDENCE THAT YOU
17 WERE JUST TALKING ABOUT WAS ALREADY IN. WHEN YOU MADE
18 THAT DECISION AT THE END OF THE CASE AND TALKED TO JUDGE
19 COOPER IT WAS ALREADY IN, ISN'T THAT CORRECT? ALREADY IN,
20 WASN'T IT?

APPENDIX, F-18,

21 A THAT'S CORRECT.

22 Q THE DNA WAS IN, THE I.D. WAS IN, JUDGE SANDERS'
23 TESTIMONY WAS IN?

24 A WELL, WE HAD TALKED -- WE HAD TALKED ABOUT HIM --
25 POSSIBILITY OF TESTIFYING, SO I -- I GUESS WHAT I'M SAYING

① A NO, SIR.

2 Q ALL RIGHT. WHEN IT CAME TIME FOR TRIAL TIME. DID HE
3 ADVISE YOU ABOUT WHETHER YOU SHOULD TAKE THE STAND OR
4 NOT? THAT'S WHAT I'M ASKING YOU.

⑤ A NO. HE TOLD ME THAT HE ADVISE ME NOT TO TAKE THE
6 STAND.

7 Q DID HE TELL YOU WHY?

8 A HE DIDN'T NEVER TELL ME WHY.

⑨ Q OKAY. DID MR. BROOKS DISCUSS THE CHARGES WITH YOU
10 AND TELL YOU THE DETAIL ABOUT THE ELEMENTS AND HOW MUCH
11 TIME YOU WERE FACING?

⑫ A HE NEVER MENTIONED NO CHARGES TO ME.

13 Q NOW, THE ONLY WARRANT THAT WAS SERVED ON YOU WAS A
14 CRIMINAL SEXUAL CONDUCT; IS THAT RIGHT?

15 A THAT'S RIGHT.

⑬ Q NOW, WERE YOU EVER ARRAIGNED ON ANY OF THE CHARGES?

⑭ A NEVER.

18 Q LIKE WERE YOU EVER BROUGHT BEFORE A JUDGE LIKE JUDGE
19 KING AND SAID THE -- YOU ARE WITH KIDNAPPING AND ATTEMPTED
20 MURDER AND THESE CHARGES? HAVE YOU EVER DONE THAT?

⑮ A NEVER HAVE.

22 Q ANY INDICTMENTS EVER SERVED ON YOU?

23 A NO, SIR.

24 Q ANY WARRANTS SERVED ON YOU?

25 A NO, SIR.

See APP. PG. [#] LINE [#] 22, 23, PCR, APP, PG. [#] - 594

(Exhibit - "F")

1 MR. WILSON: BEG THE COURT'S INDULGENCE.

2 (WHEREUPON THERE WAS A PAUSE).

3 Q UNTIL THE CONVICTION IN THIS CASE, DID YOU EVER GET
4 OR RECEIVE A COPY OF THE INDICTMENT AGAINST YOU?

5 A YOU MEAN AFTER THE CONVICTION?

6 Q RIGHT.

7 A THE FIRST TIME I RECEIVED IT WAS WHEN I WROTE -- I
8 WROTE CHARLES BROOKS AT FIRST AND QUESTION WARRANTS,
9 DOCUMENTS, ALL THAT.

10 Q WAS THAT AFTER THE TRIAL?

11 A THIS WAS -- RIGHT, WHEN I WAS OVER IN -- AFTER THE
12 TRIAL.

13 Q ALL RIGHT. AFTER THE CONVICTION?

14 A AFTER THE CONVICTION.

15 Q AND YOU WROTE AND ASKED TO GET THIS FOR THE FIRST
16 TIME, WHERE WERE YOU?

17 A BROAD RIVER. I HAVE A COPY OF THAT, TOO.

18 Q ALL RIGHT. YOU HAVE A LETTER THAT YOU WROTE HIM
19 ASKING FOR IT?

20 A RIGHT, BUT I NEVER RECEIVE NO LETTER BACK, NO
21 NOTHING, ANSWER FOR -- FROM HIM.

22 Q ALL RIGHT. AND YOU ARE NOW AN INMATE IN THE
23 DEPARTMENT OF CORRECTIONS?

24 A THAT'S CORRECT.

25 Q AND YOU ARE STAYING AT WATEREE -- I MEAN, YOU ARE AT

(Exhibit - "F" 169
610)

RAYMOND
(Exhibit - "F")

1 BROAD RIVER?

2 A BROAD RIVER, MONTICELLO.

3 Q MR. MAGAZINE, AS A RESULT OF MR. BROOKS' EXPERIENCES,
4 AS A RESULT OF HIS USE OR NON-USE OF THE CHALLENGES,
5 PREEMPTORY CHALLENGES, AS A RESULT OF THE OBJECTIONS OR
6 NOT OBJECTIONS MADE DURING THE COURSE OF THE TRIAL, AS A
7 RESULT OF HIS DISCUSSION WITH YOU ABOUT THE PRELIMINARY
8 HEARING AND ABOUT TESTIFYING AND THOSE OTHER MATTERS WE
9 RAISED ABOUT INVESTIGATING THIS CASE AND SPENDING TIME
10 WITH YOU, AS A RESULT OF YOUR ALLEGATIONS THAT HE DIDN'T
11 DO THOSE THINGS, DO YOU BELIEVE THAT YOU WERE PREJUDICED
12 IN THIS CASE?

13 A YES, SIR.

14 Q DO YOU BELIEVE YOU GOT A FAIR TRIAL?

15 A NO, SIR.

16 Q DID YOU HAVE ANY CHOICE ON THE ATTORNEY APPOINTED TO
17 REPRESENT YOU IN THIS MATTER?

18 A NO, SIR.

19 Q WHILE YOU DIDN'T KNOW THE SPECIFIC NATURE OF THE
20 CHARGES, YOU SAID HOW MUCH TIME -- DID YOU UNDERSTAND THEY
21 WERE SERIOUS CHARGES AGAINST YOU?

22 A RIGHT.

23 Q AND THAT YOU WERE FACING A GOOD BIT OF TIME?

24 A YES, SIR.

25 Q THANK YOU VERY MUCH.

Exhibit F ← 170

December 1-2, 1998 Trial Transcript

1 FROM STATE BEFORE WE BREAK FOR LUNCH?

2 MS. DOMKE: NO, SIR. WE ARE STILL TRYING TO OBTAIN
3 THE LAST INVESTIGATOR.

4 THE COURT: OKAY. DO WE KNOW -- HAVE ANY IDEA WHERE
5 HE IS?

6 MS. DOMKE: MRS. HEROD?

7 MRS. HEROD: JUDGE, I JUST CALLED THE OFFICE AND HE
8 WAS OUT ON I-95, BUT IT DIDN'T LOOK LIKE IT WAS GOING TO
9 BE A LONG DRAWN OUT THING. I THINK WE WILL BE ABLE TO
10 GET HIM BACK QUICKLY.

11 THE COURT: VERY GOOD. THANK YOU. ALL RIGHT. MR.
12 BROOKS, ANYTHING FROM THE DEFENSE BEFORE WE BREAK FOR
13 LUNCH?

14 MR. BROOKS: NOTHING FURTHER.

15 THE COURT: OKAY. WE WILL START BACK AT 1. THANK
16 YOU.

17 (WHEREUPON COURT WAS IN RECESS FOR LUNCH).

18 THE COURT: ALL RIGHT. MS. DOMKE, IS THE STATE READY
19 TO PROCEED?

20 MS. DOMKE: YES, SIR, YOUR HONOR. JUST A COUPLE
21 MORE HOUSEKEEPING MATTERS I WOULD LIKE TO PUT ON THE
22 RECORD.

23 YOUR HONOR, WE HAVE PHOTOCOPIED THE FRONT OF THE
24 SUSPECT SAMPLES IN SEROLOGY AND SALIVA AND D N A BEFORE WE
25 COVERED UP THE DATES AND WE HAD MADE THOSE COURT'S

December - 1/2 1998 trial

1 AGAIN WE HAVE A WITNESS PROBLEM. THE NEXT WITNESS FOR
2 THE STATE WHO IS AN INVESTIGATOR WITH THE SHERIFF'S OFFICE
3 WAS CALLED OUT THIS MORNING TO INVESTIGATE A MURDER.

4 AND SO WE CANNOT GO FORWARD AT THIS POINT
5 WITHOUT HIM HERE. WE'RE ROUNDING HIM UP NOW TO GET HIM
6 BACK IN TIME FOR THE AFTERNOON TESTIMONY IN ALL
7 PROBABILITY.

8 WE SIMPLY HAVE TO STOP EARLY. WE'D NORMALLY
9 CONTINUE THROUGH THAT WITNESS AND STOP A LITTLE AFTER
10 12. HAVE TO STOP A LITTLE BEFORE 12. WE WILL MAKE UP
11 FOR IT.

12 WE WILL START BACK AT 1:00. THAT'S ABOUT AN
13 HOUR AND FIFTEEN MINUTES. HOPEFULLY THAT'S ENOUGH TIME
14 FOR YOU ALL TO GET LUNCH. PLEASE BE BACK IN THE JURY
15 ROOM AT 1:00. WE'LL RESUME THE AFTERNOON'S WORK AT THAT
16 TIME.

17 REMEMBER AS ALWAYS NOT TO TALK ABOUT THIS CASE
18 AMONG YOURSELVES OR LET ANYBODY TALK WITH YOU ABOUT IT
19 WHILE YOU'RE OUT OF THE COURTROOM.

20 BE BACK IN THE JURY ROOM AT 1:00. EVERYBODY
21 GOT THAT TIME? 1:00. WE WILL START SHORTLY
22 THEREAFTER. THANK YOU.

23 (WHEREUPON THE JURY LEFT THE COURTROOM AT 11:52
24 A.M.)

25 THE COURT: ALL RIGHT. MS. DOMKE, ANYTHING FURTHER

Exhibit - pg - [#] → 273

DECEMBER 1-2, 1998 TRIAL.

1 DENIED AND THE JURY WILL BE ALLOWED TO BE SEATED AS IT IS
2 PRESENTLY COMPOSED.

3 WHILE THE JURY IS OUT OF THE COURTROOM, THIS
4 WILL PROBABLY BE A GOOD TIME THE DEAL WITH ANY MOTIONS
5 THAT WE HAVE.

6 GOING TO BE ABOUT FIVE MORE MINUTES BEFORE THE
7 BALANCE OF THE PANEL GETS BACK IN FOR ME TO GIVE THEM
8 INSTRUCTIONS. AND I UNDERSTAND THAT THERE ARE SOME
9 OUTSTANDING MOTIONS.

10 SO YOU HAVE A HOUSEKEEPING MATTER FIRST OF ALL,
11 MS. DOMKE. I KNOW MR. BROOKS HAS A MOTION AS WELL.

12 MS. DOMKE: YES, SIR, YOUR HONOR. YOUR HONOR, THE
13 -- FIRST IS THE ISSUE OF THE STATE'S EXHIBITS ON THE
14 PHOTOGRAPHS AND ON THE EVIDENCE.

15 I HAVE SPOKEN WITH THE COURT REPORTER. CAN WE
16 UTILIZE THE SAME NUMBERS AND THE SAME STICKERS?

17 JUST REFER TO THEM AS STATE'S EXHIBIT NO. 13
18 UNTIL IT'S MOVED INTO EVIDENCE OR DO WE ACTUALLY HAVE TO
19 TAKE A NEW STICKER AND PUT IT OVER EACH OF THE OLD
20 STICKERS? (THERE IS NO DATE ON THE OLD EVIDENCE STICKER.

21 THE COURT: (NOTHING TO INDICATE OBVIOUSLY THAT THEY
22 CAME IN AT A PRIOR TRIAL?

23 MS. DOMKE: NO, SIR. THERE IS NOTHING ON THAT. AND
24 WE HAD USED THE STICKERS ON SOME OF THE OTHER EVIDENCE TO
25 ACTUALLY COVER UPDATES, SO THAT WOULD BE COVERED FROM THE

December 12, 1998

1 THE COURT: ALL RIGHT. THAT'S RIGHT. SHE WAS ONE
2 OF THE TWO ACTUALLY QUALIFIED BY ME YESTERDAY BECAUSE SHE
3 DIDN'T SHOW UP.

4 MS. DOMKE: YES, SIR, YOUR HONOR.

5 THE COURT: ALL RIGHT. MR. BROOKS, I WILL BE GLAD
6 TO HEAR FROM YOU NOW IN RESPONSE.

7 MR. BROOKS: BEG THE COURT'S INDULGENCE, YOUR HONOR.

8 THE COURT: YES, SIR.

9 (WHEREUPON THERE WAS A PAUSE).

10 MR. BROOKS: YOUR HONOR, WE HAVE NO RESPONSE.

11 THE COURT: ALL RIGHT. THE ARREST, OF COURSE, IS A
12 RACIALLY NEUTRAL REASON SO LONG AS IT IS EXERCISED IN A
13 RACIALLY NEUTRAL MANNER.

14 THAT IS THAT THERE WERE NO MEMBERS OF THE
15 OPPOSITE RACE -- IN THIS CAUCASIANS -- WHO ALSO HAD
16 ARRESTS WHO WERE SEATED.

17 SO I FIND THAT STRIKE NUMBER 30 IS A RACIALLY
18 NEUTRAL REASON. THE JUROR WHO CAME IN LATE, WAS NOT HERE
19 FOR THE ORIGINAL QUALIFICATION PROCESS, THAT HAS BEEN
20 SPECIFICALLY DEALT WITH IN THE CASE OF STATE VERSUS WILDER
21 W I L D E R 413 S.E. 2ND 323, A 1991 CASE WHICH THE
22 SUPREME COURT UPHELD THE SOLICITOR'S EXPLANATION FOR
23 STRIKING TWO AFRICAN AMERICANS BECAUSE THEY REPORTED LATE
24 FOR JURY DUTY AS BEING A REASON.

25 THE BATSON MOTIONS IN THIS REGARD ARE BOTH

Exhibit - pg - 61

DECEMBER 1-2, 1998 TRIAL.

1 JURY.

2 THE COURT: I REMEMBER THAT. NO PROBLEM WITH THAT,
3 OBVIOUSLY.

4 (I AM NOT RULING IN ADVANCE ON THE ADMISSIBILITY
5 OF ANY OF THIS EVIDENCE AT THIS TIME, BUT ASSUMING THE
6 SAME THING IS GOING TO BE OFFERED THAT WERE OFFERED
7 BEFORE, I WILL ALLOW YOU TO USE THE SAME STICKERS.

8 IF THERE ARE ANY GAPS IN THAT -- YOU KNOW -- WE
9 HAVE ANY SKIPS, I MIGHT HAVE TO DEAL WITH THAT DOWN THE
10 ROAD SOMEWHERE -- IF THERE IS NO POINT IN HAVING TO
11 RE-LABEL THOSE PARTICULAR MATTERS THAT HAS BEEN REFERRED
12 TO...

13 MS. DOMKE: ALL RIGHT, SIR.

14 THE COURT: STILL GO THROUGH THE SAME ADMISSION
15 PROCESS AS BEFORE, OBVIOUSLY. NOT RULING ANYTHING INTO
16 EVIDENCE WITHOUT GIVING MR. BROOKS A CHANCE TO BE HEARD,
17 BUT YOU CAN STILL USE THE SAME NUMBERS.

18 MS. DOMKE: YES, SIR. THANK YOU. THE SECOND
19 MATTER IS SIMPLY A MOTION UNDER SECTION 16-3-659 AND ALSO
20 I GUESS IT'S RULE 412 WHICH IS A MOTION IN LIMINE UNDER
21 THE RAPE SHIELD STATUTE -- SIMPLY TO BRING THAT TO THE
22 COURT'S ATTENTION AND TO THE DEFENSE COUNSEL'S ATTENTION
23 SO THAT NO ONE FROM THE STATE HAS MADE -- YOU KNOW --
24 RINGS THE BELLS IN FRONT OF THE JURY.

25 THE COURT: YOU RECEIVED NO NOTICE OF ANYTHING THAT

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1 WOULD -- OF ANY INFORMATION UNDER THE RAPE SHIELD
2 STATUTE?

3 MS. DOMKE: NO, SIR. NOT RECEIVED ANYTHING FROM THE
4 DEFENSE.

5 THE COURT: THANK YOU. YOU ARE AWARE OF THAT
6 STATUTE?

7 MS. DOMKE: I WOULD LIKE TO -- LIKE TO RAISE AGAIN
8 THE STATE'S FILING OF THE RULE 5 MOTION WITH THE DEFENSE
9 AND HAS RECEIVED NOTHING.

10 IN ADDITION, WE RECEIVED NO NOTICE OF ALIBI AS
11 WELL. SO WE ARE PROCEEDING THAT THERE IS NO ALIBI.

12 THE COURT: ALL RIGHT.

13 MS. DOMKE: THAT COULD BE RAISED. AND THEN JUST TWO
14 MINOR HOUSEKEEPING MATTERS, YOUR HONOR.

15 IF THE DEFENSE DETERMINES TO PLACE THE DEFENSE
16 BEFORE THE JURY, THAT WE BE PROVIDED PRIOR TO THE TIME ANY
17 WITNESSES TAKE THE STAND, WITH THEIR NAMES, SOCIAL
18 SECURITY NUMBERS AND DATES OF BIRTH FOR PURPOSES OF
19 RUNNING N.C.I.C. RECORDS IF THAT SHOULD OCCUR IN THE
20 FUTURE.

21 THE COURT: ALL RIGHT.

22 MS. DOMKE: AND I ALSO ANTICIPATE A JACKSON V DENO
23 HEARING INVOLVING THE MAGISTRATE JUDGE SANDERS. I DON'T
24 BELIEVE THAT HE WILL TAKE THE STAND UNTIL SOME TIME
25 TOMORROW, YOUR HONOR.

Exhibit-89 → 64

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1 THE COURT: OKAY. WE WILL TRY TO DEAL WITH THAT.
2 IF HE'S NOT HERE TODAY, WE WILL TRY TO DEAL WITH THAT
3 FIRST THING IN THE MORNING PERHAPS OR SOME TIME TO
4 CAUSE MINIMUM INTERRUPTIONS AS FAR AS THE JURY IS
5 CONCERNED.

6 MS. DOMKE: THAT'S ALL THE STATE HAS, SIR.

7 THE COURT: ALL RIGHT. IN REGARD TO THE DEFENSE
8 WITNESSES, AFTER THE STATE HAS RESTED IT'S CASE, MR.
9 BROOKS, IF YOU WILL AT THAT TIME PLEASE DELIVER TO STATE'S
10 COUNSEL A LIST OF YOUR WITNESSES WITH IDENTIFYING
11 INFORMATION, SOCIAL SECURITY NUMBERS AND BIRTH DATES SO
12 THAT THEY CAN RUN THE APPROPRIATE RECORDS CHECKS.

13 YOU ARE NOT REQUIRED TO DO THAT UP TILL --
14 AFTER THEY HAVE RESTED THEIR CASE. YOU UNDERSTAND ALL OF
15 THAT?

16 MR. BROOKS: YES I DO, YOUR HONOR.

17 THE COURT: OKAY. ALL RIGHT. NOW MR. BROOKS, I
18 WILL BE GLAD TO HEAR YOUR MOTION.

19 *Venue* MR. BROOKS: YOUR HONOR, AT THIS TIME THE DEFENSE
20 *Venue* MAKES A MOTION TO -- CHANGE OF VENUE BASED UPON THE FACT
21 WE FEEL THAT MY CLIENT CANNOT GET A FAIR AND IMPARTIAL
22 JURY.

23 *Venue* * WE MAKE THAT MOTION ON THE BASIS OF THE ARTICLE
24 THAT WAS WRITTEN IMMEDIATELY AFTER THE COURT RENDERED A
25 MISTRIAL IN THE FIRST TRIAL OF THIS CASE.

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1 I DO HAVE A COPY OF THE ARTICLE AND I DO
2 THINK -- I DON'T KNOW IF I PRESENTED AN ARTICLE TO THE
3 COURT ALREADY.

4 THE COURT: WHAT YOU NEED TO DO IS HAVE IT MARKED AS
5 A COURT'S EXHIBIT FOR PURPOSES OF YOUR MOTION. IF YOU
6 WOULD, PLEASE, SIR SO THE RECORD WILL BE PROTECTED IN THAT
7 REGARD.

8 (COURT'S EXHIBIT NO. 1 MARKED FOR
9 IDENTIFICATION).

10 MR. BROOKS: PROSECUTOR SAYS SHE HAS SEEN IT, YOUR
11 HONOR. PRESENT IT TO THE COURT.

12 IN THAT PARTICULAR ARTICLE, IT MAKES MENTION OF
13 THE D N A SAMPLE. THE BLOOD SAMPLE WAS TAKEN FROM MY
14 CLIENT AS A RESULT OF A PREVIOUS SITUATION THAT TOOK
15 PLACE -- WELL, SIX TO SEVEN MONTHS BACK IN OCTOBER OF
16 1996.

17 THIS PARTICULAR INCIDENT HAPPENED IN JULY OF
18 1997. IT MAKES SPECIFIC MENTION OF D N A PROBLEMS.

19 THE SAME PARTICULAR D N A PROBLEMS THAT WE
20 RAISED IN THE FIRST TRIAL IN REGARDS TO THE PROBLEMS IN
21 REGARDING POSSIBLE VIOLATION OF ANY ADMISSIBLE EVIDENCE OF
22 PRIOR BAD ACTS AS WELL AS ESTABLISHING THE CHAIN OF
23 CUSTODY. ARTICLE MAKES MENTION OF ALL OF THAT.

24 WE FEEL THAT IN LIGHT OF THAT FACT -- THAT
25 PARTICULAR ARTICLE WAS RUN IN THE ITEM WHICH IS THE LOCAL

SEE Exhibit - Pg # 66.

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1 NEWSPAPER HERE WHICH SHOULD -- USUALLY EVERYONE HERE IN
2 SUMTER SEES.

3 THEY WOULD GET. THEY WOULD READ. THEY WOULD
4 SEE THE D N A IN THIS PARTICULAR CASE.

5 I DO KNOW THAT YOUR HONOR HAS MADE MENTION OF
6 THAT IN VOIR DIRE IN WHETHER OR NOT ANYBODY HAS READ
7 ANYTHING IN REGARDS TO THIS CASE.

8 HOWEVER, I THINK THAT WHEN THE CASE BEGINS WITH
9 OPENING STATEMENTS AND AGAIN WHEN THE EVIDENCE COMES INTO
10 PLAY, I REALLY THINK THAT THAT WILL START TO JAR PEOPLE'S
11 MEMORY.

12 THAT PARTICULAR ARTICLE WAS WRITTEN BACK IN I
13 BELIEVE AUGUST 7TH, 1998, MERE TWO -- BASICALLY TWO TO
14 THREE MONTHS AGO IN WHICH THAT COULD REFRESH A LOT OF
15 PEOPLE'S MEMORIES.

16 AND YOU COULD HAVE PEOPLE ON THE JURY START TO
17 REMEMBER A LOT OF THOSE THINGS THEY READ IN THE ARTICLE
18 WHICH WE THINK WOULD BE EXTREMELY PREJUDICIAL TO MY
19 CLIENT.

20 THE COURT: OKAY. I'M LOOKING AT THE ARTICLE. AND
21 OF COURSE, I -- MY MEMORY IS BEING REFRESHED AS I DO
22 THIS.

23 CLEARLY THE JURY THEMSELVES INDICATED THAT THEY
24 HAD NOT HEARD OR READ OR SEEN ANYTHING ABOUT THIS CASE.

25 AND THERE IS A THREE LINE REFERENCE TO MR.

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1 MAGAZINE FACING SIMILAR CHARGES ON A 1996 INCIDENT WITH
2 ANOTHER WOMAN -- A TRIAL DATE HAS NOT YET BEEN SET FOR
3 THAT.

4 I THINK THAT'S THE ONLY REFERENCE TO ANY OTHER
5 SITUATION -- AS I READ THIS VERY HURRIEDLY -- THE D N A
6 DISCUSSION THAT IS CONTAINED IN THIS ARTICLE WAS ALL A
7 MATTER OF EVIDENCE BEFORE THE PRIOR JURY AND ASSUMING
8 SIMILAR RULINGS IN THIS CASE WILL ALL BE BEFORE THIS
9 JURY.

10 I DON'T THINK THERE IS ANY EVIDENCE IN THIS OR
11 ANY STATEMENT IN THIS PARTICULAR ARTICLE THAT D N A
12 RESULTED FROM A PRIOR EVENT. I AM LOOKING AT THIS
13 HURRIEDLY, BUT I DON'T SEE THAT.

14 MR. BROOKS: YOUR HONOR---.

15 THE COURT: CAN YOU HELP ME?

16 MR. BROOKS: WITH ALL DUE RESPECT, THE PROBLEM WE
17 HAVE IS IT DOES MAKE MENTION OF THE JULY -- I MEAN --
18 EXCUSE ME -- THE OCTOBER OF 1996 SITUATION WHICH WAS --
19 WHICH YOUR HONOR SPECIFICALLY REQUESTED WE NEED TO KEEP
20 OUT OF THE FIRST TRIAL.

21 THE COURT: THAT'S RIGHT.

22 MR. BROOKS: THAT IS OUR PROBLEM. AND IT TALKS
23 ABOUT THAT IS WHERE THE D N A WAS TAKEN FROM AS A RESULT
24 OF THE OCTOBER OF 1996 INCIDENT.

25 THE COURT: BUT I DON'T BELIEVE THIS ARTICLE -- IT

SEE Exhibit - pg - # 68.

December 1-2, 1998 Trial.

1 DOES MENTION A 1996 INCIDENT, BUT I DON'T BELIEVE THERE IS
2 ANYTHING IN HERE THAT TIES THE D N A TO THAT INCIDENT; IS
3 IT?

4 MR. BROOKS: THAT'S THE PROBLEM IS IT MAKES MENTION
5 OF THE OCTOBER OF 1996 INCIDENT.

6 THE COURT: RIGHT. I UNDERSTAND THAT. I THINK
7 THAT -- THERE IS A THREE LINE REFERENCE THAT I ALSO
8 MENTIONED. JUST SAYS 1996. AND I TAKE IT IS OCTOBER WE
9 WERE TALKING ABOUT.

10 OBVIOUSLY IF THAT MATTER COMES UP OR IF ANYBODY
11 RECALLS THAT -- AND GENERALLY JURORS HAVE A WAY OF TELLING
12 ME AFTER THE FACT IF THEY RECALL SOMETHING AFTER THE FACT
13 -- I WILL BE GLAD TO DEAL WITH IT UNDER THOSE
14 CIRCUMSTANCES.

15 BUT I DON'T THINK THAT THAT -- THAT THAT
16 REFERENCE IN THIS ARTICLE WHICH NONE OF THIS JURY AT THIS
17 POINT IN TIME ACKNOWLEDGES HAVING READ OR RECALLS HAVING
18 READ AND WHICH APPEARED IN THE NEWSPAPER SOME THREE -- A
19 LITTLE OVER THREE MONTHS AGO IS SUFFICIENT TO GRANT A
20 CHANGE OF VENUE.

21 WHILE IT MENTIONS A 96 INCIDENT WITH ANOTHER
22 WOMAN AND IT MENTIONS D N A IN SOME DETAIL, IT DOES NOT
23 REFER IN THIS PARTICULAR CASE AS I READ THIS -- AND READ
24 IT HURRIEDLY -- THAT THE D N A EVIDENCE IN THIS CASE WAS
25 OBTAINED OR THAT MR. MAGAZINE'S BODY FLUIDS WERE TAKEN AS

December 1-2, 1998 TRIAL.

1 A RESULT OF THAT EARLIER INCIDENT.

2 I CAN'T SEE THAT HERE. I WILL DENY YOUR MOTION
3 IN THAT REGARD. I THINK THERE HAS BEEN NO SHOWING UNDER
4 THE RULES SUFFICIENT TO GRANT A CHANGE OF VENUE IN THIS
5 PARTICULAR CASE.

6 THERE ARE RATHER SPECIFIC RULES REGARDING
7 CHANGES OF VENUE, THE MOST RECENT OF WHICH HAS BEEN SET
8 OUT IN GREAT DETAIL IN THE RECENT CASE OF STATE VERSUS
9 MANNING, A DEATH PENALTY CASE THAT WAS TRIED IN DILLON IN
10 1995.

11 I HAVE GOT SOME REAL PERSONAL KNOWLEDGE OF THAT
12 CASE. I WAS THE ONE WHO TRIED IT. DIDN'T GRANT THE
13 CHANGE OF VENUE MOTION, BUT I TRIED THE CASE NONETHELESS
14 AND IT WAS REVERSED.

15 THE SUPREME COURT IN THAT PARTICULAR CASE IN
16 ESSENCE SAID THERE HAD TO BE A SHOWING SUBSEQUENT TO VOIR
17 DIRE OR AS A RESULT OF VOIR DIRE THAT WOULD INDICATE THAT
18 THE JURORS COULD NOT BE FAIR AND IMPARTIAL OF WHAT THEY
19 HAVE HEARD OR READ OR SEEN WOULD IMPACT UPON THEIR ABILITY
20 TO BE FAIR AND IMPARTIAL JURORS.

21 WE HAVEN'T LEARNED THAT IN THIS PARTICULAR
22 CASE. AND SO I MUST RESPECTFULLY DENY THE MOTION FOR
23 CHANGE OF VENUE BASED ON THE NEWSPAPER ARTICLE.

24 NOW, ANOTHER MATTER RELATED TO THIS WHICH MAY
25 COME UP DURING THE COURSE OF THIS TRIAL -- I DON'T KNOW

See Exhibit - pg - # 70.

December 1-2, 1998. TRIAL:

1 WHETHER THERE ARE -- YOU ALL HAVE TRANSCRIPTS OF THE
2 EARLIER TRIAL OR NOT.

3 COURT REPORTER TELLS ME THEY DO. SHE KNOWS
4 BECAUSE SHE'S THE ONE WHO PREPARED THEM.

5 AND IT MAY BECOME NECESSARY DURING THE COURSE OF
6 THIS TRIAL FOR YOU ALL TO CROSS-EXAMINE PEOPLE BASED UPON
7 WHAT THEY SAID EARLIER.

8 THE WAY THAT YOU DEAL WITH THAT IS NOT TO REFER
9 TO THE TRANSCRIPT AS COMING FROM A PRIOR TRIAL. YOU
10 WOULD NOT ASK THE WITNESS DIDN'T YOU, WHEN WE TRIED THIS
11 CASE BACK IN AUGUST, TELL THE JURY THIS AND SUCH.

12 CAN'T DO IT THAT WAY. WHAT YOU WILL SAY IS DID
13 YOU AT A PRIOR PROCEEDING TESTIFY UNDER OATH AS TO THUS
14 AND SUCH.

15 AND THAT'S HOW WE WILL DEAL WITH THE MATTER OF
16 CROSS-EXAMINATION USING THE TRANSCRIPT FROM THE EARLIER
17 TRIAL. YOU WILL REFER IT TO AS A PRIOR PROCEEDING.

18 THAT IS A METHODOLOGY THAT HAS BEEN APPROVED BY
19 OUR COURT. DOES NOT CALL THE ATTENTION OF THIS JURY TO
20 THE FACT THAT THIS CASE HAS BEEN TRIED IN THE PAST BEFORE
21 ANOTHER JURY.

22 THAT IS IRRELEVANT AS FAR AS THEY ARE
23 CONCERNED. DOESN'T HAVE ANY BEARING ON THEIR DECISION
24 MAKING PROCESS AND SHOULD NOT BE.

25 SO IF YOU ALL WILL FOLLOW THAT, I THINK WE WILL

SEE Exhibit - pg - 71.

December 1-2, 1998. TRIAL

1 BE IN PRETTY GOOD SHAPE. ALL RIGHT. ARE THERE ANY
2 OTHER HOUSEKEEPING MATTERS THAT WE NEED TO DEAL WITH IN
3 THIS REGARD? ANYTHING ELSE, MR. BROOKS, FROM THE
4 DEFENSE?

5 MR. BROOKS: I WOULD RESPECTFULLY MAKE -- RE-MAKE THE
6 MOTION IN REGARDS TO SUPPRESSION OF D N A EVIDENCE ON THE
7 BASIS OF THE SAME BASIS THAT I MADE LAST TIME.

8 IF YOU WILL RECALL, WHAT I SAID WAS THAT IT
9 COULD NOT ESTABLISH THE CHAIN OF CUSTODY WITHOUT TALKING
10 ABOUT WHEN THEY TOOK IT, WHICH OBVIOUSLY WOULD GET INTO
11 PRIOR BAD ACTS;.

12 * AND THEREFORE, THAT WOULD BE IN VIOLATION OF THE
13 RULE AGAINST ANY ADMISSIBILITY OF THE EVIDENCE IN REGARDS
14 TO PRIOR BAD ACTS.

15 THE OCTOBER, 1996, PARTICULAR INCIDENT IN WHICH
16 THE D N A WAS TAKEN, IN REGARD TO THIS PARTICULAR EVENT IN
17 JULY OF 1997 IN WHICH THEY ALREADY HAD D N A EVIDENCE
18 OBTAINED FROM MR. MAGAZINE.

19 THE COURT: RIGHT. AS I RECALL, LAST TIME WE TOOK
20 GREAT PAINS TO COVER UP THOSE DATES ON ALL THE EVIDENCE
21 WITH STICKERS AND TAPES OF THAT SUCH SO AS NOT TO LET THIS
22 JURY KNOW WHEN IT WAS OBTAINED BECAUSE IT WAS NOT RELEVANT
23 TO THEIR CONSIDERATION AS TO WHEN THE BLOOD SAMPLES WERE
24 ACTUALLY OBTAINED FROM MR. MAGAZINE IN THE MATTER.

25 AND OF COURSE, AT THE SAME TIME I DID NOT ALLOW

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1 YOU TO ARGUE THAT POINT BECAUSE IT WAS SOMETHING THAT WAS
2 NOT BEFORE THE JURY.

3 ON THAT BASIS, AS FAR AS THAT PARTICULAR MOTION
4 IS CONCERNED, I WILL DENY THE MOTION TO SUPPRESS THE D N A
5 EVIDENCE ON THE BASIS OF THE TIME OF IT'S TAKING.

6 OBVIOUSLY THE STATE IS STILL GOING TO HAVE TO
7 * MEET ONCE AGAIN ADMISSIBILITY REQUIREMENTS IN REGARD TO
8 THAT EVIDENCE AS THEY DO WITH ALL EVIDENCE.

9 WE DON'T JUST PRESUME FOR THE PURPOSES OF THIS
10 RECORD THAT ALL OF THIS HAS BEEN RULED ON BEFORE, SO WE
11 JUST KIND OF ADOPT THOSE PRIOR RULINGS FOR THIS PROCEEDING
12 AND JUST GO FORWARD BLISFULLY ALONG AS IF THE STATE STILL
13 DOESN'T HAVE THE BURDEN IN THIS CASE IN REGARD TO
14 ADMISSIBILITY OF THIS EVIDENCE AS DOES THE DEFENSE WHEN IT
15 CHOOSES TO ADMIT EVIDENCE AS WELL.

16 SO BUT INsofar AS THE MOTION TO SUPPRESS BASED
17 ON THE TIME OF IT'S TAKING, THE FACT THAT THE JURY MUST
18 NECESSARILY KNOW FROM THAT DATE THAT THIS INVOLVED A PRIOR
19 INCIDENT, THAT DATE WILL NOT BE BEFORE THIS JURY.

20 THEY WILL NOT KNOW WHEN IT WAS TAKEN AND
21 THEREFORE THAT MOTION IS RESPECTFULLY DENIED.

22 ALL RIGHT. ANYTHING ELSE BEFORE I GET THIS
23 JURY IN OFF THE STREET AND TELL THEM WHAT WE ARE DOING?

24 MR. BROOKS: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: ALL RIGHT, SIR. LET THAT JURY IN OUT IN

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1 THERE IF THEY ARE OUT IN THE HALL OR WHEREVER THEY ARE.

2 (REMAINING JURY PANEL IN AND DISMISSED).

3 THE COURT: ALL RIGHT, FOLKS. THE PROCEDURE NOW WILL
4 BE THE JURY WILL BE BROUGHT BACK IN, I WILL APPOINT A
5 FOREPERSON, THE JURY WILL BE SWORN, I WILL MAKE SOME BRIEF
6 INTRODUCTORY REMARKS ABOUT THIS PROCESS AND WILL ALLOW
7 OPENING STATEMENTS BY THE STATE AND THE DEFENSE AND AT
8 THAT TIME. THEN WE WILL BREAK FOR LUNCH.

9 WE WILL TAKE ABOUT AN HOUR AND FIFTEEN MINUTES.
10 COME BACK AND START THE TRIAL TESTIMONY THIS AFTERNOON.
11 OKAY. MS. DOMKE?

12 MS. DOMKE: YES, SIR.

13 THE COURT: MR. BROOKS? OKAY?

14 MR. BROOKS: FINE.

15 THE COURT: ALL RIGHT. MR. RAY, BRING US THE
16 JURY.

17 (WHEREUPON THE JURY ENTERED THE COURTROOM AT
18 11:37 A.M.).

19 THE COURT: MR. SIDES, THAT WORKED WELL. MUST BE
20 THE CHAIR -- I WAS GOING TO ASK YOU TO SERVE AS FOREMAN OF
21 THE JURY AND SIT IN THAT SEAT, SO IT WORKED OUT WELL YOU
22 CHOSE THAT SEAT ON YOUR OWN.

23 IT'S ALMOST PROVIDENTIAL (SIC) I SUPPOSE THAT
24 YOU HAVE CHOSEN THAT. I DO WANT YOU TO SERVE AS THE
25 FOREMAN OF THAT JURY. THAT MEANS IN THIS COURTROOM YOU'LL

See Exhibit # → 74

December 1-2, 1998, Trial Transcript

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 TO HER, TO IDENTIFY WHO I WAS. TRYING TO GET A LITTLE
2 BIT OF A HISTORY AND SEE WHAT WAS GOING ON.

3 SHE WAS CRYING. SHE WAS HYSTERICAL. SHE --
4 FIRST THING SHE SAID WAS I WAS RAPED. FIRST THING SHE
5 SAID---.

6 Q DO YOU RECALL APPROXIMATELY WHAT TIME IN THE MORNING
7 IT WAS WHEN YOU BEGAN YOUR TRIAGE?

8 A ONLY BY LOOKING AT MY NOTES AND IT WAS THREE-ISH. 3
9 IN THE MORNING.

10 Q ABOUT 3 IN THE MORNING? OKAY. AND DO YOU RECALL --
11 SHE SAID THAT SHE WAS RAPED. AT THAT POINT, DID YOU TAKE
12 BLOOD PRESSURE AND A PULSE?

13 A YES.

14 Q DO YOU RECALL WHAT THOSE WERE?

15 A IN REVIEWING MY NOTES AND HER HEARTRATE WAS UP. IT
16 WAS ABOVE A HUNDRED.

17 Q ALL RIGHT.

18 A LIKE 110, I BELIEVE.

19 Q ALL RIGHT. AND WHEN SHE ARRIVED, DID -- WHAT --
20 AFTER YOU FIRST BEGAN THE TRIAGE, TOOK THE BLOOD PRESSURE
21 AND PULSE, WHAT INJURIES DID YOU NOTICE?

22 A A LOT OF BRUISING ON HER FACE, ON HER NECK, SHE HAD
23 ON HER ARMS AND HER LEGS.

24 Q DID YOU -- DO YOU RECALL PRECISELY OR DO YOU HAVE AN
25 IDEA WHAT SHE HAD TOLD YOU HAD HAPPENED TO HER?

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JACQUELINE CROSKEY - DIRECT BY DOMKE

1 A YES.

2 Q WHAT DID SHE SAY?

3 A SHE TOLD ME THAT SHE HAD BEEN RAPED FOUR TIMES. SHE
4 TOLD ME WHERE SHE HAD BEEN RAPED. SHE TOLD ME THAT SHE
5 WAS WALKING ON THE HIGHWAY 15.

6 SHE TOLD ME SHE WAS RAPED IN A DITCH. SHE TOLD
7 ME SHE WAS RAPED---.

8 MR. BROOKS: OBJECTION, YOUR HONOR.

9 THE COURT: YES, SIR. THE OBJECTION? WHAT'S THE
10 NATURE OF THE OBJECTION?

11 MR. BROOKS: THAT WHAT SHE'S TESTIFIED TO SHE IS --
12 CAN'T TESTIFY TO A MEDICAL DIAGNOSIS. SHE WOULDN'T HAVE
13 ANY REASON TO TESTIFY TO THE EVENTS THAT HAPPENED.

14 THE COURT: NO, SIR.

15 MR. BROOKS: SHE DIDN'T HAVE FIRSTHAND KNOWLEDGE,
16 TOO.

17 THE COURT: WHAT THE RULE SAYS -- THE RULE SAYS
18 EXCITED UTTERANCE 8031 AND 2 STATEMENT DESCRIBED OR
19 EXPLAINING EVENT OR CONDITION MADE WHILE THE DECLARANT WAS
20 RECEIVING THE EVENT OR CONDITION OR STATEMENT RELATING TO
21 STARTLING EVENT OR CONDITION MADE WHILE IT'S DECLARANT WAS
22 UNDER STRESS OR EXCITEMENT NOT LIMITED IN THIS PARTICULAR
23 CASE TO THE MEDICAL -- TOOK NOTICE, SHE CAN TESTIFY AS TO
24 ANYTHING SHE TOLD HER AS LONG AS SHE WAS IN THAT EXCITED
25 STATE. THANK YOU. YOU CAN GO AHEAD, MRS. CROSKEY.

SEE Exhibit 156

December - 1-2, 1998, Trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 THE WITNESS: OKAY. I HAD ASKED HER WHAT HAPPENED.
2 I ASKED HER WHERE. THAT'S WHEN SHE TOLD ME FOUR TIMES.
3 SHE SAID THE DITCH, THE WOODS AND THEN BEHIND THE MOTEL.
4 I DID NOT ASK THE NAME OF THE MOTEL.

5 (WHEREUPON QUESTIONING RESUMED).

6 Q OKAY.

7 A SHE SAID BEHIND THE MOTEL TWICE.

8 Q OKAY. DID -- DID A SEXUAL -- WAS A SEXUAL ASSAULT
9 EXAM CONDUCTED?

10 A YES, IT WAS.

11 Q CAN YOU TELL THE JURY BRIEFLY WHAT IS A SEXUAL
12 ASSAULT.

13 A IT'S THE GATHERING OF EVIDENCE. WHEN SOMEBODY COMES
14 IN AND SAYS THAT THEY HAVE BEEN ASSAULTED, WE GATHER
15 HISTORY FROM THEM. WE FIND OUT WHAT THEY SAID, WHAT
16 HAPPENED.

17 IT'S A PLACE WHERE YOU CAN PUT ON -- DESCRIBE
18 THE PERSON, WAS IT SOMEONE THAT WAS KNOWN TO THEM OR A
19 STRANGER.

20 WHAT -- HOW -- WAS THERE ANY FORCE USED, ANY
21 VERBAL FORCE, ANY PHYSICAL FORCE, CHECK THAT. WE GATHER
22 ALL EVIDENCE.

23 WE -- THERE IS PICTURES WHERE YOU CAN DRAW ON
24 THERE TO SHOW ANY BRUISING, ANY LASCERATIONS, IF THERE IS
25 ANY BROKEN BONES.

SEE Exhibit → 157

December 12, 1998 Trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 WE ALSO COLLECT BLOOD SAMPLES AND THEN WE DO A
2 PELVIC EXAM. AND THE DOCTOR WILL DO THE PELVIC EXAM AND
3 COLLECT SPECIMENS IF INDICATED.

4 Q NOW, WHEN YOU SAY -- ARE YOU TALKING ABOUT YOU IN
5 THIS PARTICULAR CASE? WERE YOU THE ONE?

6 A YES. I DID EVERYTHING. YES. I DID EVERYTHING
7 EXCEPT THE PELVIC EXAM.

8 Q A DOCTOR WAS PRESENT?

9 A THE DOCTOR WAS PRESENT. I NEVER LEFT THE ROOM.

10 Q AND YOU WERE THERE WHEN THE DOCTOR DID THE PELVIC
11 EXAMS?

12 A RIGHT.

13 Q AND TOOK WHATEVER SAMPLES?

14 A RIGHT. AND I DREW THE BLOOD.

15 Q YOU DREW THE BLOOD. OKAY. NOW, IN THE SEXUAL
16 ASSAULT EXAM, DID -- WAS THERE ANY INDICATION WHEN YOU'RE
17 TALKING TO HER, WAS THERE ANY INDICATION OF ANYTHING THAT
18 -- ANY WEAPONS OR ANYTHING OF THAT NATURE?

19 A SHE TOLD ME A KNIFE.

20 Q OKAY.

21 A SHE ALSO SAID VERBAL THREATS.

22 Q OKAY.

23 MR. BROOKS: DIDN'T HEAR WHAT SHE SAID.

24 THE WITNESS: VERBAL THREATS.

25 (WHEREUPON QUESTIONING RESUMED).

SEE Exhibit → 158

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JACQUELINE CROSKEY - DIRECT BY DOMKE

1 Q ONCE YOU BEGAN DOING THE SEXUAL ASSAULT EXAMINATION,
2 DO YOU LEAVE THE---

3 A NO. ONCE YOU OPEN THE KIT, THE KIT IS SEALED. IT'S
4 A BOX. ONCE YOU OPEN IT, YOU STAY WITH THAT PERSON UNTIL
5 THE INVESTIGATOR THAT'S GOING TO BE -- PICK IT UP COMES.

6 TOGETHER YOU SEAL IT AND YOU INITIAL IT AND THEN
7 IT'S TURNED OVER ONCE THE BOX IS COMPLETELY SEALED. I
8 NEVER LEFT THE ROOM.

9 Q OKAY. ALL RIGHT. AND SO THEN YOU -- YOU BEGAN TO
10 PROCESS THE KIT THEN?

11 A YES. AS FAR AS TAKING THE SAMPLES.

12 Q OKAY. I WOULD LIKE TO SHOW YOU STATE'S EXHIBIT -- I
13 BELIEVE IT'S NO. 7 THROUGH 13 FOR IDENTIFICATION AND --
14 TWO OF THEM THERE -- AND ASK YOU IF YOU RECALL THOSE
15 PHOTOGRAPHS BEING TAKEN.

16 A YES, I DO. AND THAT WAS ALSO ME -- PART OF ME IN THE
17 PICTURES.

18 Q WHAT PART OF YOU?

19 A MY HAND. I WAS HOLDING THEM -- THE TAPE MEASURE.

20 Q OKAY. AND SOMEONE ELSE WAS TAKING THE PHOTOGRAPHS?

21 A RIGHT.

22 Q OKAY. AND THAT'S PART OF THE STEPS THAT YOU ARE
23 TAKING?

24 A YES.

25 Q OKAY. LET ME ALSO SHOW YOU EXHIBIT NO. 14. AND DO

See Exhibit → 159

December 12, 1998 Trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 YOU RECALL -- DO YOU RECALL TAKING CUSTODY OR DO YOU
2 RECALL TAKING THE CLOTHES FROM THE -- MELISSA HAYES?

3 A YES.

4 Q OKAY. AND DO YOU RECALL THIS SHIRT?

5 A YES.

6 Q OKAY. DO -- YOU REMOVED THIS FROM THE VICTIM?

7 A RIGHT.

8 Q OKAY. AND THE BRA AND THE UNDERPANTS?

9 A I DON'T -- PART. I MEAN, I PUT IT IN THERE. I
10 DON'T KNOW ABOUT THE BRA, BUT...

11 Q LET ME SHOW YOU THE BAG AND ASK YOU -- I AM TRYING
12 TO -- DO YOUR INITIALS APPEAR ON THE BAG? WOULD YOU HAVE
13 INITIALED THE BAG?

14 A RIGHT THERE. YES.

15 Q THOSE ARE YOUR INITIALS?

16 A THOSE ARE MY INITIALS.

17 Q OKAY. THEN YOU WENT AND YOU PUT THE DATE ON THERE AS
18 WELL?

↓ 19 A TAPE IT UP AND INITIAL IT.

20 Q OKAY. SO YOU TAKE THE CLOTHING AND YOU PLACE IT IN
21 THE BAG AND SEAL THE BAG.

22 A RIGHT.

23 Q OKAY. AND IS THIS PART OF WHAT IS GIVEN TO THE LAW
24 ENFORCEMENT OFFICER?

25 A YES.

See Exhibit → 160.

December, 1-2, 1998 trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 Q OKAY. NOW, IN ADDITION TO THE CLOTHING BAG, LET ME
2 SHOW YOU STATE'S EXHIBIT NO. 15. I'D LIKE TO SHOW YOU
3 STATE'S EXHIBIT NO. 15 FOR IDENTIFICATION AND ASK YOU IF
4 YOU CAN RECOGNIZE THAT EXHIBIT.

5 A YES. THAT'S MY WRITING AND MY SIGNATURE ON THE
6 TAPE.

7 Q OKAY. AND DOES THAT RELATE TO THIS CASE?

8 A YES, IT DOES.

9 Q OKAY. AND -- OKAY. WOULD YOU TAKE A LOOK IN THAT
10 BAG FOR ME, PLEASE, AND TELL ME IF YOU CAN RECOGNIZE THE
11 CONTENTS.

12 A THERE IS LEAF PARTICLES IN THERE AND I DID COLLECT
13 THOSE OFF OF HER.

14 Q OKAY. CAN YOU TELL US -- WHAT TO ME...

15 MS. DOMKE: AT THIS POINT, YOUR HONOR, THE STATE
16 WOULD MOVE STATE'S EXHIBIT NO. 15 INTO EVIDENCE.

17 THE COURT: ALL RIGHT. MR. BROOKS?

18 MR. BROOKS: NO OBJECTION.

19 THE COURT: STATE'S 15 IN EVIDENCE WITHOUT OBJECTION.

20 (STATE'S EXHIBIT NO. 15 MARKED FOR EVIDENCE).

21 (WHEREUPON QUESTIONING RESUMED).

22 Q OKAY. MRS. CROSKEY, CAN YOU PLEASE TELL THE JURY HOW
23 YOU WENT ABOUT COLLECTING THE LEAVES AND DEBRIS IN THAT
24 BAG.

25 A THERE IS -- IN THE KIT WHEN YOU OPEN IT UP, THERE'S A

See Exhibit → 161

December 12, 1998 Trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 PAPER SHEET THAT YOU PUT DOWN. YOU HAVE THE PATIENT
2 STAND ON IT -- IN THIS CASE MELISSA -- STAND ON IT.

3 THAT IS WHERE THEY REMOVE THEIR CLOTHES, IF THEY
4 ARE THE SAME CLOTHES THAT THEY HAD ON.

5 ANYTHING THAT FALLS OFF OF THEIR CLOTHES WHEN
6 THEY TAKE THEIR CLOTHES OFF OR ANYTHING THAT FALLS OFF OF
7 THEM FROM THEIR HAIR OR FROM THEIR CLOTHES IS ON THAT
8 PAPER SHEET. AND THEN YOU FOLD IT UP AND PUT IT INTO THE
9 BAG, A DEBRIS BAG.

10 Q THEN THAT'S WHERE THAT IS?

11 A RIGHT.

12 Q THAT'S WHERE THE DEBRIS WAS ON HER. SHE WAS REMOVING
13 HER CLOTHES.

14 A RIGHT.

15 Q OKAY. NOW IN ADDITION TO TAKING THE PHOTOGRAPHS,
16 TAKING THE CLOTHING FROM HER AND SEALING THAT, COLLECTING
17 THE DEBRIS BAG, DID YOU HAVE OCCASION ALSO TO TAKE ANY
18 KIND OF ADDITIONAL SAMPLES FROM HER?

19 A YOU -- THERE'S SEVERAL DIFFERENT SAMPLES THAT YOU
20 TAKE. TAKE HAIR SAMPLES.

21 Q WHAT I'M ASKING ABOUT IS DID YOU TAKE SEROLOGY AT
22 ALL?

23 A YES.

24 Q OKAY. LET ME SHOW YOU -- LET ME -- I'D LIKE TO SHOW
25 YOU STATE'S EXHIBIT NO. 17 FOR IDENTIFICATION AND I'M

Exhibit # 162

December 1-2, 1998 Trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 GOING TO ASK YOU TO SEE IF YOU CAN MANEUVER THIS AROUND.
2 IT'S A BIO-HAZARD.

3 DIDN'T WANT TO UNSEAL IT AT THIS POINT. SEE IF
4 YOU CAN FIND YOUR INITIALS ON EITHER THE VAGINAL SWABS OR
5 THE SEROLOGY.

6 A I CAN SEE MY WRITING ON THERE AND I CAN SEE THE
7 WRITING ON THE FRONT. THAT IS MY WRITING. THAT IS MY
8 WRITING.

9 Q OKAY. ON THE WRITING -- ON BOTH THE VAGINAL SWABS
10 AND SEROLOGY?

11 A ONLY ONE I CAN'T -- WHATEVER THIS MANILLA ENVELOPE, I
12 CANNOT...

13 Q WE MAY NEED TO---.

14 A THE WHITE ENVELOPE IS UNDER THERE.

15 Q OKAY. HERE WE GO. DOES THAT HELP?

16 A YEAH. THAT IS MINE.

17 Q THAT IS YOURS?

18 A THAT IS MY WRITING RIGHT IN THERE.

19 Q OKAY.

20 A YES.

21 Q NOW, YOU TOOK -- YOU TOOK THE BLOOD FROM THE
22 DEFENDANT OR -- EXCUSE ME -- FROM THE VICTIM?

23 A YES.

24 Q OKAY. AND TAKE IT FROM THE ARM?

25 A RIGHT? AND THEN THAT'S THE SAMPLE THAT GOES IN THE

Exhibit - [#] → 163

December 1-2, 1998 Trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 KIT?

2 A YES. IT'S SEALED UP ALSO.

3 Q ALL RIGHT. AND WHAT ABOUT VAGINAL SWABS? ARE THEY
4 TAKEN?

5 A THEY ARE TAKEN. THEY ARE ALSO -- THEY ARE PUT ON TO
6 A SLIDE AND THEY ARE ALSO SET INTO IT AND PUT INTO AN
7 ENVELOPE AND THEY ARE SEALED.

8 EACH ONE OF THOSE ARE INDIVIDUALLY SEALED AND I
9 TAPE THEM ACROSS WITH MY INITIALS AND THE TIME AND DATE.
10 AND THEN THEY ARE PUT INTO A BAG. THAT IS PART OF THE
11 KIT.

12 Q OKAY. AND IN THIS PARTICULAR CASE, DID YOU RECEIVE
13 THE VAGINAL SWABS AS WELL AND SEAL THOSE AS PART OF THE
14 KIT?

15 A THE DOCTOR TOOK THE SWABS, BUT I PUT THEM INTO THE
16 ENVELOPES AND SEALED THEM.

17 Q AND YOU SAW THE DOCTOR?

18 A RIGHT. I WAS IN THERE. YES.

19 * MS. DOMKE: YOUR HONOR, AT THIS TIME THE STATE WOULD
20 LIKE TO MOVE STATE'S EXHIBIT NO. 17 INTO EVIDENCE.

21 THE COURT: ALL RIGHT.

22 * MR. BROOKS: NO OBJECTION, YOUR HONOR.

23 * THE COURT: THANK YOU. 17 IN EVIDENCE WITHOUT
24 OBJECTION.

25 (STATE'S EXHIBIT NO. 17 MARKED FOR EVIDENCE).

Exhibit # → 164

December 1-2, 1998 Trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 (WHEREUPON QUESTIONING RESUMED).

2 Q NOW, WOULD YOU ALSO HAVE REMOVED ALL THE
3 UNDERGARMENTS INCLUDING THE PANTIES?

4 A YES.

5 Q OKAY. IN THIS PARTICULAR CASE.

6 A YES. I HAVE A SPECIFIC BAG FOR THAT.

7 Q LET ME SHOW YOU STATE'S EXHIBIT NO. 16 FOR
8 IDENTIFICATION AND ASK YOU IF YOUR SIGNATURE APPEARS ON
9 THAT.

10 A YES, MA'AM. YES, IT DOES. MY INITIALS.

11 Q AND WOULD YOU GO AHEAD AND LET ME GET YOU SOME
12 GLOVES. OPEN THAT AND TELL ME IF THOSE ARE THE PANTIES
13 YOU COLLECTED: YOU MIGHT WANT TO USE -- OKAY.

14 A I DON'T NEED TO TAKE THEM OUT.

15 Q YOU DON'T NEED TO.

16 A OKAY. YES. THAT IS WHAT I COLLECTED. *A*

17 Q OKAY. LET ME TAKE THIS OUT FOR A SECOND. AND
18 THESE ARE THE PANTIES THAT YOU COLLECTED THAT DAY?

19 A YES.

20 Q OKAY. BUT YOU DIDN'T CUT THE HOLE OUT IN THEM?

21 A NO.

22 Q OKAY.

23 MS. DOMKE: YOUR HONOR, AT THIS TIME THE STATE WOULD
24 LIKE TO MOVE STATE'S EXHIBIT NO. 16 INTO EVIDENCE.

25 THE COURT: MR. BROOKS?

Exhibit # *165*

December 12, 1998 Trimb

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 MR. BROOKS: MAY WE APPROACH, YOUR HONOR?

2 THE COURT: YES, SIR.

3 (WHEREUPON A BENCH CONFERENCE WAS HELD).

4 THE COURT: MADAM REPORTER, NOTE STATE'S EXHIBIT NO.

5 16 IS IN EVIDENCE OVER OBJECTION OF DEFENSE COUNSEL.

6 (STATE'S EXHIBIT NO. 16 MARKED FOR EVIDENCE).

7 (WHEREUPON QUESTIONING RESUMED).

8 Q MRS. CROSKEY, YOU JUST COLLECT THE EVIDENCE;

9 CORRECT?

10 A CORRECT.

11 Q OKAY. SO YOU DIDN'T ACTUALLY CONDUCT ANY TEST ON ANY

12 OF IT?

13 A NO, SIR.

14 * Q SO ANY CUTTING OR -- OR ANY TESTING WOULD HAVE BEEN

15 DONE BY SOMEONE ELSE, NOT YOU.

16 * A I DID NOT CUT IT.

17 Q OKAY. OKAY. NOW, ONCE YOU HAD COLLECTED VAGINAL

18 SWABS AND CLOTHING, THE GLOVES, THE SEROLOGY FROM THE

19 VICTIM, PHOTOGRAPHS WERE TAKEN, THAT INFORMATION WAS

20 TURNED OVER TO THE LAW ENFORCEMENT OFFICER; IS THAT

21 CORRECT?

22 A WHEN EVERYTHING WAS DONE IN THE KIT. YES.

23 Q OKAY. AND DO YOU RECALL WHICH OFFICER PICKED THAT

24 UP FROM YOU?

25 A OFFICER WINGATE.

Exhibit ~~##~~ → 166

December 1-2, 1998 Trial

JACQUELINE CROSKEY - DIRECT BY DOMKE

1 Q WHICH GENTLEMAN ARE YOU POINTING TO?

2 A WELL, I -- I'M...

3 Q THE ONE -- WINGATE?

4 A YES. OFFICER WINGATE.

5 Q OFFICER WINGATE. OKAY. HE PICKED THAT UP FROM
6 YOU?

7 A YES. I HAVEN'T -- I THINK THAT'S THE ONE. I KNOW
8 WHO HE IS, YES.

9 Q WITHOUT THE HAIR. WELL... SO HE PICKS UP EVERYTHING
10 FROM YOU.

11 A RIGHT.

12 Q NOW, AT THAT TIME -- AND YOU TURNED ALL OF THAT OVER
13 TO HIM AND THEN HE LEAVES THE HOSPITAL. IS THAT---

14 A RIGHT.

15 Q AND AT THE TIME, THE VICTIM IS STILL IN TUOMEY
16 HOSPITAL?

17 A YES.

18 Q DO -- WHAT WAS SHE GIVEN TO WEAR TO GO HOME IN?

19 A SOME HOSPITAL CLOTHES. SOME SCRUBS.

20 Q OKAY. AND DID YOU STAY WITH HER UNTIL SHE OBTAINED
21 TRANSPORTATION HOME?

22 A YES.

23 Q OKAY. NOW, DID SHE RECEIVE ANY MEDICATIONS AT THE
24 HOSPITAL?

25 A ANTIBIOTICS.

Exhibit → 167

DNA

December 12, 1998 Trial

JACQUELINE CROSKEY - CROSS BY BROOKS

1 Q OKAY. AND WHAT WOULD THE ANTIBIOTICS HAVE BEEN
2 FOR?

3 A BEEN TO HELP PREVENT AGAINST ANY INFECTIONS THAT
4 MIGHT HAVE OCCURRED.

5 Q OKAY.

6 MS. DOMKE: COURT'S INDULGENCE, PLEASE.

7 THE COURT: YES, MA'AM.

8 (WHEREUPON THERE WAS A PAUSE).

9 MS. DOMKE: YES. I DO HAVE ANOTHER QUESTION.

10 (WHEREUPON QUESTIONING RESUMED).

11 Q ON YOUR PROTOCOL WHEN YOU WERE DOING THIS SEXUAL
12 ASSAULT KIT, DID THE VICTIM DESCRIBE TO YOU THE APPEARANCE
13 OF HER ATTACKER?

14 A BESIDES RACE?

15 Q MALE, FEMALE, ANYTHING LIKE THAT?

16 A BLACK MALE.

17 Q A BLACK MALE? OKAY.

18 MS. DOMKE: NO FURTHER QUESTIONS, YOUR HONOR.

19 THE COURT: THANK YOU. MR. BROOKS, YOU MAY
20 CROSS-EXAMINE.

21 CROSS-EXAMINATION BY MR. BROOKS:

22 Q THE ONLY DESCRIPTION THINGS SHE GAVE WAS IT WAS A
23 BLACK MALE; IS THAT CORRECT?

24 A YES, SIR. I DID NOT ASK ANYTHING ELSE.

25 Q OKAY. ALL RIGHT. CORRECT ME IF I AM WRONG, BUT

Exhibit 7 168

December 12, 1998 Trial

JACQUELINE CROSKEY - CROSS BY BROOKS

1 ISN'T IT TRUE THAT IF -- WELL, LET ME ASK YOU THIS. WHO
2 DETERMINES IF AN INDIVIDUAL COMES IN TO THE HOSPITAL, THE
3 E R, WHO MAKES THE DETERMINATION THAT IT'S A RAPE CASE?

4 A THE COURT DOES. HERE. THE RAPE -- THE RAPE IS NOT
5 DETERMINED BY NURSING OR MEDICAL STAFF.

6 Q THE -- WHO DOES?

7 A THE COURT. IT'S A SEXUAL ASSAULT .

8 MR. BROOKS: MOVE TO STRIKE, YOUR HONOR. THINK THAT
9 IS PREJUDICIAL.

10 THE COURT: NO, SIR. I THINK WHAT SHE IS SAYING IS
11 THAT THIS JURY IS GOING TO DETERMINE WHETHER IT WAS A
12 RAPE.

13 MR. BROOKS: I'M SAYING FOR THEM TO MAKE A
14 DETERMINATION IN ORDER TO USE THE KIT, THERE HAD TO BE
15 SOME TYPE---.

16 THE WITNESS: IT'S A SEXUAL ASSAULT.

17 MR. BROOKS: DOES SHE MAKE THE DECISION? DID THE
18 DOCTOR MAKE THE DECISION? THAT'S ALL I'M ASKING.

19 THE COURT: OKAY. I THINK, MRS. CROSKEY -- I THINK
20 WHAT HE WANTS TO KNOW IS WHO DECIDES WHETHER OR NOT TO
21 PERFORM THE SEXUAL ASSAULT KIT. WHO MAKES THAT DECISION?

22 THE WITNESS: IF THE PATIENT SAYS THAT THEY ARE
23 RAPED, THEN DEPENDING UPON IF THEY SAID THAT THEY WERE
24 RAPED TWO MONTHS AGO AND THERE WOULDN'T BE ANY POINT OF
25 COLLECTING ANY EVIDENCE, THEN WE WOULD DON'T DO IT.

Exhibit → 169

December 12 1998 Trial

JACQUELINE CROSKEY - CROSS BY BROOKS

1 IF THEY SAID THEY WERE RAPED AND THEY CAME IN
2 RIGHT AFTER STILL WEARING THE CLOTHES, THEN THAT WOULD BE
3 UP TO ME AS THE NURSE WHO IS ASSIGNED TO THAT PATIENT AND
4 THE DOCTOR AND THEN IF THERE IS AN INVESTIGATOR THERE---

5 Q SO CORRECT ME IF I'M WRONG. IT'S A JUDGMENT CALL.
6 AND YOUR JUDGMENT IS A PART OF THE FACTORS IN DETERMINING
7 TO TAKE THE SEXUAL ASSAULT KIT?

8 A IF A PATIENT SAYS THEY'RE RAPED AND THEY WANT A KIT
9 DONE.

10 Q THEN YOU COULD DO IT?

11 A THEN WE WOULD DO A KIT.

12 Q SO THE PATIENT SAYS THAT THEY WERE RAPED.

13 A UH-HUH.

14 Q THEN YOU AUTOMATICALLY DO A SEXUAL ASSAULT KIT; IS
15 THAT CORRECT?

16 A IF THEY AGREE TO IT. YES.

17 Q IF?

18 A IF THEY AGREE TO IT AND AFTER WITH DISCUSSING WITH
19 THEM -- THE INVESTIGATOR IS USUALLY THERE FIRST.

20 AND AS I SAID, IF IT'S SOMETHING, AN EXTREME
21 CASE LIKE WE HAVE HAD WHERE THEY COME IN TWO OR THREE
22 MONTHS LATER, THEY'VE CHANGED, THEY'VE SHOWERED, THEN
23 THERE WOULDN'T BE ANY EVIDENCE TO COLLECT.

24 Q OKAY. SO THEN YOU WOULD -- IF THAT SITUATION
25 OCCURRED, THEN YOU WOULD TELL THE PERSON...

Exhibit #

JACQUELINE CROSKEY - CROSS BY BROOKS

1 A WE WOULD DO A HISTORY, DO A PHYSICAL EXAMINATION. A
2 PELVIC EXAM WOULD STILL BE DONE.

3 Q OKAY. SO IF TWO OR THREE MONTHS HAD ELAPSED OR
4 LAPSED AND THE PERSON COMES IN, YOU AUTOMATICALLY GO AHEAD
5 AND DO THE RAPE KIT; IS THAT CORRECT?

6 A YES. WE AUTOMATICALLY DO A SEXUAL ASSAULT KIT.

7 Q SEXUAL ASSAULT KIT. THAT'S THE MORE APPROPRIATE
8 TERM; IS THAT CORRECT?

9 A YES.

10 Q ALL RIGHT.

11 MR. BROOKS: NO OTHER QUESTIONS, YOUR HONOR.

12 THE COURT: THANK YOU. MS. DOMKE?

13 MS. DOMKE: NO, SIR, YOUR HONOR. NO FURTHER
14 QUESTIONS. WE WOULD ASK MRS. CROSKEY BE ALLOWED TO RETURN
15 TO WORK.

16 THE COURT: THANK YOU, MRS. CROSKEY, FOR COMING. YOU
17 CAN BE EXCUSED TO GO BACK TO WORK. WE WILL TAKE A BRIEF
18 RECESS AT THIS POINT IN VIEW OF THE HOUR.

19 LADIES AND GENTLEMEN, WE ARE GOING TO SEND YOU
20 TO YOUR JURY ROOM WHILE WE TAKE THE AFTERNOON RECESS.
21 TAKE ABOUT FIFTEEN MINUTES.

22 REMEMBER THAT WHILE YOU'RE IN THE JURY ROOM,
23 PLEASE DO NOT DISCUSS THIS CASE AMONG YOURSELVES OR TALK
24 ABOUT IT IN ANY WAY WHATSOEVER.

25 WE WILL GET YOU BACK OUT IN ABOUT FIFTEEN

Exhibit 7 → 171

December 12, 1998 Trial

1 MINUTES TO RESUME THE TRIAL OF THIS CASE. THANK YOU.

2 (WHEREUPON THE JURY LEFT THE COURTROOM AT 3:05
3 P.M.)

4 THE COURT: MADAM REPORTER, BEFORE WE GO OFF THE
5 RECORD, PLEASE REFLECT THAT AT A SIDE BAR CONFERENCE THAT
6 MR. BROOKS ON BEHALF OF THE DEFENDANT MADE A TIMELY
7 OBJECTION TO THE INTRODUCTION OF STATE'S EXHIBIT NO. 16,
8 THE UNDERPANTS COLLECTED BY MRS. CROSKY.

9 THE OBJECTION WAS MADE UNDER STATE VERSUS GREEN
10 THAT IS G R E E N REPORTED AT 86 S.E. 2ND, 598. 1955
11 SUPREME COURT CASE.

12 IN THAT PARTICULAR CASE, THE STATE SOUGHT THE
13 INTRODUCTION OF SOME BLOOD STAINED UNDERPANTS THAT SERVED
14 -- PROVED NO PURPOSE AT ALL AND THE SUPREME COURT SAID
15 THAT THEY WERE NOT ADMISSIBLE, SIMPLY THERE TO INFLAME THE
16 JURY AND THEY WERE UNNECESSARY TO ESTABLISH ANY PROBATIVE
17 FACT.

18 IN THIS PARTICULAR CASE, THE UNDERPANTS WERE AN
19 ITEM OF EVIDENCE REMOVED IN CONNECTION WITH THE SEXUAL
20 PROTOCOL. TESTING WAS DONE ON THOSE PANTIES FROM THE
21 SWABS THAT WERE REMOVED.

22 WE WERE HEARING TESTIMONY I THINK ABOUT THOSE
23 SWABS SUBSEQUENTLY TO TRY THIS CASE -- SO I HELD THAT
24 THERE WAS PROBATIVE VALUE IN CONNECTION WITH STATE'S
25 EXHIBIT 16 AND THEREFORE ALLOWED IT INTO EVIDENCE OVER

Exhibit # → 172

December 1-2, 1998 Trial

1 OBJECTION.

2 MR. BROOKS, DOES THAT ACCURATELY EXPRESS THE
3 DEFENDANT'S POSITION?

4 MR. BROOKS: IT DOES, YOUR HONOR.

5 THE COURT: ALL RIGHT, FOLKS. WE WILL TAKE FIFTEEN
6 MINUTES. RESUME AT...

7 MR. BROOKS: SHE GOT SOMETHING, THEN I HAVE
8 SOMETHING.

9 MS. DOMKE: YEAH, YOUR HONOR. I WANTED WITH MR.
10 BROOKS TO TAKE UP A BIT OF SCHEDULING.

11 ONE OF MY WITNESSES IS RESPONDING TO A BODY
12 FOUND AND SO HE IS NOT GOING TO BE AVAILABLE THIS
13 AFTERNOON. AND I HAVE GOT SEVERAL MORE WITNESSES TO
14 CALL.

15 HOWEVER, HE WAS -- I HAVE GOT THREE MORE
16 INDIVIDUALS BEFORE THIS OFFICER. HE DEFINITELY CANNOT BE
17 HERE.

18 AND THE OTHER FOLKS ARE MEDICAL PEOPLE THAT I
19 TOLD NOT TO BE HERE UNTIL TOMORROW MORNING. SO I'M...

20 THE COURT: OKAY.

21 MS. DOMKE: GOT THREE MORE WITNESSES.

22 THE COURT: SO YOU HAVE GOT ONE WITNESS GOING TO CALL
23 THAT CAN'T BE HERE. WE WILL WORK AROUND HIM. IS THAT THE
24 IDEA?

25 MS. DOMKE: THE ONLY -- EVERYBODY ELSE I HAVE ALREADY

Exhibit # 173

December 1-2, 1998 Trial

1 TOLD NOT TO BE HERE EXCEPT FOR THIS ONE LAST WITNESS WHO
2 I'VE JUST BEEN INFORMED OF IS NOW RESPONDING TO A CALL.

3 SO I HAVE GOT THREE OTHER INDIVIDUALS, THREE
4 MORE WITNESSES, THAT I CAN CALL TODAY.

5 THE COURT: WHO WOULD THOSE THREE BE?

6 MS. DOMKE: DANA WINGATE, CALVIN WELCH AND TERESA
7 ELMORE.

8 THE COURT: OKAY. ALL RIGHT. THANK YOU. WE WILL
9 WORK THROUGH THOSE THREE. AND IF THE OTHER INDIVIDUAL
10 SHOWS UP, FINE. IF HE DOESN'T, WE WILL WORK AND DO IT
11 TOMORROW.

12 MS. DOMKE: THANK YOU, SIR. APOLOGIZE FOR THAT, BUT
13 I HAD...

14 THE COURT: WILL BE HERE THREE WEEKS. WE WILL HAVE
15 TIME TO FINISH IT. ALL RIGHT. MR. BROOKS?

16 MR. BROOKS: HAD ONE OTHER PARTICULAR CONCERN. I
17 WANTED TO MAKE SURE THAT WHAT WAS SAID -- AND THAT SHE
18 SAID THE COURT DETERMINED THAT.

19 AND THAT WAS NOT -- WE ARE ASKING WHETHER OR NOT
20 SHE MADE THE DETERMINATION, WHETHER OR NOT THE VICTIM --
21 SHE LATER CLARIFIED IT. BUT I DON'T WANT THIS TO BE
22 PREJUDICIAL TO MY CLIENT.

23 THE COURT: I'M SURE THAT -- THE QUESTION THAT WAS
24 ASKED SPECIFICALLY WAS WHO DETERMINES IF A RAPE OCCURRED.

25 AND SHE SAID THAT'S A JUDICIAL -- A COURT TERM

Exhibit ~~tt~~ → 174

SUMTER COUNTY POLICE ARREST REPORT
STATE OF SOUTH CAROLINA VERSUS

First Name RAYMOND		Middle Name h m N		Last Name MC9921NE	
Street and No. RT 8 BX 277 I		City SUMTER		State SC	
Driver's License No.		State		Occupation of Driver	
Vehicle License No.		State		Year Model	
Auto ☐ Truck ☐ Combination ☐ Motorcycle ☐ Other ☐					
YOU ARE REQUIRED TO APPEAR BEFORE MAGISTRATE					
Name of Magistrate G.S.		Street and No. N. Main		City SUMTER	
Date of Trial 4-20		19 98		Time of Trial 8:30 A.M.	
Warrant No. 1-562755 CSC		Nature of Offense 1st			
Prosecutor		Address			
Date of Arrest 1-29-98		Date of Warrant 1-22-98			
Owner of Vehicle		Address of Owner			
BOND ACCEPTED \$ 75.00		Weather Clear		Attitude good	
Name of Officer K. T. [Signature]		Name of Officer			

12:45 Arrest

#1

PRESENT THIS NOTICE TO MAGISTRATE

SHOWN ABOVE

Be sure you understand from arresting officer the exact time and before whom you are to appear.

DEFENDANT'S COPY

A-61009

6 1998

Exhibit-J-1.

(# 2)

B/M

508/190lbs/41 yoa

Sometimes has a Goatee/Violent

Exhibit-J-2-

PAGE 1 OF 1

JVA-3082 - NC1 01/27/98 15:54:20 - 01/27/98 15:54:11 4414YJ5KV9JP
1L014414YJ5KV9JP108
NC0670100

MKE/WANTED PERSON

ORI/SC0430000 NAM/MAGAZINE, RAYMOND SEX/M RAC/B POB/SC DOB/091456

HGT/508 WGT/190 EYE/BRO HAI/BLK FBI/574512JA1 SKN/DRK

FPC/150202TTTT05AAAA04AA SOC/[REDACTED]

DLN/090014743 OLS/SC OLY/98 OFF/RAPE WITH WEAPON DOW/012298 (Felon's Warrant)
OCA/F562755

MIS/XTR NC SC GA FOR NOW, RAPE WITH KNIFE, MAY OR MAY NOT BE CLEAN

SHAVEN ANY CONTACT ADV INV YOST 8037731561 EXT 205

ORI IS SUMTER CO SO SUMTER SC

DOB/091355 071356 091356

SOC/[REDACTED]

AKA/MAGAZINE, RAMOND

NIC/W052763323

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

Deputy Yost
Sumter Co. Sheriff
Office
SC.

803-773-1561

Boss in Room #131

Triangle Area Inc 455-4923

Exhibit-J-2.

3

Exhibit-J-3.

COMMUNICATION

SUMTER CITY - COUNTY
LAW ENFORCEMENT CENTER
107 E. HAMPTON AVE.
SUMTER S.C. 29150
PHONE (803-773-1561)
FAX (803-773-7080)

OFFICIAL USE ONLY

TO: _____ FAX #: 910. 455 9987ATTENTION: CommunicationFROM: OFFICER: PO K.T. Yost DEPARTMENT: Sumter Co. S.O.NUMBER OF PAGES INCLUDING THIS ONE: 2 IF YOU DO NOT RECEIVE ALL
THE PAGES AS INDICATED, OR IF YOU HAVE ANY QUESTIONS CALL 803-773-1561.

ADDITIONAL MESSAGES: _____

Any Help is ~~much~~ appreciated

DATE: _____ TIME: _____ FAX OPERATOR: _____

Exhibit-J-3.

TURN OVER Please

Exhibit-J-4.

SUMTER CITY - COUNTY
 LAW ENFORCEMENT CENTER
 107 E. HAMPTON AVE.
 SUMTER S.C. 29150
 PHONE (803-773-1561)
 FAX (803-773-7080)

OFFICIAL USE ONLY

TO: _____ FAX #: 910 455 9987ATTENTION: ComFROM: OFFICER: K. Yost DEPARTMENT: Sumter Co SO

NUMBER OF PAGES INCLUDING THIS ONE: _____ IF YOU DO NOT RECEIVE ALL
 THE PAGES AS INDICATED, OR IF YOU HAVE ANY QUESTIONS CALL 803-773-1561.

ADDITIONAL MESSAGES: Here is a wanted poster of
Magazine

DATE: _____ TIME: _____ FAX OPERATOR: _____

Exhibit-J-4. Turn over Please.

IN HOUSE USE
ONLY



IN HOUSE USE
ONLY

Exhibit-J-5

Sumter, South Carolina

WANTED



NAME: Raymond Magazine "AKA": _____

RACE: B SEX: M HAIR: Blk EYES: Bro 5 FT. 8 IN. 190 LBS.

MISC.: Also, may be clean shaven

CHARGE: CSC 1st WARRANT # F562755

Inv. Yost has the warrant.

773-1561

Exhibit-J-5.

Exhibit-J-6

ARREST WARRANT

F- 562755

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

SUMTER

THE STATE
against

Address: RAYMOND MAGAZINE

Phone:

Sex: M Race: W

SSN:

Q State:

Height: 5' 04" Weight: 170

DOB:

03/14/56

Agency ORI #SC0430000

Prosecuting Agency: 00

Prosecuting Officer: 0307

Offense: CRIMINAL SEXUAL CONDUCT

Offense Code 0160

Code/Ordinance Sec. 16-3-652

This warrant is CERTIFIED FOR SERVICE in the
☐ County ☐ Municipality of

is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

RETURN

A copy of this arrest warrant was delivered to
defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

SUMTER

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 25, 1980
SCCA 1-1

Personally appeared before me the affiant INV. K. T. YOST who
being duly sworn deposes and says that defendant RAYMOND MAGAZINE
did within this county and state on 07/19/97 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County ☐ Municipality of SUMTER)

In the following particulars:

DESCRIPTION OF OFFENSE: INCIDENT # 97058542

CRIMINAL SEXUAL CONDUCT (1ST DEGREE) (16-3-652)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT THE DEFENDANT DID COMMIT THE ABOVE STATED OFFENSE IN THAT HE DID VIOLENTLY AND FELONIOUSLY
ASSAULT ONE, MELISSA HAYES, IN THAT HE DID USE EXCESSIVE FORCE WHILE ARMED WITH A KNIFE FORCED
SEXUAL INTERCOURSE UPON THE VICTIM ALL THE WHILE BEING AGAINST HER WILL. SAID OFFENSE HAVING
OCCURRED AT/ON MAY 15 NORTH BETWEEN DELUXE MOTEL AND WHITES ONE STOP IN THE COUNTY OF SUMTER, STATE
OF SC.

PROBABLE CAUSE: DNA TEST MATCHED SUSPECT'S SAMPLES WITH THAT OF THE SAMPLES THAT WAS GAINED THROUGH
THE RAPE KIT OF THE VICTIM.

Sworn to and subscribed before me

on 07-19-98

Signature of Issuing Judge

Signature of Affiant

Affiant's Address

INV. K. T. YOST/107 E HANPTON ST

SUMTER, SC 29158

Affiant's Telephone 773-1561

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

SUMTER

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 07/19/97 defendant RAYMOND MAGAZINE
did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County ☐ Municipality of SUMTER) as set forth below:

DESCRIPTION OF OFFENSE:

CRIMINAL SEXUAL CONDUCT (1ST DEGREE) (16-3-652)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge

Judge Code: 024

Judge's Address

1 B N HARVIN ST/PO BOX 1394

SUMTER, SC 29151

Judge's Telephone

773-436-2200

Issuing Court:

☒ Magistrate

☐ Municipal

☐ Circuit

STATE OF NORTH CAROLINA

In the General Court of Justice

ONSLOW

County

STATE VERSUS

Defendant

Raymond Magazine

WAIVER

OF

EXTRADITION

G.S. 15A-746

Charged with crime(s) of:

Rape w/Weapon

County where charged

Sumter

State where charged

S.C.

Having been arrested in the State of North Carolina and charged with committing the crime(s) as listed above in the jurisdiction listed, and understanding the authorities from such state are demanding my return for trial, I do hereby waive the issuance and service of the Governor's Warrant provided for in G.S. 15A-727 and -728, and all other procedures incident to extradition. In open court I consent to return to the demanding state upon the arrival of the authorities from that state, and do hereby waive extradition. Before I signed this waiver, the court informed me of my right to the issuance and service of a warrant of extradition, my right to legal counsel, and of my right to apply for a writ of habeas corpus, as provided in G.S. 15A-730.

Defendant's Signature

Raymond Magazine

As a Judge of the General Court of Justice, or Clerk of Superior Court of North Carolina, a court of record, I certify that the above named defendant appeared before me this date. I informed him of his legal rights with respect to extradition, and he voluntarily signed the above waiver of extradition in my presence.

Date

1-28-98

Signature

Typed Name

Wayne G. Kimble, Jr

☐ Judge☐ Clerk of Superior CourtExhibit-J-7.

File No.

98 CR 2288

MAGISTRATE'S ORDER
FOR FUGITIVE

Crime(s) In Demanding State

Kape w Weapon

Date Of Offense

1-22-98

Name Of Demanding State And County Of Offense

South Carolina, Sumter Co

THE STATE OF NORTH CAROLINA VS:

Name And Address And Telephone No. Of Defendant

Raymond Magazine
Triangle Motor Inn
Jacksonville, NC

Race

B

Sex

M

Date Of Birth

9-14-56

Age

41

Social Security No.

Driver's License No.

Name Of Defendant's Employer

Offense Code

9901

Arrest Under G.S.

15A-734

Date Of Arrest And Check Digit No. (From Fingerprint Card)

Arresting Officer (Name, Department, Phone No.)

BB Dex

JPD

455-1472

Date Issued

1-27-98

STATE OF NORTH CAROLINA

Ouston

County

In The General Court Of Justice
District Court Division

I, the undersigned, find that the defendant named above has been arrested without a warrant and his detention is justified because the crime named above is punishable by death or imprisonment for a term exceeding one year and there is probable cause to believe that on or about the date of offense shown and in the demanding state and county named above the crime named above was committed and the defendant named above has been charged with the commission of that crime and has fled from justice.

This Magistrate's Order is issued pursuant to Section 15A-734 of the North Carolina General Statutes upon information furnished under oath by the arresting officer(s) shown. A copy of this Order has been delivered to the defendant.

See Pin Message &
accompanying affidavits

Exhibit - J-8.

Signature

Kathy S Patton

Location Of Court

Jacksonville NC

☒ Magistrate☐ District Court Judge☐ Superior Court Judge

Court Date

1-28-98

Court Time

8:15 AM ☒ AM ☐ PM

AOC-CR-909M

Rev. 6/92

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

vs.

Raymond Magazine

AKA: _____

Race: B Sex: M

DOB: 09-14-56 Age: _____

SSN: [REDACTED]

DL# _____

SID# _____

page 1 of 3 Exhibit - D-1
IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE #:
98 -GS- 43 - 745

A/W#: None TRUE COPY

Date of Offense: 7-19-97

S.C. CODE §: 16-3-910

CDR Code #: 0095

SOUTH CAROLINA

SENTENCE

☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Kidnapping - Count 1

in violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation ☐ Negotiated Sentence

☐ Recommendation by the State

ATTEST:

[Signature]

Solicitor

Defendant

Attorney for Defendant

Exhibit - D-1
WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, or ☐ Under Youthful Offender Act for a term of 30 days/months/years and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____ plus costs and assessments as applicable*; the balance suspended with and subject to Department of Probation, Parole, and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ct. 3 ABHAW + ct. 4 CSC

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____

Pay Terms: _____

Recipient: _____

*Fine: _____ \$

§14-1-206 - Assessments 100% _____ \$

§14-1-211 - Surcharge X 3 = _____ \$ 300.00

(Exceptions: See §14-1-211)

§56-5-2995 (DUI) _____ \$

TOTAL _____ \$ 300.00

Clerk of Court Deputy Clerk

Court Reporter: [Signature]

- ☐ PTUP
- ☐ _____ days/hours Public Service Employment
- ☐ Obtain GED
- ☐ Attend Voc Rehab. or Job Corps
- ☐ May serve W/E beginning _____
- ☐ Substance Abuse Counseling
- ☐ Random Drug/Alcohol Testing
- ☐ Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
- ☐ Other: _____
- ☐ Other: [Signature]

PRESIDING JUDGE

Sentence Date: 12/2/98

Judge Code: 1054

SCCA/217 (12/97)

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Raymond Magazine

AKA:

Race: B

Sex: M

DOB: 09-14-56

Age: 37

SSN: [REDACTED]

DL#

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE #:

98 -GS- 43 - 745

A/W#: none

Date of Offense: 7-19-97

S.C. CODE §: C/L

CDR Code #:

0009013

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

SENTENCE

☐ PLEA

☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Assault & Battery of a Light and Aggravated Nature

in violation of § C/L of the S.C. Code of Laws, bearing CDR Code # 0009013 QL

☐ NON-VIOLENT

☐ VIOLENT

☐ SERIOUS

☐ MOST SERIOUS

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation

☐ Negotiated Sentence

☒ Recommendation by the State

ATTEST

Solicitor

Defendant

Attorney for Defendant

Exhibit - D-2

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, or ☐ Under Youthful Offender Act for a term of 10 ~~days/months~~/years and/or to pay a fine of \$; provided the sentence be suspended upon the service of days/months/years and/or payment of \$ plus costs and assessments as applicable*; the balance suspended with probation for months/years. and subject to Department of Probation, Parole, and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: C/L - CSC 13

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$

Pay Terms:

Recipient: Exhibit - D-2

*Fine: \$
§14-1-206 - Assessments 100% \$ See
§14-1-211 - Surcharge \$ Page
(Exceptions: See §14-1-211)
§56-5-2995 (DUI) \$ 143
TOTAL \$

O.V. Player, Jr.
Clerk of Court/Deputy Clerk

Court Reporter: Kathy M. Simmons

- ☐ PTUP
- ☐ days/hours Public Service Employment
- ☐ Obtain GED
- ☐ Attend Voc Rehab. or Job Corps
- ☐ May serve W/E beginning
- ☐ Substance Abuse Counseling
- ☐ Random Drug/Alcohol Testing
- ☐ Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
- ☐ Other:
- ☐ Other:

James W. [Signature]
PRESIDING JUDGE

Sentence Date: 12/2/98

Judge Code: 1054

SCCA/217 (12/97)

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE vs.

Raymond Magazine

AKA:

Race: B Sex: M

DOB: 09-14-56 Age:

SSN: [REDACTED]

DL#

SID#

page 304 Exhibit-D-3

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE #:

98 -GS- 43 - 745

A/W#: F-562755

Date of Offense: 7-19-97

S.C. CODE §: 16-3-652

CDR Code #: 0253 0160 ✓

SENTENCE

☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Criminal Sexual Conduct- First Degree - Cant ☒

in violation of § 16-3-652 of the S.C. Code of Laws, bearing CDR Code # 0253

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS 0160

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation ☐ Negotiated Sentence

☒ Recommendation by the State

ATTEST: Enel M Demke

Solicitor

Defendant

Exhibit-D-3

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, or ☐ Under Youthful Offender Act for a term of 30 days/months/years and/or to pay a fine of \$; provided the sentence be suspended upon the service of days/months/years and/or payment of \$ plus costs and assessments as applicable*; the balance suspended with probation for months/years. and subject to Department of Probation, Parole, and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$

Pay Terms:

Recipient: Exhibit-D-3

*Fine: See
§14-1-206 - Assessments 100% See
§14-1-211 - Surcharge Page
(Exceptions: See §14-1-211)
§56-5-2995 (DUI) 123
TOTAL

OU Player
Clerk of Court/Deputy Clerk

Court Reporter: Kathy M. Simmons

- ☐ 1 PTUP
- ☐ 2 days/hours Public Service Employment
- ☐ 3 Obtain GED
- ☐ 4 Attend Voc Rehab. or Job Corps
- ☐ 5 May serve W/E beginning
- ☐ 6 Substance Abuse Counseling
- ☐ 7 Random Drug/Alcohol Testing
- ☐ 8 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
- ☒ 9 Other: Credit for 1/5
- ☐ 10 Other:

PRESIDING JUDGE

Sentence Date: 12/1/98

Judge Code: 1054 SCCA/217 (12/97)

Exhibit - L-1-5.

State Of South Carolina,) In The Court Of General Sessions
County Of Sumter,) **RECORDED** Case No: _____

2000 FEB 27 AM 11:39

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

Raymond Magazine, # 254723,) Warrant's # (1) F-176312,

Defendant,) (2) F-176313 And (3) F-176314

-Vs-

) Notice Of Motion And Motion

State Of South Carolina,) For Fast And Speedy Trial,

Plaintiff,)

*These warrants have been
dismissed*

To: Mr. Anthony Dennis, Sheriff, Of Sumter County,
Honorable Kelly Jackson, 3rd Third Circuit Solicitor,
Mr. Henry D. McMaster, Attorney General Of S.C.

To the Above-Named parties, you will please take Notice that
the Undersigned defendant herewith moves for a Fast and Speedy
Trial on the Above-referenced charges, pursuant to Art 1, Sec 9
of the South Carolina Constitution and the Sixth Amendment of the
United States Constitution.

These charges should be disposed of by trial or quashing
charges within 180 days of receipt of this Notice and Motion on
defendant shall promptly move this Honorable Court to dismiss all
charges for Violating Defendant's Constitutional Rights to a
Speedy Trial.

Columbia, South Carolina,
February, 26th, 2008.

Respectfully Submitted.

Sworn To Before Me This 26th

S/ Raymond Magazine

PRO-SE,, Raymond Magazine, #254723

day of FEBRUARY @2008. B.R.C.I. Murray-Unit-# RM-180.

S/ Henry D. McMaster 4460 Broad River Road.

Notary Public For South Carolina, Columbia, S.C. 29210.

My Commission Expires: August 16th 2014.

SEE - November 27, 1996 Case.

Exhibit L-1-5

Sumter County General Sessions

CASE HISTORY FOR CASE F176312

The State of South Carolina VS Raymond Magazine

FILED DATE: 12/6/1996

CASE TYPE: GS

STATUS: Disposed

JUDGE:

CASE PARTIES:

Exhibit-L-2

Defendant Magazine, Raymond

RT 8 BOX 277-I, SUMTER, SC 29150

Defendant Attorney Brooks, Charles T iii

Law Office of Charles T. Brooks, III, 309 Broad St., Sumter, SC 29150

CASE HISTORY FOR CASE F176312

Magazine, Raymond

RT 8 BOX 277-I

SUMTER, SC 29150

Age: 51

DL#

DOB: 09/13/1956

SSN: 247-13-7202

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0160 Sex / Criminal sexual conduct - First degree	11/30/1996	Nolle Prosequi	4/24/2000

COST

ORIGINAL

BALANCE DUE

DISBURSED

PAY PRIORITY

Total:

DATE	TIME	EVENT DESCRIPTION
04/24/2000	12:00 am	recorded the following Case Note: CASE #96081221; NP WITH LEAVE TO RESTORE; DEF REC'D A 40 YR
04/24/2000	12:00 am	recorded the following Case Note: SENTENCE 12-98; TOLD VICTIM I WOULD NOT PURSUE THIS CASE UN
04/24/2000	12:00 am	recorded the following Case Note: LESS DEF'S CONVICTION WAS REVERSED ON APPEAL, ETC
04/24/2000	12:00 am	recorded the following Case Note: Warrant Suffix 1-

Exhibit - L-2

Print Date: 03/14/2008
Print Time: 9:28:42AM
Requested By: DPC11

CaseHistory.rpt

Page 1 of 1

SEE - NOVEMBER 27, 1996 Case

Sumter County General Sessions

CASE HISTORY FOR CASE F176314

The State of South Carolina VS Raymond Magazine

FILED DATE: 12/6/1996

CASE TYPE: GS

STATUS: Disposed

JUDGE:

CASE PARTIES:

Defendant Magazine, Raymond

RT 8 BOX 277-I, SUMTER, SC 29150

Defendant Attorney Brooks, Charles T iii

Law Office of Charles T. Brooks, III, 309 Broad St., Sumter, SC 29150

Exhibit-L-3

CASE HISTORY FOR CASE F176314

Magazine, Raymond

RT 8 BOX 277-I

SUMTER, SC 29150

Age: 51

DL#:

DOB: 09/13/1956

SSN: 247-13-7202

CHARGE	VIOL DATE	DISPOSITION	DISP DATE
0095 Kidnapping / Kidnapping	11/30/1996	Nolle Prosequi	4/24/2000

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
04/24/2000	12:00 am	recorded the following Case Note: CASE #96081221; NP WITH LEAVE TO RESTORE; DEF REC'D A 40 YR
04/24/2000	12:00 am	recorded the following Case Note: SENTENCE 12/98; WILL PURSUE IF CONVICTION REVERSED; ETC
04/24/2000	12:00 am	recorded the following Case Note: Warrant Suffix 1-

Exhibit - L-3.

Print Date: 03/14/2008
Print Time: 9:29:17AM
Requested By: DPC11

CaseHistory.rpt

Page 1 of 1

SEE November 27, 1996 Case.

Sumter County General Sessions

CASE HISTORY FOR CASE F176313

The State of South Carolina VS Raymond Magazine

FILED DATE: 12/6/1996

CASE TYPE: GS

STATUS: Disposed

JUDGE:

CASE PARTIES:

Defendant Magazine, Raymond

RT 8 BOX 277-I, SUMTER, SC 29150

Exhibit - L-4

Defendant Attorney Brooks, Charles T iii

Law Office of Charles T. Brooks, III, 309 Broad St., Sumter, SC 29150

CASE HISTORY FOR CASE F176313

Magazine, Raymond

RT 8 BOX 277-I

SUMTER, SC 29150

Age: 51

DL#

DOB: 09/13/1956

SSN: 247-13-7202

CHARGE

0014

Assault / Assault and battery with Intent to Kill (ABWIK)

VIOL. DATE DISPOSITION

11/30/1996

Nolle Prosequi

DISP. DATE

4/24/2000

COST

ORIGINAL

BALANCE DUE

DISBURSED

PAY PRIORITY

Total:

DATE TIME EVENT DESCRIPTION

04/24/2000 12:00 am recorded the following Case Note: CASE #96081221; NP WITH LEAVE TO RESTORE-DEF REC'D A 40 YR

04/24/2000 12:00 am recorded the following Case Note: SENTENCE 12/98; WILL PURSUE IF CONVICTION REVERSED ETC

04/24/2000 12:00 am recorded the following Case Note: Warrant Suffix 1-

Exhibit - L-4

Print Date: 03/14/2008
Print Time: 9:29:00AM
Requested By: DPC11

CaseHistory.rpt

Page 1 of 1

Exhibit - L - 5.

State Of South Carolina,) In The Court Of General Sessions
County Of Sumter,) Case No# : _____
Raymond Magazine, #254723,) Warrants No# (1) F-176312;
Defendant,) (2) F-176313 And (3) F-176314.
-Vs-) Notice Of Motion And Motion
State Of South Carolina,) For Fast And Speedy Trial.
Plaintiff,)
_____)

Certificate Of Service:

I, Raymond Magazine, #254723, The PRO-SE defendant in the
Above captioned action, do hereby under oath and penalty of per-
jury; and certify that I have served copies of the same documents
upon the below listed parties on this exact date.

Columbia, South Carolina.

February 26, , 2008.

- | | |
|--|---|
| (1) Mr. Henry D. McMaster
Attorney General Office
P.O.Box 11549
Columbia, S.C. 29211-1549 | (2) Clerk Of Court (Sumter).
13 East Canal St, RM #- 308
Sumter, S.C. 29150-4965 |
| (3) Third Circuit Solicitor Office
Sumter County Courthouse
Sumter, S.C. 29150 | (4) Mr. Anthony Dennis
Sumter County Sheriffs Dept.
107 E. Hampton Ave.
Sumter, S.C. 29150 |

Respectfully Submitted.

S/ Raymond Magazine
PRO-SE, Raymond Magazine, #254723.
B.R.C.I. Murray-unit-RM#-180
4450 Broad River Road.
Columbia, S.C. 29210.

SWORN TO Before ME THIS 26th
DAY OF FEBRUARY, 2008.

By [Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA.
MY COMMISSION EXPIRES: August 16, 2014

Exhibit - L - 5

#

SEE, Exhibit - 96 - NOVEMBER 27, 1996 Indictment.

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR KIDNAPPING, ASSAULT
	)	& BATTERY WITH INTENT TO KILL,
	)	ATTEMPTED MURDER, POSSESSION OF
	)	WEAPON DURING VIOLENT CRIME &
	)	CRIMINAL SEXUAL CONDUCT -
COUNTY OF SUMTER	)	FIRST DEGREE

At a Court of General Sessions, convened on February 24, 1997,
the Grand Jurors of Sumter County present upon their oath:

COUNT ONE - KIDNAPPING

That one RAYMOND MAGAZINE did in Sumter County on or about October 27, 1996, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away Cathy Charlton without authority of law and by force, in violation of S.C. Code Section 16-3-910, as amended.

COUNT TWO - ASSAULT & BATTERY WITH INTENT TO KILL

That one RAYMOND MAGAZINE did in Sumter County on or about October 27, 1996, with malice aforethought commit an assault and battery upon one Cathy Charlton, by beating the victim about her body and head with a deadly weapon, to wit: butt of a shotgun with intent to kill the said victim, in violation of S.C. Code Section 16-3-620.

COUNT THREE - ATTEMPTED MURDER

That one RAYMOND MAGAZINE did in Sumter County on or about October 27, 1996, feloniously, wilfully and with malice aforethought, attempt to kill one Cathy Charlton, by means of beating the victim about her body and head with a deadly weapon, to wit: butt of a shotgun, in violation of S.C. Code Section 16-3-20 and 16-1-80, as amended.

COUNT FOUR - POSSESSION OF WEAPON DURING VIOLENT CRIME

That one RAYMOND MAGAZINE did in Sumter County on or about October 27, 1996, possess or visibly display a shotgun during the commission or attempted commission of a violent crime, in violation of S.C. Code Section 16-23-490, Code of Laws of South Carolina, (1976), as amended.

SEE, Exhibit - # 96 - November 27, 1996 Case

See, Exhibit - #96 - November 27, 1996 Case

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

INDICTMENT FOR

At a Court of General Sessions, convened on _____,
the Grand Jurors of _____ County present upon their oath:

COUNT FIVE - CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That one RAYMOND MAGAZINE did in Sumter County on or about October 27, 1996, engage in sexual battery upon and with the body of Cathy Charlton without her consent. Such sexual battery was accomplished by the use of force of a high and aggravated nature, to wit: use of aggravated force and the victim was also the victim of Kidnapping, Assault and Battery with Intent to Kill and Attempted Murder, in violation of S.C. Code Section 16-3-652.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Wade S. Kolb, Jr.
SOLICITOR

WADE S. KOLB, JR.

SEE, Exhibit - #96 - November 27, 1996. Case

NOVEMBER 27, 1996 Case

ARREST WARRANT

F- 176312

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SUMTER

THE STATE
against

RAYMOND MAGAZINE

Address: R1.8 R. 277
Sumter, SC 29150

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 5-9 Weight: 190

DL State: D

DOB: 9-13-50 Agency ORI #: SC0430000

Prosecuting Agency: 00

Prosecuting Officer: TOMMY BARRON

Offense: CRIMINAL SEXUAL CONDUCT
DEGREE

Code/Ordinance Sec: 16-3-655 Offense Code:

This warrant is CERTIFIED FOR SERVICE in the
☒ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Raymond Magazine
on 11/30/96

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Exhibit - A-5.

Exhibit - A-5.

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SUMTER

AFFIDAVIT

Personally appeared before me the affiant TOMMY BARRON who
being duly sworn deposes and says that defendant RAYMOND MAGAZINE
did within this county and state on 11/15/96 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of SUMTER)
in the following particulars:

DESCRIPTION OF OFFENSE: INCIDENT # 96081221
CRIMINAL SEXUAL CONDUCT (DEGREE)(16-3-655)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THAT THE DEFENDANT DID COMMIT THE ABOVE STATED OFFENSE IN THAT HE DID VIOLENTLY AND PELONIOUSLY
ASSAULT ONE, CATHY CHARLTON IN THAT HE DID HAVE SEX WITH VICTIMALL BEING AGAINST HER WILL. SAID
OFFENSE HAVING OCCURED 9 CORBETT ST. IN THE COUNTY OF SUMTER, STATE OF S.C.

PROBABLE CAUSE: THE VICTIN HAS PICKED THE DEFANDANT OUT OF A PHOTO LINE UP AS THE SUSPECT.

NOVEMBER 27, 1996 Case

Sworn to and subscribed before me

on 11/15/96

Signature of Affiant

Affiant's Address

Signature of Issuing Judge

Signature of Affiant

Affiant's Address TOMMY BARRON/107 E HAMPTON ST

SUMTER SC 29150

Affiant's Telephone 773-1561

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SUMTER

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 11/15/96 defendant RAYMOND MAGAZINE
did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of SUMTER) as set forth below:

DESCRIPTION OF OFFENSE:
CRIMINAL SEXUAL CONDUCT (DEGREE)(16-3-655)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge

Signature of Issuing Judge

Judge Code

Judge's Address

115 N HARVIN ST/PO BOX 1394
SUMTER, SC 29151

Judge's Telephone

803-436-2280

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ARREST WARRANT

F- 176313

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SUMTER

THE STATE

against:

RAYMOND MAGAZINE

 Address: RT. 8 Bx. 277-I
SUMTER, SC 29150

Phone: _____ SSN: _____

Sex: M Race: B Height: 5'9" Weight: 170

DL State: _____ DL #: _____

DOB: 9-13-56 Agency ORI #: SC0430000Prosecuting Agency: 00Prosecuting Officer: TOMMY BARRONOffense: ASSAULT & BATTERY WITHINTENT TO KILL Offense Code: _____Code/Ordinance Sec. 16-3-620

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

 _____ The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge

(L.S.)

Date: _____

RETURN

 A copy of this arrest warrant was delivered to
 defendant Raymond Magazine
 on 11/27/96

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Exhibit - A-6

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SUMTER
Personally appeared before me the affiant TOMMY BARRON whbeing duly sworn deposes and says that defendant RAYMOND MAGAZINEdid within this county and state on 11/15/96 violate the criminal laws of thState of South Carolina (or ordinance of ☒ County/ ☐ Municipality of SUMTER

in the following particulars:

DESCRIPTION OF OFFENSE: INCIDENT # 96081221

ASSAULT & BATTERY WITH INTENT TO KILL (16-3-620)

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

THAT THE DEFENDANT DID COMMIT THE ABOVE STATED OFFENSE IN THAT HE DID WITHOUT JUST CAUSE OR PROVOCATION, BEAT THE VICTIM CATHY CHARLTON ABOUT THE BODY AND HEAD AREA WITH THE BUTT OF A SHOT GUN SEVERAL TIMES KNOCKING OUT HER FRONT TEETH, CAUSING THE VICTIM TO BE TREATED AT TUOMEY REGIONAL MEDICAL CENTER. SAID OFFENSE HAVING OCCURRED AT HWY 15, JEFFERSON RD. IN THE COUNTY OF SUMTER, STATE OF SOUTH CAROLINA.

PROBABLE CAUSE: VICTIM PICKED THE DEFENDANT OUT OF A PHOTO LINE UP AS THE SUSPECT.

Sworn to and subscribed before me)

on 11/27/96)Signature of Issuing Judge Paula P. Upde (L.S.))

Signature of Issuing Judge

Signature of Affiant

Affiant's Address TOMMY BARRON/107 E HAMPTON STSUMTER SC 29150Affiant's Telephone 773-1561

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SUMTER

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
 on 11/15/96 defendant RAYMOND MAGAZINE

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of SUMTER) as set forth below:

DESCRIPTION OF OFFENSE:

ASSAULT & BATTERY WITH INTENT TO KILL (16-3-620)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Judge's Address 115 N. HARVIN ST/PO BOX 1394SUMTER, SC 29150

Signature of Issuing Judge

Judge Code: 824

Judge's Telephone

803-436-2280

Issuing Court:

☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY

Exhibit - A-6

NOVEMBER 27, 1996 Case

Exhibit-A-7

NOVEMBER 27, 1996 Case

ARREST WARRANT

F- 176314

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

SUMTER

THE STATE

against

RAYMOND MAGAZINE

Address: 818 RR 277-I

SUMTER, SC 29150

Phone: SSN: [REDACTED]

Sex: M Race: B Height: Weight:

DL State: DL #:

DOB: 9/13/76 Agency ORI #: SC0430000

Prosecuting Agency: 00

Prosecuting Officer: TOMMY BARRON

Offense: KIDNAPPING

Offense Code:

Code/Ordinance Sec: 16-3-910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Raymond Magazine on 11/30/96

Signature of Constable/Law Enforcement Officer

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

SUMTER

Personally appeared before me the affiant TOMMY BARRON who being duly sworn deposes and says that defendant RAYMOND MAGAZINE did within this county and state on 11/15/96 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of SUMTER) in the following particulars:

DESCRIPTION OF OFFENSE: INCIDENT # 96081221

KIDNAPPING (16-3-910)

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THAT THE DEFENDANT DID COMMIT THE ABOVE SATED OFFENSE IN THAT HE DID UNLAWFULLY SEIZE, CONFINED, INVEIGLE, DECOY, KIDNAP, ABDUCT, AND CARRY AWAY ONE, CATHY CHARLTON, AGAINST HER WILL BY FORCING HER INTO HIS VEHICLE AGAINST HER WILL. SAID OFFENSE HAVING OCCURED AT 9 CORBETT ST. IN THE COUNTY OF SUMTER, STATE OF SOUTH CAROLINA.

PROBABLE CAUSE: VICTIM PICKED THE SUSPECT OUT OF A PHOTO LINE UP AS THE SUSPECT.

Sworn to and subscribed before me

on 11/15/96

Signature of Issuing Judge

Signature of Affiant

Affiant's Address

TOMMY BARRON/107 E HAMPTON ST

SUMTER SC 29150

Affiant's Telephone 773-1561

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

SUMTER

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 11/15/96 defendant RAYMOND MAGAZINE did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of SUMTER) as set forth below:

DESCRIPTION OF OFFENSE:

KIDNAPPING (16-3-910)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge

Judge Code: 824

Judge's Address

115 N HARVIN ST/PO BOX 1394

SUMTER SC 29151

Judge's Telephone 803-463-2280

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

Form Approved by
S.C. Attorney General
July 26, 1990
SCCA 518

RETURN WARRANT TO:

Exhibit-A-7

Exhibit - # 97615

CALIFORNIA LAW ENFORCEMENT DIVISION - FORENSIC SCIENCES REQUEST

Name of Investigating Officer <u>K. T. VEST</u>		Rank <u>INV.</u>	Sled Lab No. <u>197-0740</u>
Department <u>Santa Clara Co. S.O.</u>		Telephone Number <u>507-773-1561</u>	Contributing Agency ORI <u>SC0 2030000</u>
Street Address or Post Office Box <u>107 F HAMPTON AVE.</u>		City <u>Santa Clara</u>	Contributing Agency Case No. <u>9705454</u>
State <u>SC</u>	Zip Code <u>95050</u>	County <u>Santa Clara</u>	Incident Date <u>7-10-97</u>
CC: _____		New Case ☒ Additional Evidence ☐	Related Lab No. <u>197-0740</u>

Subject # _____ Victim # 1 Sex: M ☐ F ☒ SID/FBI _____
 Last Name HAYES First Name DAVID Middle Name _____ DOB: 12-22-72
 Race: Cau ☒ Blk ☐ Other ☐

Subject # _____ Victim # _____ Sex: M ☒ F ☐ SID/FBI _____
 Last Name MAYOZIE First Name RAYMOND Middle Name _____ DOB: 9-14-56
 Race: Cau ☐ Blk ☒ Other ☐

Subject # _____ Victim # _____ Sex: M ☐ F ☐ SID/FBI _____
 Last Name _____ First Name _____ Middle Name _____ DOB: _____
 Race: Cau ☐ Blk ☐ Other ☐

Subject # _____ Victim # _____ Sex: M ☐ F ☐ SID/FBI _____
 Last Name _____ First Name _____ Middle Name _____ DOB: _____
 Race: Cau ☐ Blk ☐ Other ☐

TYPE OF SUSPECTED CASE (CHECK MORE THAN ONE IF APPLICABLE)

(1) *DUI _____ *Felony DUI _____ Was a Breathalyzer Test given? Yes _____ No _____
 (2) Possession or Distribution of Illegal Drugs or Controlled Substances _____
 (3) Criminal Sexual Conduct
 (A) Adult victim ☒ (B) Child victim _____
 (4) Homicide
 (A) Gunshot _____ (B) Stabbing _____ (C) Beating _____ (D) Strangulation _____ (E) *Drug/Poison _____
 (5) Suicide
 (A) Gunshot _____ (B) Alcohol _____ (C) *Drug/Poison _____ (D) Carbon Monoxide _____ (E) Hanging _____
 (6) Accidental Death
 (A) Gunshot _____ (B) Alcohol _____ (C) *Drug/Poison _____ (D) Fire _____ (E) Electrocution _____
 (7) Natural Death
 (A) Heart Related _____ (B) Disease (specify) _____ (C) Infant Related _____
 (8) Traffic Accident Fatality Victim---Meets criteria of Section 17-7-80 Yes _____ No _____
 (A) Driver _____ (B) Pedestrian _____ (C) Motorcyclist _____ (D) Bicyclist _____ (E) Passenger _____
 (9) Swimming Accident Fatality Victim _____ (10) Boating Accident Fatality Victim _____
 (11) Kidnapping _____ (12) Armed or Strong Armed Robbery _____ (13) Arson _____ (14) Assault (Simple Assault, ABHAN, or ABIK) _____
 (15) Burglary/B and E _____ (16) Forgery _____ (17) Fraud _____ (18) Embezzlement _____ (19) Harrassment _____
 (20) Weapons Offense _____ (21) Larceny (Petit or Grand) _____ (22) Hit and Run _____ (23) Polygraph Subject _____
 (24) Other (specify) _____

COMPLETE THIS SECTION ON ALL CASES INVOLVING TOXICOLOGICAL ANALYSIS:

Number of Specimens Enclosed: Blood _____ Urine _____ Ocular Fluid _____ Other _____
 Examination Requested: Blood Alcohol _____ Drug Screen _____ CO _____ Blood Type _____ Other _____
 Autopsy Performed: Yes _____ No _____ Findings _____
 *Drugs Suspected: Yes _____ No _____ Type of Drugs _____
 *Drugs Found at Scene: _____

Comments: _____
 Are these specimens from a known AIDS victim? Yes _____ No _____ Possible _____ Comment _____
 THE ITEMS SUBMITTED BELOW WILL BE EXAMINED WITH YOUR ASSURANCE THAT THE SUBMITTED SPECIMENS HAVE NOT NOR WILL BE SUBMITTED TO ANY OTHER LABORATORY FOR TECHNICAL OR SCIENTIFIC EXAMINATION. THIS STATEMENT WAS READ BY OFFICER. _____

SEE-Exhibit - # 97-615.

4-170-
#3
SEE, Exhibit - #3, October, 26, 1996 Case.

■ MAGAZINE

From page 1A

"The people of Sumter have spoken, even though we disagree with their decision," Brooks said.

According to court records, Magazine was out on a \$25,000 bond in connection with another rape case when he forced himself on the woman last year.

The victim told the jury that after an argument with her boyfriend on the night of the attack, she got out of his car at White's One Stop on U.S. 15 north of Sumter and began walking home. That was when a man approached and threatened her with a knife, took her clothes and forced her to have sex in a ditch.

After the attack, the man led her down the highway naked and through a wooded area, where she was raped again near a pond and then behind the Deluxe Motel. At one point, he allowed her to get a

drink of water from a spigot near the motel. He eventually gave her clothing back and told her not to tell anyone.

She picked Magazine out of a photo lineup, and DNA collected matched a sample obtained from him as part of the 1996 rape investigation.

Magazine is awaiting trial on charges of kidnapping, attempted murder, possession of a weapon during a violent crime, criminal sexual conduct and assault and battery with intent to kill in the 1996 crime.

During that attack, a woman was forced into a car on Corbett Street Nov. 15 and sexually assaulted. Her front teeth were knocked out when she was beaten with the butt of a shotgun, according to the arrest warrants.

Because the charges in both attacks are considered serious offenses, Magazine will be sentenced to life in prison if convicted during his next trial.

A court date has not been set.

←
1996 Blood
was used
in July 19
1997 case
to convicted
petitioner

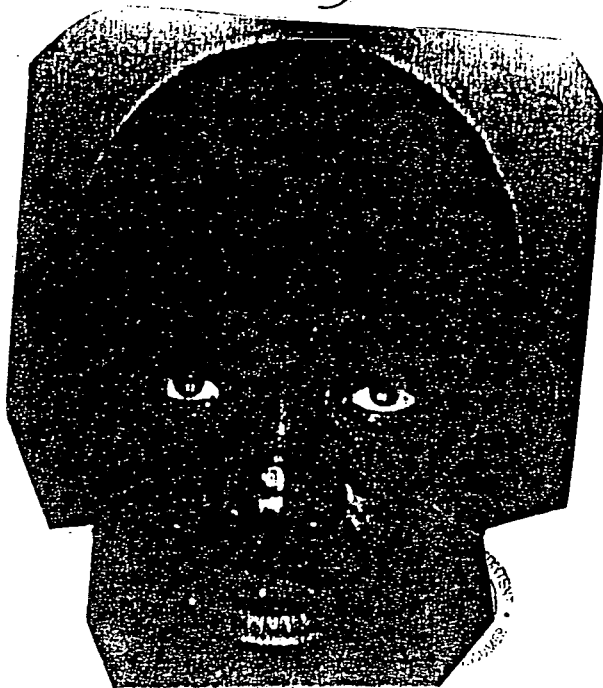
SEE, Exhibit - #3. October 26, 1996 Case

SEE Exhibit - AAP-Pg - #26, photos,

2



5



6



November 31, OR December 1, 1996

Ronald Mayumi

SEE, Exhibit - E - #2.

Second man arrested for rape

From staff reports

A second man has been arrested in the October rape of a Sumter woman, sheriff's deputies announced.

The man was arrested on Main Street Saturday without incident, Investigator Tommy Barron said. The man was charged with criminal sexual conduct, kidnapping and assault and battery with intent to kill.

The Item does not name those accused of sex-related crimes unless they're indicted. The man's bond was set at \$25,000 surety. He was still in the Sumter County Correctional Center Thursday afternoon.

The victim has told police since her rape that she identified the wrong two men as her attackers. Deputies say that, by law, it's up to a magistrate to decide whether to drop charges against the men.

"I just can't make that decision," Barron said.

The woman has told police that between midnight and 9 a.m. on Oct. 26, two acquaintances raped her at gunpoint. She was riding in a car with the men when they attacked her, she said.

She said she was unconscious during part of the attack. She was found lying nude in a driveway off Jefferson Road.

One man was arrested shortly after the rape, but the victim then

recanted, saying she had identified the wrong man. That first man is free on bond.

Deputies said it wasn't until mid-November that they learned the full name of the alleged second attacker. Barron wouldn't say how they learned the man's identity. He said deputies have spent the past several weeks looking for the man.

F 17
not pm

SEE, Exhibit - E - #2.

Ronald Mayumi

SEE, Exhibit - E-1.

Police still holding suspect in weekend rape case

2 rapes reported this weekend
By C.S. MURPHY
ITEM Staff Writer

Two rapes were reported in Sumter during the weekend, with one man arrested on criminal sexual conduct charges.

A Sumter man found a nude 34-year-old Sumter woman lying in a Jefferson Road driveway at about 9:15 a.m. Sunday. She said that two acquaintances threatened her with a shotgun, raped her repeatedly and beat her.

The woman was in good condition at Tuomey Regional Medical Center this morning, according to a hospital spokeswoman.

A 20-year-old Sumter man was charged with criminal sexual conduct, assault and battery of a high and aggravated nature and kidnapping after the woman identified him, said Sumter County Sheriff's Deputy Bobby McGehee. The man is awaiting a bond hearing at the Sumter County Correctional Center.

See RAPE, page 10A ▶

SEE, Exhibit - E-1,

RAPE

From page 1A

The Item does not name those accused of sex-related crimes until and unless they're indicted.

Later in the weekend, the woman recanted and said the man wasn't involved in the incident, McGehee said. Police won't drop the charges, however, and an investigation is continuing, he said.

McGehee said the woman told investigators and other people that the arrested man was the assailant.

The woman said the two men took turns holding the shotgun and raping her and that she was uncon-

scious during part of the attack which occurred sometime between midnight and 9 a.m.

The woman told police that men raped her in fields at two locations — somewhere off of U.S. near the El Rancho Motel and somewhere off of Airport Road.

In an unrelated case, a 17-year-old K Street woman reported that a heavyset, black man wearing jeans and a T-shirt entered her home at about 1 a.m. Sunday through a broken window.

The man reportedly held the woman's mouth, ripped off her underwear and raped her. She received medical care at Tuomey before being released, according to a police report.

By C.S. MURPHY
ITEM Staff Writer

recanted, saying it wasn't him, said Deputy Bobby McGehee.

Chief Sumter County Sheriff's If the victim testifies during the hearing that the charged man wasn't an assailant, charges will be dropped, Barron said.

"Surely, we don't want to pursue an innocent suspect," he said.

Police don't have a second suspect.

"We just have a first name on the second assailant, and she's not even sure on that one," he said.

The woman told police that between midnight and 9 a.m. Sunday, two acquaintances raped her. Our procedure is to let it go to haven't been dropped, however.

He said charges against the man to square one with this case."

Investigator Tommy Barron said this morning that police "are back nature and kidnapping.

A 20-year-old Sumter man charged with criminal sexual conduct in the case was awaiting a bond hearing at the Sumter County Correctional Center this morning.

The woman identified the man as one of two assailants, but she later released from Tuomey Regional Medical Center today.

A 34-year-old Sumter woman who was beaten and raped repeatedly Sunday was expected to be and unless they're indicted. The man was also charged with assault accused of sex-related crimes until dropped, Barron said.

"Surely, we don't want to pursue an innocent suspect," he said.

Police don't have a second suspect.

In an unrelated case, the Sumter Police Department still doesn't have a suspect in another Sunday rape.

A 17-year-old K Street woman said that a man entered her home at about 1 a.m. Sunday through a broken window and raped her.

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

October 1, 2007

Mr. Raymond Magazine
Prisoner ID #254723
Murray A-Wing, Room 180
4460 Broad River Road
Columbia, SC 29210

SEE, Exhibit - I,

Re: Raymond Magazine
v. William White, Warden, et al.
No. 07-5777

Dear Mr. Magazine:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

William K. Suter

William K. Suter, Clerk

SEE, Exhibit - I,

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

December 10, 2007

Mr. Raymond Magazine
Prisoner ID #254723
Murray A-Wing, Room 180
4460 Broad River Road
Columbia, SC 29210

SEE, Exhibit - I-1.

Re: Raymond Magazine
v. William White, Warden, et al.
No. 07-5777

Dear Mr. Magazine:

The Court today entered the following order in the above-entitled case:

The petition for rehearing is denied.

Sincerely,

William K. Suter

William K. Suter, Clerk

SEE, Exhibit - I-1.

MATTHEW FITTS - DIRECT BY DOMKE

1 YOUR MOTHER, HALF BEING INHERITED FROM YOUR FATHER.

2 WE CAN -- THIS -- THESE LONG STRANDS OF BEADS,
3 YOU CAN IMAGINE THAT EACH BEAD IS ONE OF FOUR DIFFERENT
4 COLORS.

5 AND SO WE ARE UNIQUE INDIVIDUALS BASED ON THE
6 ARRANGEMENT OF THOSE FOUR BEADS IN TERMS OF WHAT ORDER
7 THEY ARE IN THAT -- ON THAT D N A MOLECULE.

8 Q AND AS PART OF D N A ANALYSIS, DO YOU COMPARE ONE
9 PERSON'S STRING OF BEADS TO ANOTHER PERSON?

10 A CORRECT. AND WHAT WE DO IS THE MAJORITY OF THIS
11 STRAND -- AGAIN THREE BILLION. WE CANNOT LOOK AT THE
12 ENTIRE -- IT'S TECHNICALLY IMPOSSIBLE TO LOOK AT THE
13 ENTIRE STRAND.

14 AND ALSO IT WOULDN'T BE USEFUL BECAUSE THERE IS
15 A TREMENDOUS AMOUNT OF THAT THAT IS THE SAME FROM
16 INDIVIDUAL TO INDIVIDUAL BECAUSE WE ARE ALL HUMANS.

17 SCIENTISTS HAVE THOUGHT FOR A LONG TIME THERE
18 ARE CERTAIN AREAS ALONG THAT -- THAT CHAIN OF BEADS THAT
19 INDIVIDUALS ARE VERY UNIQUE AT.

20 AND IT'S THOSE PARTICULAR SITES THAT WE LOOK AT
21 FOR FORENSIC PURPOSES BECAUSE THAT'S WHAT PROVIDES US THE
22 IDENTITY FOR COMPARISON.

23 Q ALL RIGHT. NOW SIR, WHAT TYPES OF BODILY FLUIDS DO
24 YOU ANALYZE?

25 A AGAIN, I'D SAY 99 PERCENT OF THE BODY FLUIDS THAT WE

December 1-2, 1998, Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 Q COULD YOU SAY MORE THAN A HUNDRED?

2 A YES. EASILY.

3 Q AND SIR, PREVIOUSLY, HAVE YOU BEEN QUALIFIED AND HAVE
4 YOU TESTIFIED AS A EXPERT WITNESS IN OTHER CASES?

5 A YES, I HAVE.

6 Q OKAY.

7 MS. DOMKE: YOUR HONOR, AT THIS TIME, THE STATE WOULD
8 OFFER THIS WITNESS AS AN EXPERT IN THE FIELD OF D N A
9 ANALYSIS.

10 THE COURT: ALL RIGHT. MR. BROOKS, VOIR DIRE?

11 MR. BROOKS: NONE, YOUR HONOR.

12 THE COURT: THANK YOU. WITHOUT OBJECTION, DR. FITTS
13 IS QUALIFIED AS AN EXPERT IN FORENSIC D N A ANALYSIS.

14 (WHEREUPON QUESTIONING RESUMED).

15 Q DR. FITTS, CAN YOU EXPLAIN -- START VERY BASICALLY
16 WITH THE JURY. WHAT EXACTLY IS D N A AND HOW DO YOU GO
17 ABOUT ANALYZING IT?

18 A WELL, D N A IS A COMPONENT FOUND IN PRACTICALLY ALL
19 CELLS IN YOUR BODY. HALF OF YOUR D N A IS INHERITED FROM
20 YOUR MOTHER.

21 THE OTHER HALF IS INHERITED FROM YOUR FATHER.
22 AND D N A CAN BE ENVISIONED AS A VERY, VERY LONG CHAIN OF
23 BEADS.

24 AS A MATTER OF FACT, ESTIMATED TO BE 3 BILLION
25 BEADS LONG. AND AGAIN, HALF OF IT BEING INHERITED FROM

December 1-2, 1998 Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 WORK WITH IS EITHER BLOOD OR SEMEN. WE WILL OCCASIONALLY
2 GET TISSUE SUCH AS MUSCLE, SKIN. BUT THE MAJORITY OF IT
3 IS BLOOD AND SEMEN.

4 Q OKAY. AND SIR, WHAT IS THE SIGNIFICANCE OF THE
5 INFORMATION THAT YOU ARE ABLE TO OBTAIN FROM THE SAMPLES
6 OF BLOOD AND SEMEN IN THE D N A ANALYSIS?

7 A THE SIGNIFICANCE AGAIN IS WHEN YOU HAVE COLLECTED ANY
8 OF THESE BODILY FLUIDS FROM A CRIME SCENE, YOU COMPARE IT
9 TO KNOWN STANDARDS FROM VICTIMS AND SUSPECTS SO YOU CAN
10 EITHER INCLUDE OR EXCLUDE SOMEBODY AS A POTENTIAL DONOR OF
11 THAT STAIN.

12 Q AND THAT IS BASED UPON, SIR, THE UNIQUENESS OF THE D
13 N A FOR EACH INDIVIDUAL?

14 A THAT IS CORRECT.

15 Q OKAY. NOW, WHAT IS THE FORENSIC PURPOSE OF THE D N
16 A ANALYSIS?

17 A VERY SIMPLY, THE FORENSIC PURPOSE IS JUST HUMAN
18 IDENTITY. IT'S JUST -- IT'S -- WHEN WE HAVE EVIDENCE
19 SUBMITTED TO OUR LABORATORY AND THEY SUBMIT SUSPECTS, THEY
20 WANT TO KNOW ARE THEY A POSSIBLE DONOR OF THIS EVIDENCE.

21 AND SO WE LOOK AT THESE VERY UNIQUE SITES. OUR
22 LABORATORY LOOKS AT SEVEN DIFFERENT SITES IN THE D N A
23 MOLECULE TO COMPARE TO DETERMINE WHETHER SOMEONE IS A
24 POSSIBLE DONOR OR A POSSIBLE CONTRIBUTOR OF THIS
25 PARTICULAR STAIN.

December 1-2 1998. Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 Q OKAY. AND SIR, I BELIEVE YOU HAVE ALREADY INDICATED
2 D N A ANALYSIS HAS BEEN AROUND, IS IT -- I MEAN, IS IT
3 RECENT OR HAS IT BEEN AROUND FOR QUITE A WHILE?

4 A IT'S -- AGAIN, ALL THE TECHNIQUES UTILIZED IN
5 FORENSIC LABORATORIES WERE DEVELOPED IN RESEARCH
6 LABORATORIES AND THESE TECHNIQUES HAVE BEEN IN RESEARCH
7 LABORATORIES FOR -- FOR FIFTEEN OR TWENTY YEARS.

8 AND THEN IN THE PAST, I WOULD IMAGINE THE PAST
9 TEN YEARS, THEY HAVE BEEN APPLIED IN FORENSIC LABORATORIES
10 WORLD WIDE.

11 Q OKAY. SO D N A -- THEN COMPARISON ANALYSIS IS
12 GENERALLY ACCEPTED IN THE SCIENTIFIC COMMUNITY?

13 A YES, IT IS.

14 Q OKAY. AND YOU DO PERFORM D N A ANALYSIS AT SLED;
15 CORRECT?

16 A THAT'S CORRECT.

17 Q OKAY. IN THIS CASE, WERE YOU REQUESTED BY THE
18 SUMTER COUNTY SHERIFF'S DEPARTMENT TO PERFORM D N A
19 ANALYSIS?

20 A YES, I WAS.

21 Q OKAY. AND DO YOU RECALL WHAT SAMPLES YOU WERE
22 COMPARING?

23 A IN THIS CASE, A RAPE KIT WAS SUBMITTED FROM MELISSA
24 HAYES AND A SUSPECT KIT FROM RAYMOND MAGAZINE WAS
25 SUBMITTED AND THAT IS WHAT WAS REQUESTED TO COMPARE.

December, 1-2, 1998, Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 Q OKAY. AND SPECIFICALLY, SIR, TAKING THE SUSPECT
2 KIT, WHAT -- WHAT SAMPLE WAS THERE IN THE SUSPECT KIT?
3 WHAT WERE YOU LOOKING AT? WHERE DID YOU GET---

4 A PRIMARILY FOR D N A ANALYSIS -- AS I TOLD YOU -- WE
5 GET EVIDENCE FROM CRIME SCENES AND THEN WE COMPARE IT TO
6 THE KNOWN STANDARDS.

7 AND PRIMARILY, THE KNOWN STANDARDS ARE TUBES OF
8 BLOOD THAT ARE DRAWN FROM THE VICTIM OR THE SUSPECT, SO
9 THE SUSPECT KIT -- WHAT WE ARE PRIMARILY INTERESTED IN IS
10 THAT TUBE OF BLOOD.

11 Q OKAY.

12 A IT SERVES AS A SOURCE OF D N A FOR COMPARISON.

13 Q ALL RIGHT. SO FOR THE SUSPECT IN THIS CASE -- FOR
14 THE DEFENDANT -- YOU WOULD USE HIS TUBE OF BLOOD THAT WAS
15 TAKEN?

16 A THAT'S CORRECT.

17 Q AND YOU RECEIVED THAT TUBE FROM -- THAT COMES TO YOUR
18 LAB FROM SUMTER; IS THAT CORRECT?

19 A NOT -- NOT DIRECTLY. IT COMES TO SLED, IT IS LOGGED
20 IN AT EVIDENCE LOG-IN DEPARTMENT AND THEN PLACED INTO A
21 LOCKED REFRIGERATED CONTAINER CALLED -- REFERRED TO AS A D
22 N A BOX.

23 AND THEN INDIVIDUALS FROM OUR LABORATORY WILL
24 TAKE THAT EVIDENCE FROM THAT D N A BOX AND BRING IT UP TO
25 OUR LABORATORY AND THEN PUT IT INTO MY SECURED EVIDENCE

December 1-2, 1998 Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 BIN.

2 Q AND THEN YOUR LAB ACTUALLY PERFORMS THE TEST.

3 A I ACTUALLY PERFORM THE TEST AND I'M THE ONE THAT
4 BREAKS THE SEAL ON THE EVIDENCE BAG.

5 Q SO WHEN YOU RECEIVE THE SAMPLE, YOU ARE THE ONE THAT
6 BREAKS THE SEAL FOR THE BLOOD VIAL -- THAT SAMPLE FOR
7 RAYMOND MAGAZINE?

8 A THAT'S CORRECT.

9 Q OKAY. NOW SIR, DO YOU KEEP THE VIAL OF BLOOD?

10 A NO. WE DON'T KEEP THE VIAL OF BLOOD. AND BLOOD
11 BEING IN A LIQUID FORM IS NOT A GOOD WAY TO STORE
12 EVIDENCE.

13 WHAT WE DO IS WE WILL TAKE THAT TUBE OF BLOOD
14 AND POUR THE BLOOD ON THE CLOTH AND ALLOW IT TO DRY. D N
15 A IS NOT -- WILL BEGIN TO BREAK DOWN IF IT SITS IN A TUBE
16 FOR TOO LONG.

17 SO ONCE YOU'VE DRIED IT ON A CLOTH, IT'S STABLE
18 FOR MANY, MANY YEARS. SO IT'S STANDARD PRACTICE FOR US TO
19 OPEN THAT TUBE, POUR THE BLOOD ONTO CLOTH AND ALLOW IT TO
20 DRY, PUT IT IN AN ENVELOPE.

21 THE LABEL ON THE TUBE IS ACTUALLY PEELED OFF AND
22 PLACED ON THIS ENVELOPE AS WELL AND THE TUBE IS DISCARDED.

23 Q ALL RIGHT. SO THEN THE CLOTH IS THEN PLACED INTO AN
24 ENVELOPE, BUT THE ORIGINAL LABEL FROM WHOEVER DREW THE
25 BLOOD IS KEPT WITH THE SAMPLE.

December 1-2, 1998 Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 A THAT'S CORRECT.

2 Q OKAY. NOW SIR, WITH RESPECT TO THE SEXUAL ASSAULT
3 KIT FROM MELISSA HAYES, DID YOU RECEIVE VAGINAL SWABS?

4 A YES, I DID.

5 Q OKAY. AND LET ME SHOW YOU STATE'S EXHIBIT NO. 17
6 AND ASK YOU IF THAT IS IN FACT A SLED EVIDENCE BAG.

7 A YES, IT IS.

8 Q OKAY. AND THAT IS THE SEXUAL ASSAULT KIT.

9 A YES, IT IS.

10 Q AND SIR, IN ADDITION TO THE VAGINAL SWABS, DID SLED
11 OBTAIN ANY D N A SAMPLES FROM THE VICTIM'S PANTIES?

12 A YES. WE ATTEMPTED TO -- ATTEMPTED TO PURIFY D N A
13 FROM THE PANTIES AS WELL. WHEN WE RECEIVE A RAPE KIT, ALL
14 ITEMS THAT ARE SUBMITTED, OBVIOUSLY THEY ARE LOOKING TO
15 IDENTIFY SEMEN.

16 AND ALL -- FROM ALL ITEMS SUBMITTED, WE RUN
17 SEROLOGICAL TESTS TO DETERMINE WHETHER SEMEN IS PRESENT OR
18 NOT.

19 AND IF IT IS, THEN WE ATTEMPT TO EXTRACT THE D N
20 A IN GENERAL -- D N A PROFILE. AND IN THIS CASE, PANTIES
21 WERE ALSO SUBMITTED AND WE DID EXTRACT D N A FROM -- SEMEN
22 WAS IDENTIFIED AND WE EXTRACTED D N A FROM IT.

23 Q SIR, STATE'S EXHIBIT NO. 16 IN THIS CASE, WHICH --
24 WOULD SLED HAVE CUT THE CROTCH SECTION OUT OF THE
25 PANTIES?

December 1-2, 1998 Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 A YES. TYPICALLY THAT'S WHERE WE CHECK FOR THE
2 PRESENCE OF SEMEN.

3 Q OKAY. SO IN THIS CASE, SIR, YOU ARE RECEIVING A
4 BLOOD STANDARD FROM THE DEFENDANT, RAYMOND MAGAZINE, AND
5 YOU RECEIVED VAGINAL SWABS AND YOU -- WHAT YOU OBTAINED
6 FROM THE CROTCH OF THE PANTIES FROM MELISSA, MELISSA
7 HAYES?

8 A AS WELL AS A TUBE OF BLOOD.

9 Q AS WELL AS A TUBE OF BLOOD. OKAY. AND WHAT YOU
10 ARE GOING TO DO THEN IS TO COMPARE ALL OF THESE ITEMS
11 TOGETHER?

12 A THAT IS CORRECT.

13 Q OKAY. NOW, WERE YOU ABLE TO IDENTIFY ANY D N A
14 PATTERNS IN EITHER SAMPLE?

15 A YES. WE WERE SUCCESSFUL AT GENERATING D N A
16 PROFILES FROM THE SEMEN IDENTIFIED ON THE VAGINAL SWABS
17 AND THE SEMEN IDENTIFIED ON THE PANTIES.

18 Q ALL RIGHT. AND THE -- WERE YOU THEN ABLE TO COMPARE
19 THE D N A THAT YOU HAD RECOVERED?

20 A WE WERE ABLE TO COMPARE THE PATTERN PRODUCED FROM THE
21 SEMEN SAMPLES TO THE BLOOD STANDARDS -- THE D N A
22 EXTRACTED FROM BOTH -- FROM MELISSA HAYES AND RAYMOND
23 MAGAZINE AND PERFORM THAT COMPARISON AS TO WHETHER THE D N
24 A PROFILES MATCHED OR NOT.

25 Q OKAY. AND SIR, WHAT WERE THE RESULTS OF THIS

December 1-2, 1998, Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 COMPARISON?

2 A THE RESULTS WERE THAT THE D N A PROFILES GENERATED
3 FROM THE VAGINAL -- THE SEMEN IDENTIFIED FROM THE VAGINAL
4 SWAB AND FROM THE PANTIES MATCHED THAT OF THE DEFENDANT,
5 RAYMOND MAGAZINE.

6 Q AND SIR, YOU SAID THAT THERE WERE SEVEN SITES THAT
7 YOU TEST.

8 A WE LOOKED AT SEVEN DIFFERENT SITES TO PERFORM THESE
9 COMPARISONS.

10 THE WAY -- AND THE WAY YOU BUILD A D N A PROFILE
11 -- IF I CAN USE AN ANALOGY -- IS IF FOR INSTANCE IF WE
12 LOOKED AT THE D N A SITE THAT DETERMINED HAIR, EYE COLOR.

13 SAY WE LOOKED AT THE D N A AND THEY SAID THE
14 PERSON THAT DONATED THIS SAMPLE HAS BLUE EYES.

15 AND THEN WHAT WE WILL DO IS WE HAVE A DATABASE
16 IN WHICH WE RANDOMLY HAVE CHOSEN 250 CAUCASIANS AND 250
17 BLACKS FROM ACROSS THE STATE OF SOUTH CAROLINA WHO WOULD
18 SAY HOW MANY SOUTH CAROLINIANS HAVE BLUE EYES.

19 MAYBE SOMETHING LIKE TWENTY PERCENT. SO THEN
20 -- SO ONE -- LOOKING AT ONE SITE DOESN'T PROVIDE US AN
21 EXTREMELY UNIQUE IDENTITY FOR WHO DONATED THIS. SO WE
22 LOOK AT THE NEXT SITE. SAY OKAY. THEY HAVE BLUE EYES.

23 SAY LETS LOOK AT THE NEXT D N A SITE. IT
24 DETERMINES HOW TALL SOMEBODY IS. AND LETS SAY IT SAYS AN
25 INDIVIDUAL IS SEVEN FEET TALL.

See, Exhibit - pg. # 290

December 1-2, 1998 TRIAL.

MATTHEW FITTS - DIRECT BY DOMKE

1 SO NOW WE HAVE TWO GENETIC MARKERS. WE ARE
2 LOOKING FOR SOMEBODY WITH BLUE EYES AND SEVEN FEET TALL.

3 AND WE CAN LOOK AT YOUR DATABASE AND STATISTICAL
4 INFORMATION TO CALCULATE MANY SOUTH CAROLINIANS HAVE BLUE
5 EYES, ARE SEVEN FEET TALL. AND WE CONTINUE DOWN THE
6 LINE.

7 WE LOOK AT A THIRD SITE. LOOK AT FOURTH SITE.
8 LOOK AT FIFTH SITE. AND WE IN TOTAL, WE LOOKED AT SEVEN
9 DIFFERENT GENETIC SITES FOR COMPARISON.

10 Q AND HOW MANY OF THOSE SITES MATCHED THE PROFILE OF
11 THE D N A OF RAYMOND MAGAZINE?

12 A ALL SEVEN.

13 Q OKAY. NOW SIR, WHAT IS THE SIGNIFICANCE OF THAT
14 MATCH?

15 A AGAIN, TO DETERMINE THE SIGNIFICANCE OR THE
16 UNIQUENESS OF THIS PROFILE OF SEVEN -- SEVEN DIFFERENT
17 SITES -- WE HAVE A DATABASE THAT GIVES US AN IDEA FOR
18 SOUTH CAROLINIANS -- HOW THE FREQUENCY OF THIS PARTICULAR
19 PATTERN THAT YOU FIND IN THE POPULATION. AND THEN WE USE
20 THE STATISTICS TO CALCULATE THE UNIQUENESS OF THAT
21 PROFILE.

22 AND THE POSSIBILITY OF SELECTING AN INDIVIDUAL
23 -- UNRELATED INDIVIDUAL -- AT RANDOM HAVING A D N A
24 PROFILE MATCHING THE SEMEN ON THE VAGINAL SWAB AND ON
25 THOSE PANTIES IS ONE IN 1.3 TRILLION BLACKS AND 1 IN 280

December 1-2, 1998 Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 BILLION CAUCASIANS.

2 Q SO IN OTHER WORDS -- MAKE SURE I UNDERSTAND THIS.

3 YOU ARE SAYING THAT IT -- IN A POPULATION OF 1.3 TRILLION

4 BLACKS, YOU WOULD ONLY FIND ONE PERSON THAT WOULD MATCH

5 THAT D N A?

6 A THAT IS CORRECT.

7 Q AND OUT OF 280 BILLION CAUCASIANS, AGAIN, YOU WOULD

8 HAVE WHAT APPROXIMATELY...

9 A STATISTICALLY, YOU WOULD EXPECT ONLY ON AVERAGE THAT

10 ONLY ONE OUT OF EVERY 280 BILLION CAUCASIANS YOU TESTED,

11 ONLY ONE WOULD MATCH.

12 Q OKAY. AND 1.3 TRILLION?

13 A 1.3 TRILLION BLACKS.

14 Q SIR, I'D LIKE TO SHOW YOU STATE'S EXHIBIT NO. 20 FOR

15 IDENTIFICATION. AND FIRST JUST IF YOU WILL LOOK AT THIS

16 AND TELL ME IF YOU CAN IDENTIFY WHAT THIS IS.

17 A YES. THIS IS---.

18 Q DON'T TELL ME WHAT IT IS. CAN YOU IDENTIFY IT?

19 A YES, I CAN.

20 Q AND SIR, DID YOU PREPARE THIS TODAY?

21 A YES, I DID.

22 Q ALL RIGHT. AND IS THIS SOME OF THE RESULTS FROM YOUR

23 TESTING?

24 A YES. THESE ARE SOME OF THE RESULTS FROM THIS CASE.

25 MS. DOMKE: YOUR HONOR, AT THIS TIME THE STATE WOULD

December 1-2, 1998 Trial

MATTHEW FITTS - DIRECT BY DOMKE

1 LIKE TO MOVE STATE'S EXHIBIT NO. 20 INTO EVIDENCE.

2 MR. BROOKS: NO OBJECTION.

3 THE COURT: THANK YOU. WITHOUT OBJECTION, STATE'S
4 20 IN EVIDENCE.

5 (STATE'S EXHIBIT NO. 20 MARKED FOR EVIDENCE).

6 (WHEREUPON QUESTIONING RESUMED).

7 Q SIR, IF YOU WILL WILL YOU PLEASE STEP DOWN FROM THE
8 WITNESS BOX AND PLACE STATE'S EXHIBIT 20 ON THE LIGHT
9 BOX.

10 PLEASE KEEP YOUR VOICE UP SO THE COURT REPORTER,
11 THE DEFENSE COUNSEL AND THE JURY CAN HEAR YOU AND EXPLAIN
12 TO THE JURY WHAT THEY ARE LOOKING AT IN THAT.

13 THE COURT: NEED TO ANGLE THAT A LITTLE BIT MORE, DR.
14 FITTS, SO THE JURY CAN SEE. THANK YOU.

15 THE WITNESS: CAN YA'LL SEE THAT OKAY?

16 THE COURT: DO YOU NEED A POINTER?

17 THE WITNESS: I -- YES I BETTER.

18 (WHEREUPON QUESTIONING RESUMED).

19 Q DO YOU NEED A POINTER, SIR?

20 A THANK YOU. THIS IS THE ACTUAL -- THIS IS WHAT A D
21 N A PROFILE ACTUALLY LOOKS LIKE. THE FINAL PRODUCT.

22 AND THIS IS ACTUALLY THE IMAGE -- WE TAKE THE
23 X-RAYS THAT ARE GENERATED FROM THIS AND SCAN THEM INTO A
24 COMPUTER AND WE USE A PROGRAM TO CONFIRM THE MATCH THAT WE
25 HAVE ALREADY SEEN.

December 1-2, 1998 Trial Transcript

DANA WINGATE - DIRECT BY DOMKE

1 MS. DOMKE: MAY IT PLEASE THE COURT, YOUR HONOR. THE
2 STATE CALLS INVESTIGATOR DANA WINGATE TO THE STAND.

3 THE COURT: INVESTIGATOR WINGATE, COME FORWARD,
4 PLEASE, SIR AND BE SWORN.

5 DANA WINGATE, BEING FIRST DULY
6 SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY MS. DOMKE:

8 Q INVESTIGATOR WINGATE, WHAT IS YOUR CURRENT COUNTY OF
9 RESIDENCE?

10 A SUMTER COUNTY.

11 Q AND WHAT IS YOUR OCCUPATION?

12 A I'M ONE OF THE THREE JUVENILE INVESTIGATORS FOR THE
13 SUMTER COUNTY SHERIFF'S DEPARTMENT.

14 Q AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
15 DEPARTMENT?

16 A ALMOST SEVEN -- ALMOST TEN YEARS.

17 Q IN JULY OF 1997, WHAT WAS YOUR DUTY? WHAT WERE YOUR
18 DUTIES AT THAT TIME?

19 A I WAS A JUVENILE INVESTIGATOR, BUT WE WERE ALSO -- MY
20 PARTNER AND I, KEVIN YOST, WERE INVESTIGATORS ON CALL FOR
21 THAT NIGHT.

22 Q SO YOU WERE ON CALL THE MORNING OF JULY THE 19TH,
23 1997?

24 A YES, MA'AM.

25 Q DID YOU HAVE AN OCCASION TO RESPOND TO TUOMEY

December 1-2, 1998, Trial

DANA WINGATE - DIRECT BY DOMKE

1 HOSPITAL?

2 A YES. I DIDN'T RESPOND IMMEDIATELY TO TUOMEY.

3 INVESTIGATOR YOST WENT TO TUOMEY WHILE I WENT OUT TO THE
4 SCENE AT THE DELUXE MOTEL.

5 Q ALL RIGHT. AND WHEN YOU WENT OUT TO THE SCENE, WHAT
6 WAS YOUR PURPOSE IN GOING OUT THERE?

7 A THE MAIN PURPOSE WAS TO SEE WHAT TYPE OF CRIME SCENE
8 WE HAD, HOW MUCH HAD TO BE TAPED OFF OR RESTRICTED
9 MOVEMENT IN THAT AREA. THEN I RESPONDED TO TUOMEY.

10 Q ALL RIGHT. WHEN YOU WERE OUT AT THE CRIME SCENE,
11 WERE THERE ANY OTHER OFFICERS OUT THERE AT THAT TIME?

12 A THERE WAS APPROXIMATELY THREE, MAYBE FOUR DEPUTIES,
13 MARKED UNITS, AT THE SCENE AT THE TIME I WAS -- ARRIVED
14 THERE.

15 Q WHAT DID YOU DO AT THE CRIME SCENE?

16 A WE MOSTLY JUST WALKED AROUND AT FIRST. WE DIDN'T
17 KNOW EXACTLY WHERE THE ACTUAL CRIME SCENE WAS. I LEFT THE
18 DEPUTIES THERE AND WENT TO TUOMEY TO TALK TO MRS. HAYES
19 WELCH.

20 Q OKAY. NOW, SO YOU WERE JUST GOING UP AND DOWN
21 HIGHWAY 15 OR WERE YOU AT THE DELUXE MOTEL OR...

22 A WE STARTED AT THE DELUXE MOTEL. AND WE -- LIKE I
23 SAID, AT THE TIME WE HAD VERY SKETCHY DETAIL OF WHERE IT
24 WAS. SOMEWHERE BETWEEN WHITE'S ONE STOP AND THE DELUXE
25 MOTEL.

See Exhibit - pg 178

December 1-2, 1998 Trial

DANA WINGATE - DIRECT BY DOMKE

1 AND THEN I TRIED TO GET MORE INFORMATION TO
2 NARROW DOWN OUR CRIME SCENE TO SEE IF I COULD FIGURE OUT
3 WHERE WE NEEDED TO START LOOKING.

4 Q THEN YOU LEFT AND WENT TO TUOMEY HOSPITAL?

5 A YES, I DID.

6 Q WHEN YOU GOT TO TUOMEY HOSPITAL, DID YOU TAKE ANY
7 PHOTOGRAPHS?

8 A YES, I DID.

9 Q OKAY. I'D LIKE TO SHOW YOU THESE PHOTOGRAPHS,
10 STATE'S EXHIBITS 7 THROUGH 13 AND ASK YOU IF YOU'D TAKE A
11 LOOK AT THOSE AND IF THOSE ARE THE PHOTOGRAPHS YOU TOOK
12 THAT EVENING OR THAT MORNING, ACTUALLY.

13 A THESE ARE THE PHOTOGRAPHS THAT I DID TAKE. YES.

14 Q OKAY. SIR, ARE YOUR INITIALS ANYWHERE ON THOSE
15 PHOTOGRAPHS?

16 A YES, THEY ARE. THE DATE, TIME AND MY INITIALS.

17 Q OKAY. AND DID YOU -- DID YOU TAKE CUSTODY OR DID
18 YOU SUBSEQUENTLY HAVE AN OPPORTUNITY TO TAKE CUSTODY OF
19 THE SEXUAL ASSAULT KIT?

20 A YES. I DID TAKE CUSTODY OF THE SEXUAL ASSAULT KIT.

21 Q DID YOU GET IT FROM NURSE CROSKEY?

22 A YES, I DID.

23 Q OKAY. AND WHAT DID YOU DO WITH THE KIT?

24 A TOOK IT UP TO THE LAW ENFORCEMENT CENTER AND PLACED
25 THE BOX ITSELF IN THE REFRIGERATOR FOR PRESERVATION AND

SEE Exhibit - pg[#] 179

December 1-2, 1998 Trial

DANA WINGATE - DIRECT BY DOMKE

1 SET THE CLOTHING BAG BESIDE OF THE REFRIGERATOR IN THE
2 PATROL ROOM.

3 Q IS THAT STANDARD PROCEDURE?

4 A STANDARD PROCEDURE.

5 Q THEN SOMEONE ELSE WOULD HANDLE THE EVIDENCE FROM THAT
6 POINT?

7 A INVESTIGATOR MACKESSEY OR MRS. BRADLEY WOULD HANDLE
8 IT FROM THERE.

9 Q OKAY. NOW, WHEN YOU HAD CUSTODY OF THE -- THE
10 EVIDENCE THAT YOU HAD RECOVERED FROM TUOMEY, DID YOU EVER
11 OPEN ANY OF THE EVIDENCE?

12 A NO, MA'AM. IT'S SEALED BY THE NURSE IN MY
13 PRESENCE. INITIALED. THEN I TAKE IT TO THE REFRIGERATOR
14 IN THE PATROL ROOM AND STORE IT.

15 Q OKAY. DID YOU EVER HAVE AN OCCASION TO GO BACK TO
16 THE CRIME SCENE?

17 A YES. WHAT HAPPENED WAS ONCE I TALKED TO HER VERY
18 BRIEFLY AT THE HOSPITAL, I WENT BACK TO THE CRIME SCENE TO
19 TRY TO FOLLOW HER TRACKS WHERE SHE SAID SHE WAS AT AT A
20 CERTAIN TIME OR -- YOU KNOW -- THE SEQUENCE.

21 ONCE WE GO THROUGH THE SEQUENCE AND TRY TO
22 NARROW DOWN THE CRIME SCENE ITSELF, GIVES US MORE HISTORY
23 TO TRY TO COVER WITH THE LEAST AMOUNT OF PEOPLE AS
24 POSSIBLE.

25 Q AND YOU DID GO BACK TO THE SCENE AT THAT TIME?

SEE, Exhibit # → 180

December 1-2, 1998 Trial

DANA WINGATE - CROSS BY BROOKS

1 A YES, WE DID.

2 Q DID YOU SEE ANY OTHER EVIDENCE OF THE CRIME AT THE
3 SCENE?

4 A YES. WHILE WE WERE LOOKING, WE STARTED
5 APPROXIMATELY 500 YARDS OR SO DOWN FROM WHITE'S ONE STOP
6 TOWARD SUMTER.

7 AND I FOUND ONE OF HER SANDLES ON -- WALKING
8 FROM WHITE'S ONE STOP INTO ONE -- ONE WAS ON THE RIGHT
9 SIDE OF THE ROAD. THE OTHER ONE WAS ON THE LEFT SIDE OF
10 THE ROAD.

11 Q OKAY. AND IS THAT YOUR ONLY INVOLVEMENT WITH THIS
12 CASE, WHAT YOU HAVE JUST TESTIFIED TO?

13 A THE PHOTOGRAPHS AND TALKING TO HER INITIALLY AT THE
14 HOSPITAL, YES.

15 Q OKAY.

16 MS. DOMKE: NO FURTHER QUESTIONS, YOUR HONOR.

17 THE COURT: THANK YOU. MR. BROOKS, YOU CAN
18 CROSS-EXAMINE.

19 CROSS-EXAMINATION BY MR. BROOKS:

20 Q HOW YOU DOING TODAY, OFFICER WINGATE?

21 A FINE, SIR.

22 Q ALL RIGHT. JUST WANT TO ASK YOU A COUPLE OF
23 QUESTIONS. CORRECT ME IF I AM WRONG, BUT WHEN YOU WENT
24 BACK TO HIGHWAY 15 WHERE MRS. HAYES WELCH SAID THAT THIS
25 PARTICULAR INCIDENT OCCURRED, ISN'T IT TRUE THAT THE ONLY

See Exhibit # 181

December 1-2, 1998. Trial

DANA WINGATE - CROSS BY BROOKS

1 THING YOU FOUND WAS THE SANDLES?

2 A YES, SIR.

3 Q AND YOU FOUND NOTHING ELSE OUT THERE THAT INDICATED
4 ANYTHING HAD HAPPENED OUT THERE. IS ANY OF THAT
5 CORRECT?

6 A AT 3 OR 4:00 IN THE MORNING, WE COULDN'T SEE A WHOLE
7 LOT. BUT NO, WE DID NOT FIND ANY MORE EVIDENCE.

8 Q OKAY. ALL RIGHT. DID YOU GO OUT THERE AT A LATER
9 TIME?

10 A I DID NOT. NO.

11 Q OKAY. AND ISN'T IT TRUE THAT YOU ARE NOT -- YOU
12 WERE NOT THE LEAD INVESTIGATOR ON THIS CASE?

13 A NO, SIR. I WAS NOT.

14 Q OKAY. AND IN ADDITION TO THAT, YOU HAVE NO OTHER
15 KNOWLEDGE ABOUT THIS CASE OTHER THAN WHAT MRS. HAYES WELCH
16 HAS TOLD YOU IN GOING TO THE HOSPITAL AND OTHER THINGS YOU
17 OBSERVED.

18 ASIDE FROM THAT, YOU HAVE NO OTHER KNOWLEDGE OF
19 WHAT WENT ON. IS THAT CORRECT?

20 A JUST WHAT SHE HAS TOLD ME, WHAT I OBSERVED THROUGH
21 THE SCARS AND THE -- NOT SCARS, BUT THE BRUISING,
22 CONDITION OF HER CLOTHING. THAT'S ALL I KNOW.

23 Q OKAY.

24 MR. BROOKS: NO OTHER QUESTIONS, YOUR HONOR.

25 THE COURT: ALL RIGHT. THANK YOU. REDIRECT, MS.

See Exhibit #  182

DOCKET NO. **98-GS-43-745**

The State of South Carolina,

County of SUMTER

Chambers

COURT OF GENERAL SESSIONS

JULY TERM 1998

THE STATE

vs.

RAYMOND MAGAZINE

WITNESSES
(see attached List)

SHERIFF'S DEPT.

~~Kevin Yost~~

Melissa Hayes

ARREST WARRANT NO. F 562755

1/29/98

ACTION OF GRAND JURY

True Bill

Linda M. Moore
Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date:

Indictment for

KIDNAPPING,

ATTEMPTED MURDER,

ASSAULT & BATTERY WITH INTENT TO KILL,

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

& POSSESSION OF WEAPON DURING VIOLENT
CRIME

Exhibit - F - 1, Indictment

AND

Exhibit - U - Verdict Form.

Exhibit - F-2 - Indictment

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR
COUNTY OF SUMTER) KIDNAPPING, ATTEMPTED MURDER,
) ASSAULT & BATTERY WITH INTENT
) TO KILL, CRIMINAL SEXUAL
) CONDUCT - FIRST DEGREE &
) POSSESSION OF WEAPON DURING
) VIOLENT CRIME

At a Court of General Sessions, convened on July 13, 1998, the Grand Jurors of Sumter County present upon their oath:

COUNT ONE - KIDNAPPING

That one RAYMOND MAGAZINE did in Sumter County on or about July 19, 1997, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away Melissa Hayes without authority of law, in violation of S.C. Code Section 16-3-910, as amended.

COUNT TWO - ATTEMPTED MURDER

That one RAYMOND MAGAZINE did in Sumter County on or about July 19, 1997, feloniously, wilfully and with malice aforethought, attempt to kill one Melissa Hayes by means of severely beating and choking said victim while holding a deadly weapon, to wit: knife, to her throat, in violation of S.C. Code Sections 16-1-80 and 16-3-20, as amended.

COUNT THREE - ASSAULT & BATTERY WITH INTENT TO KILL

That one RAYMOND MAGAZINE did in Sumter County on or about July 19, 1997, with malice aforethought, commit an assault and battery upon one Melissa Hayes by severely beating and choking said victim while holding a deadly weapon, to wit: knife, to her throat, with intent to kill the said victim, in violation of S.C. Code Section 16-3-620.

Exhibit - F-2 - Indictment

Exhibit - F - 3 - Indictment

✓ COUNT FOUR - CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That the actor RAYMOND MAGAZINE did in Sumter County on or about July 19, 1997; engage in sexual battery upon and with the body of Melissa Hayes without her consent, and such sexual battery was accomplished by the use of physical force or physical violence of a high and aggravated nature to overcome the said victim and includes the threat of the use of a deadly weapon, to wit: knife, and the victim submitted to sexual battery by the actor under circumstances where she was also the victim of kidnapping, in violation of S.C. Code Section 16-3-652.

✓ COUNT FIVE - POSSESSION OF WEAPON DURING VIOLENT CRIME

That one RAYMOND MAGAZINE did in Sumter County on or about July 19, 1997, visibly display a knife during the commission or attempted commission of a violent crime, in violation of S.C. Code Section 16-23-490, as amended.

Against the peace and dignity of the State and contrary to the statute in such case as made and provided.


SOLICITOR ARTHUR H. WILDER, JR.

Exhibit F - 3 - Indictment

Exhibit - U

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SUMTER) INDICTMENT NO. 98-GS-43-745

STATE OF SOUTH CAROLINA)
vs.) VERDICT FORM
RAYMOND MAGAZINE,)
Defendant.)

As to the charge of KIDNAPPING, we the Jury find the Defendant, RAYMOND MAGAZINE:

X Guilty
Not Guilty

As to the charge of ASSAULT AND BATTERY WITH INTENT TO KILL, we the Jury find the Defendant, RAYMOND MAGAZINE:

Guilty of Assault and Battery with Intent to Kill
X Guilty of Assault and Battery of a High and Aggravated Nature
Not Guilty

As to the charge of CRIMINAL SEXUAL CONDUCT, FIRST DEGREE, we the Jury find the Defendant, RAYMOND MAGAZINE:

X Guilty
Not Guilty

As to the charge of POSSESSION OF A WEAPON DURING VIOLENT CRIME, we the Jury find the Defendant, RAYMOND MAGAZINE:

Guilty
X Not Guilty

CERTIFIED TRUE COPY
OF ORIGINAL FILE
D. V. Player
CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

December 2, 1998
Sumter, South Carolina

Catherine J. Ades
FOREPERSON

Exhibit - U Verdict Form

SEXUAL ASSAULT EXAMINATION PROTOCOL
STATE OF SOUTH CAROLINA
LAW ENFORCEMENT DIVISION
SOUTH CAROLINA HOSPITAL ASSOCIATION

Haley, Melissa
11023857
241 F W 12/28/72

ADULT VICTIM SEXUAL ASSAULT INFORMATION AND EXAMINATION FORM

Page 1

NOTE

If you should have any questions concerning the use of this kit, please call the Department of Forensic Serology and DNA Analysis, SLED Forensic Services Laboratory, at 896-7300 or after 5 p.m. 737-9000

NAME OF HOSPITAL: Turney Regional Medical Center DATE: 7-19-97 TIME ADMITTED: 0320
NAME OF VICTIM: Melissa Haley DATE OF BIRTH: 12-28-72
SEX: Female RACE: White MARITAL STATUS: Single SSN NO: 951-83-3787
ADDRESS: 60 Tanger Trail TELEPHONE NO: 335-9536
HOSPITAL CASE NO: 11023857 (396730) LAW ENFORCEMENT AGENCY NO: 0430000
LAW ENFORCEMENT OFFICER: INV. D.F. WINGATE BADGE NO: 0273
AGENCY: SUMTER COUNTY SHERIFF DEPARTMENT

BRIEF SUMMARY OF ASSAULT -- (Include Date, Time, Location, i.e. on bed in victim's or suspect's bedroom. Include if possible color of carpet in suspect's home or vehicle, and make/model of the vehicle and its interior/exterior colors.)
On May 15, he raped me 4 times. Start was walking by self when he raped in hallway. He starts covered in dirty, white, and behind me. Starts happened around midnight. He said exactly "Starts he said 'If you scream I will kill you'."

SINCE ALLEGED ASSAULT, HAS VICTIM:

- | | | |
|--|--------------------------------------|--|
| ☐ Douched | ☐ Defecated | ☐ Brushed Teeth |
| ☐ Bathed/Showered | ☐ Vomited | ☐ Used Mouthwash |
| ☐ Urinated | ☐ Drank/Eaten | ☐ Changed Clothes |

DURING ALLEGED ASSAULT:

- Did penis penetrate? ☒ Vulva ☐ Mouth ☐ Anus ☐ No ☐ Not Known
Did assailant experience ejaculation? ☒ Yes ☐ No ☐ Not Known
Did assailant wear condom? ☐ Yes ☒ No ☐ Not Known
During alleged assault did subject state anything to indicate he had any sexually transmitted diseases?
☐ Yes ☒ No If yes, identify _____

WERE ANY MEDICATIONS, SOCIAL DRUGS OR ALCOHOL TAKEN PRIOR TO OR AFTER ALLEGED ASSAULT?

- ☐ Yes ☒ No ☐ Not Known
Type: _____ Amount: _____
Time: _____ Date: _____

WAS ANY COERCION USED? ☒ Knife ☐ Gun ☒ Choke ☒ Fists

- ☒ Verbal Threats ☐ Other If you don't do this I'll kill you

ASSAILANT(S): Number: 1 Age(s): 30 Race: Black

ASSAILANT(S) — RELATIONSHIP TO VICTIM:

- ☒ Stranger ☐ Acquaintance ☐ Friend

☐ Relative (Specify): _____

If Relative, Address of Relative: _____

MEDICAL HISTORY:

- Date of Last Menses: Men's June end of month Normal — ☒ Yes ☐ No
Victim known to be pregnant? ☐ Yes ☒ No ☐ Gravida ☐ Parity
Duration of pregnancy: N/A
Has victim had any past pelvic surgical procedures? ☒ Yes ☐ No
If yes, date and reason: Hysterectomy October 1996
Has victim had sexual relations within the last 7 days? ☒ Yes ☐ No
If yes, date: Tuesday or Wednesday
Condom used? ☐ Yes ☒ No
Other type of contraception used: _____

RE-SSC 7/95

See - Exhibit # 1 - General Examination

GENERAL EXAMINATION

VICTIM'S NAME

DESCRIPTION OF OUTWARD APPEARANCE — (i.e. clothes obtained, torn or glass particles present from broken glass at scene)

Worn 100% cotton t-shirt with front zipper closure, white socks, black shoes

DESCRIPTION OF EMOTIONAL STATE — (i.e. crying, agitated, lethargic, frightened, shocked, depressed, etc.)

Crying, scared, frightened

OUTER CLOTHING, UNDERPANTS AND DEBRIS COLLECTION

- Note
1. Wet or damp clothing should be air dried before packaging.
 2. If victim is not wearing the clothing worn at the time of the alleged assault, collect only the items that are in direct contact with victim's genital area.
 3. If victim changed clothing after assault, inform officer in charge so that the clothing worn at the time of the assault may be collected by the police.
 4. Do not cut through any existing holes, rips or stains in victim's clothing.
 5. Do not shake out victim's clothing or microscopic evidence will be lost.
 6. If additional clothing bags are required, use only new paper (grocery-type) bags.

Unfold and place a clean hospital bed sheet on floor. Remove paper sheet from Debris Collection bag, unfold and place over bed sheet. Instruct victim to stand in center of paper sheet and carefully disrobe. Collect each item of clothing as removed and place in the Outer Clothing bag. Collect victim's underpants and place in Underpants bag. Refold paper sheet on which victim stood in manner to retain any debris present and return to Debris Collection bag. Fill out all information requested on bag labels. Seal Debris Collection bag and place in the Outer Clothing bag, then seal Outer Clothing bag. Seal Underpants bag with a police evidence seal and return bag to kit box. Return bed sheet to hospital laundry.

MISCELLANEOUS MATERIALS — (For comparison with debris found at crime scene or on assailant's body)

Collect any debris found on victim's body (leaves, fibers, hair, etc.) and place in the Miscellaneous Materials envelope. Note location from which miscellaneous material(s) was taken on anatomical drawings on back of envelope. Seal and fill out all information requested on envelope. Leaves in Sevl Bag

KNOWN SALIVA — (For secretor status)

Without touching inner circle with your fingers, remove folded filter paper disk from envelope and place inner circle in victim's mouth. Instruct victim to thoroughly saturate inner circle with saliva. Allow disk to air dry, then return to Saliva Sample envelope. Seal and fill out all information requested on envelope. (Caution: Unless sample is completely air dried, the results of the analysis may be erroneous or inconclusive.)

KNOWN BLOOD STANDARD — (For SLED Toxicology and Serology/DNA)

Using normal hospital/lab procedure and the blood collection tubes provided in this kit, draw samples from the victim immediately after collection, write the victim's name, date and time collected and your initials on the blood tube labels. Return filled blood tubes to the bubble-pack blood tube protector, then place in ziplock bag. Seal bag and fill out all information requested on bag label.

Note: Any blood samples required by the hospital should be drawn using hospital-supplied blood tubes.

FINGERNAIL SCRAPINGS — (Collect only if victim scratched assailant's skin)

Left Hand: Remove folded paper labeled "L" and fingernail scraper provided in Fingernail Scrapings envelope, and unfold and place on flat surface. Hold victim's left hand over paper and scrape under all five fingernails, allowing any debris present to fall onto paper. Place used scraper in center of paper, refold paper to retain debris and scraper, tape closed and return to Fingernail Scrapings envelope.

Right Hand: Follow same procedure for right hand using folded paper labeled "R". Then, seal and fill out all information requested on envelope.

Exhibit - 2 - General Examination

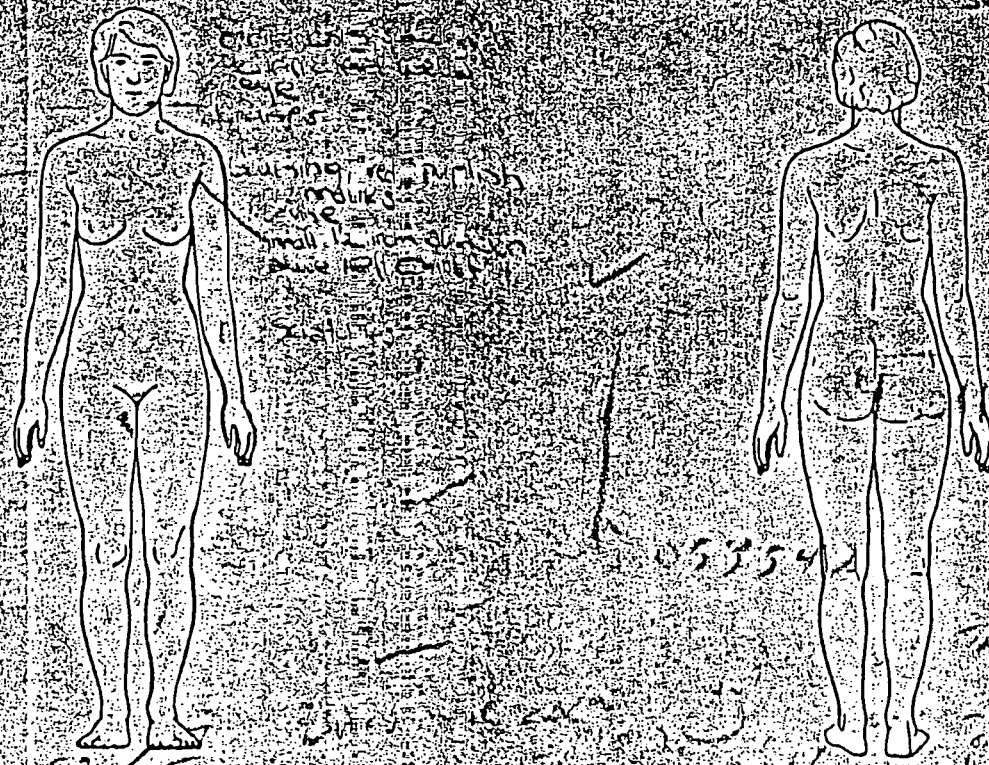
GENERAL EXAMINATION (cont.)

- NA SUSPECTED SEMEN — (It is recommended that a Wood's (UY) lamp be used in the following procedure.)
Examine victim's body for crusts or area(s). If found, moisten swab(s) with a saline solution. Then thoroughly swab the suspected area(s). Allow swab(s) to thoroughly air dry, then return swab(s) to the Suspected Semen envelope. Note location from which sample(s) were taken on the anatomical drawings on back of envelope. Seal and fill out all information requested on envelope.
- NA PUBIC HAIR COMBINGS — (To obtain pubic hair combed by the assailant during the assault)
Remove paper towel and comb provided in Pubic Hair Combing envelope. Place towel under victim's buttocks. Using comb provided, comb pubic hair in downward strokes so that any loose hairs and/or debris will fall onto paper towel. Refold towel in manner to retain both strokes so that any loose hairs and/or debris present. Return to Pubic Hair Combing envelope. Seal and fill out all information requested on envelope.
- NA KNOWN PUBIC HAIRS — (For comparison with hairs found at crime scene or on assailant's body)
Pull, do not cut, 15-20 full-length pubic hairs from various locations and place in Known Pubic Hairs envelope. Seal and fill out all information requested on envelope.
- KNOWN HEAD HAIRS — (For comparison with hairs found at crime scene or on assailant's body)
Remove folded paper bindles from envelope. Pull, do not cut, 3-5 full-length hairs from each of the following scalp locations: center, back, front, left side and right side and place in appropriate paper bindle. Place folded paper bindles in Known Head Hairs envelope. Seal and fill out all information requested on envelope.
- NA BITE MARKS
Using one (1) swab per collection site, moisten swab(s) with a saline solution. Then thoroughly swab the bite mark. Allow swab(s) to thoroughly air dry, then return swabs to envelope. Seal and fill out all information requested on envelope.

PHYSICAL EXAMINATION:

Describe all signs of trauma i.e. bruises, scratches, bites, suck marks or redness on any part of the victim's body.

Indicate location of trauma described above on appropriate anatomical drawing(s).



Photographs taken? ☒ Yes ☐ No Forensic Odontologist consulted? ☐ Yes ☒ No

RE-55C 7/95

Exhibit - #3, General Examination

Exhibit - 4, GENERAL Examination

Exhibit - 4, G.E

100-3859

Page 4

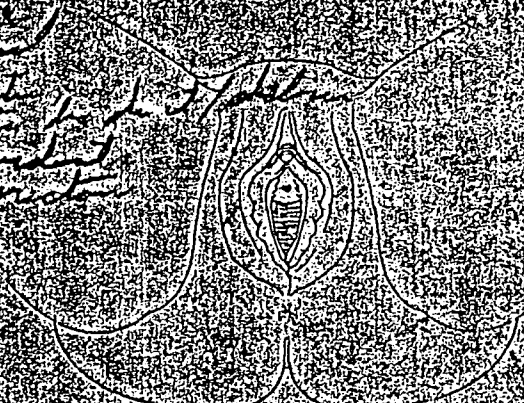
Melissa Hayes

VICTIM'S NAME

PELVIC EXAMINATION — (To be performed by attending physician only.)

(Use a non-lubricated speculum.)

VULVA: Small abrasion / superficial
INTROITUS: Small abrasion / superficial
VAGINA: 1 lesion, clear / with some to pink / fluid evident
CERVIX: Large lesion, 3/4 hysterectomy
UTERUS: NT
ADNEXA: ovaries
HYMEN:
RECTUM: profundus
ANUS: abrasion / lesion
COMMENTS: More pubic abrasion, 6 fibers obtained
evidence of external seminal fluid by Wood
hug



Alfonso Drubak

(Attending Physician's Signature)

7/19/97

Date

0500

Time

SWABS AND SMEARS COLLECTION PROCEDURE

NOTE

- (A) Do Not moisten swabs prior to collection.
- (B) Do Not stain or chemically fix smears.
- (C) It is imperative that swabs and smears be completely air dried before re-packaging in kit box.

- ☐ 1 Slide and 4 air-dried swabs from the vaginal area (including vulva and cervical areas) for semen analysis
- ☐ 1 Slide and 2 air-dried swabs from the rectum for semen analysis (if applicable)
- ☐ 1 Slide and 2 air-dried swabs from the mouth for semen analysis (if applicable)

APPENDIX F-33

LABORATORY TESTS TO BE PERFORMED BY HOSPITAL LAB

Wet mount for presence of

Spermatozoa

Other

☐ Motile

☐ Trichomonas

☐ Non-Motile

☐ Gardnerella

☐ None Seen

☐ Candida

Please perform the following

☐ Pap Smear

☐ Gravindex or HCG

☒ VDRL

☐ GC Culture - Oral

☒ GC Culture - Vaginal

☐ GC Culture - Rectal

☐ Other Culture (i.e. Herpes)

☒ HIV (with victim's consent)

☐ Urinalysis

RE-3SC-7/95

SOUTH CAROLINA LAW ENFORCEMENT DIVISION



DAVID M. BEASLEY
Governor

ROBERT M. STEWART
Chief

Exhibit-Y-1.

Evidence Processing Preliminary Report

August 18, 1997

SLED Lab No: L97-9143

Your Case No: 97058542

Incident Date: 7-19-97

(S) Raymond Magazine

(V) Melissa Hayes

INV KEVIN YOST
SUMTER COUNTY S O
107 E HAMPTON AVE
SUMTER SC 29150

L 97 840

ITEM(S) SUBMITTED

1. One (1) Sexual Assault Kit from victim
 - 1.1 Envelope labeled "Known head hairs"
 - 1.2 Envelope labeled "Known pubic hairs"
 - 1.3 Envelope labeled "Pubic hair combings"
 - 1.13 Envelope labeled "Miscellaneous materials"
 - 1.14 Panties

RESULTS OF EXAMINATION(S)

- 1.1 Head hair standard.
- 1.2 No hair found.
- 1.3 No hair found.
- 1.13 Nothing of evidentiary value found.
- 1.14 Hair and/or fibers were collected.

Hair and/or fibers were collected. No hair comparison can be conducted until submission of suspect(s) standards. This evidence will be retained for 3 months awaiting submission of standards. If standards are not received within this time frame the evidence will be returned.

These examinations were conducted by Forensic Technician Janice S. Bryson in the Trace Evidence Department.


Janice S. Bryson
Forensic Technician

August 21 1997



SB/ksw

An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041

**A CAROLINA LAW ENFORCEMENT DIVISION
FORENSIC SERVICES LABORATORY REPORT**

DAVID M. BEASLEY
GOVERNOR



ROBERT M. STEWART
CHIEF

TOXICOLOGY DEPARTMENT

September 02, 1997
SLED Lab No: L9709143
Your Case No: 97058542
Incident Date: July 19, 1997
(V) Hayes, Melissa
(S) Magazine, Raymond

Kevin Yost
Sumter County Sheriff's Department
107 East Hampton Avenue
Sumter, SC 29150

Exhibit-Y-2.

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case has been or will be conducted by any other Laboratory or agency.

Robert M. Stewart, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Item 1.15: One grey top tube of blood labeled "Hayes, Melissa R."

RESULTS:

Negative blood alcohol found (blood alcohol less than 0.01%).

Forensic Toxicologist

Melissa R. Bennett
Melissa R. Bennett

September 2, 1997
Date Signed

S.C. Law Enforcement Division
Location

Date Completed: 9-2-97

MRE/kha

See Exhibit-Y-2, JULY 19, 1997 Case.

Biological specimens processed for testing which are not consumed during analysis will be maintained for 365 days from the initial log-in date and then destroyed unless otherwise notified.



For *Yipst*

Urgent ☐

Date *01/21/98*

Time *09:10*

While You Were Out

M

Of

Phone

Exhibit B

AREA CODE

NUMBER

EXTENSION

Telephoned ☐

Please Call ☐

Came To See You ☐

Will Call Again ☐

Returned Your Call ☐

Wants To See You ☐

Message

Ref. 97058542

See slide report 3/1/98

DLA matches on

Reynold Magazine on

Signed

William H. H. H. H.

9711

ADAMS BUSINESS FORMS

EVIDENCE/PROPERTY CHAIN OF CUSTODY RECEIPT

Sumter County Sheriff's Department

(SUSPECT/VICTIM)

Name: MELISSA HAYES

Received from: JACQUELINE CROSKY Phone: 778 8824

Address: THOMAS RUC EMERGENCY ROOM

Offense: SEXUAL ASSAULT Case No.: 97058542

Date/Time Received: 7-19-97 10540 Officer: WINGATE

(DESCRIPTION OF EVIDENCE/PROPERTY)

ITEM 1) ADULT SEXUAL ASSAULT KIT

ITEM 2) OUTER CLOTHING BAG

Exhibit - B-2, July 19, 1997 Case.

(EVIDENCE/PROPERTY CUSTODIAN)

Received from: Patrol Refridge

Date/Time: 07/21/97 08:35 Storage Bin No.: REFRIDGE B-2

Signature:

97815

Property No:

Melissa B. Brady

Evidence/Property Custodian

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

DAVID M. BEASLEY
GOVERNOR



ROBERT M. STEWART
CHIEF

INV KEVIN T YOST
SUMTER COUNTY SO
107 E HAMPTON AVE
SUMTER, SC 29150

Department of Forensic
Serology and DNA Analysis
March 4, 1998
SLED Lab No.: L97-9143
Your Case No.: 97058542
Incident Date: 7/19/97
(V) Melissa Hayes
(S) Raymond Magazine

Exhibit - Z - 1

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case has been or will be conducted by any other Laboratory or agency.

Robert M. Stewart, Chief
South Carolina Law Enforcement Division

ITEM(S) SUBMITTED:

RESULTS OF EXAMINATIONS:

1.	Sexual Assault Evidence Collection Kit from Melissa Hayes		
1.4	Blood	1.4	See DNA results.
1.5	Saliva	1.5	No analysis performed.
1.6	Smears	1.6	No analysis performed.
1.7	Vaginal swabs	1.7	Semen identified. See DNA results.
1.8	Oral swabs	1.8	No semen detected.
1.11	Fingernail scrapings	1.11	No blood detected.
1.14	Panties	1.14	Semen identified. See DNA results.

Submitted under SLED case #L97-840



March 4, 1998

SEE - Exhibit - Z-2.

ITEM(S) SUBMITTED:

RESULTS OF EXAMINATIONS:

2.4	Blood standard from Raymond Magazine	2.4	See DNA results.
-----	---	-----	------------------

DNA ANALYSIS:

ANALYZED EVIDENCE

1.4	Blood standard from Melissa Hayes
1.7	Vaginal swabs
1.14.1	Cutting from panties
2.4	Blood standard from Raymond Magazine (submitted under SLED case #L97-840)

RESULTS

Deoxyribonucleic acid (DNA) profiles were developed from HAE III digested high molecular weight DNA extracted from items 1.4, 1.7, 1.14.1 and 2.4.

The DNA profile of item 2.4 (Raymond Magazine) matches that of the DNA extracted from the semen from items 1.7 and 1.14.1 at genetic loci D2S44, D4S139, D10S28, D1S7, D17S79, D5S110 and D7S467. The probability of selecting an unrelated individual at random from the population having a DNA profile matching item 2.4 is approximately 1 in 1.3 trillion Blacks and 280 billion Caucasians.

SEE - Exhibit - Z-2.

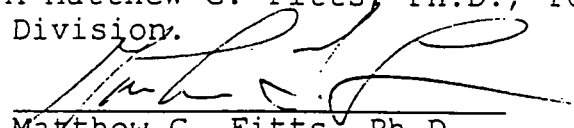


Page 3 of 3

SLED LAB NO.: L97-9143

March 4, 1998

These examinations were conducted by S/A Matthew G. Fitts, Ph.D., Forensic Analyst, South Carolina Law Enforcement Division.


Matthew G. Fitts, Ph.D.
Special Agent

3-5-98
Date

bjw

cc: Sumter County Solicitor's Office

Note: Known blood standards from each individual submitted in this case have been preserved as dried specimens. The vial label has been removed and will be retained with the dried specimen.

Exhibit-Z-3.

SEE JULY 19, 1997 Case.



Exhibit-97-154 JMD

SOUTH CAROLINA LAW ENFORCEMENT DIVISION
FORENSIC SERVICES LABORATORY REPORT

DAVID M. BEASLEY
GOVERNOR



ROBERT M. STEWART
CHIEF

INV TOMMY BARRON
SUMTER COUNTY SD
107 E HAMPTON AVE
SUMTER, SC 29150

Department of Forensic
Serology and DNA Analysis
August 25, 1997
SLED Lab No.: L97-0840
Your Case No.: 96081221
Incident Date: 10/27/96
(V) Cathrine Charlton
(S) Raymond Magazine

Exhibit-#97-154.(A).

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case has been or will be conducted by any other Laboratory or agency.

Robert M. Stewart, Chief
South Carolina Law Enforcement Division

ITEM(S) SUBMITTED:

RESULTS OF EXAMINATIONS:

1. Sexual Assault Evidence
Collection Kit from
Cathrine Charlton

Exhibit-97-154

1.4 Blood

1.4 No serological analysis
performed.

1.5 Saliva

1.5 No analysis performed.

1.6 Smears

1.6 Spermatozoa identified.

1.7 Vaginal swabs

1.7 Semen identified.

1.10 Suspected semen

1.10 No semen detected.

1.11 Fingernail scrapings

1.11 No blood detected.

1.12 Bite mark

1.12 Sample too limited in amount
for conclusive ABO typing.

1.14 Long johns

1.14 Semen identified.

2. Suspect Evidence
Collection Kit from



November 27, 1996.



Case

- 24 -

EXHIBIT - #97-154 - (B)

Page 2 of 2

SLED LAB NO.: L97-0840

August 25, 1997

ITEM(S) SUBMITTED:

RESULTS OF EXAMINATIONS:

Raymond Magazine

2.4 Blood

2.4 No serological analysis performed.

2.5 Saliva

2.5 No analysis performed.

This case has been submitted for DNA analysis.

These examinations were conducted by S/A Robin A. Taylor, Forensic Analyst, South Carolina Law Enforcement Division.

Robin A. Taylor
Robin A. Taylor
Special Agent

August 26, 1997
Date

bjw

cc: Sumter County Solicitor's Office

SEE, Exhibit - #97-154(B), November 27, 1996 Case.

Note: Known blood standards from each individual submitted in this case have been preserved as dried specimens. The vial label has been removed and will be retained with the dried specimen.

EXHIBIT - #97-154 - (B)



JUDGMENT

FILED: February 16, 2007

UNITED STATES COURT OF APPEALS

for the
Fourth Circuit

No. 06-7818
8:05-cv-02067-TLW

RAYMOND MAGAZINE

Petitioner - Appellant

v.

WILLIAM WHITE, Warden; HENRY MCMASTER, Attorney General

Respondents - Appellees

Appeal from the United States District Court for the
District of South Carolina at Anderson

In accordance with the written opinion of this Court filed
this day, the Court denies a certificate of appealability and
dismisses the appeal.

A certified copy of this judgment will be provided to the
District Court upon issuance of the mandate. The judgment will
take effect upon issuance of the mandate.

APPENDIX - A

/s/ Patricia S. Connor

CLERK

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7818

RAYMOND MAGAZINE,

Petitioner - Appellant,

versus

WILLIAM WHITE, Warden; HENRY MCMASTER,
Attorney General,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Anderson. Terry L. Wooten, District Judge.
(8:05-cv-02067-TLW)

Submitted: February 7, 2007

Decided: February 16, 2007

Before WILLIAMS, MICHAEL, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Raymond Magazine, Appellant Pro Se. Samuel Creighton Waters,
OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

APPENDIX - A-1,

LEE, ERTER, WILSON, JAMES, HOLLER & SMITH, L.L.C.
Attorneys at Law
P.O. Box 580
21 N. Harvin Street
Sumter, S.C. 29151

First Case Files

MO174

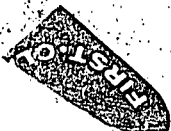
RECEIVED
MAR 01 2002

MAIL ROOM
BRCI

LEGAL MAIL
Raymond Magazine, Inmate #254723
Broad River Correctional Institute
4460 Broad River Rd.
Monticello Unit #175
Columbia, S.C. 29202



SEE, Exhibit - N, NOVEMBER 27, 1996 - File ENVELOPE



Sumter, S.C. 29151

SECOND CASE FILE

RECEIVED

MAR 14 2002
MAIL ROOM
BRCI

"ENVELOPE"

Columbia, S.C. 29210

Bull.Bull.Landfill

SEE, Exhibit-N- July 19, 1997. Case FILE 1112

(EXHIBIT A-1)

5-5-99
Raymond Magazine #254723
B.R.C.I. Monticello-Cell-176
4460 Broad River Road
Columbia, SC 29210

Mr. Charles T, Brooks III
Public Defender Lawyers
201 North Main Street
Sumter, SC 29150

Dear Mr. Brooks:

I was tried in the Sumter County Court House on the following date:

Beginning Date of Trial, 12,2,98
Case # 98-GS-43-745.

Sir, I'll appreciate it extremely, if you'll send to me at the above given address, the arrest warrant, and all other documents and information concerning or relating to the given case # Because I'd never received no warrent for the carge of kidnapping assault, battery with intent to kill, and I'm requesting those warrants. I'm enclosessing a stamped envelopes for you to mail thoses arrest warrant to me.

Your earliest acknowledgement of my requesting is needed and apprecritive of you.

EXHIBIT

(Exhibit - A-1)

Raymond Magazine SCDC# 254723.

(Exhibit A-1)

5-5-99
Raymond Magazine # 254723
B.A.C.I. Monticello-Cell-176
4460 Broad River Road
Columbia, SC 29210

MR. CHARLES T. BROOKS III
Public Defender Lawyers
201 North Main Street
Sumter, SC 29150

DEAR MR. BROOKS :

I WAS TRIED in the Sumter County Court house on the following
DATE:

BEGING DATE OF TRIAL, 12, 2, 98
CASE # 98-GS-43-745-

SIR, I'LL APPRECIATE IT EXTREMELY, IF YOU'LL SEND TO ME AT
THE ABOVE GIVEN ADDRESS, THE ARREST WARRANT, AND ALL OTHER
DOCUMENT AND INFORMATION CONCERNING OR RELATING TO THE GIVING CASE
#. BECAUSE I'D NEVER RECEIVED - NO WARRANT FOR THE CHARGE OF
KIDNAPPING, ASSAULT + BATTERY WITH INTENT TO KILL, AND I'M
REQUESTING THOSE WARRANT, I'M ENCLOSESING A STAMPED
ENVELOPES FOR YOU, TO MAIL THOSE ARREST WARRANT TO ME.
YOUR EARLIEST ACKNOWLEDGEMENT OF MY REQUESTING IS NEEDED AND
APPRECIATIVE OF YOU.

Raymond Magazine ^{SDC#} 254723.

Exhibit - A-1.

(Exhibit "A-2")

Sumter County
Clerk of Court



O. V. Player, Jr.
Clerk of Court

Sumter County Courthouse
141 N. Main St.
Sumter, South Carolina 29150

Phone: 803-436-2227
FAX: 803-436-2223

Raymond Magazine #254723
BRCI - Monticello Unit (175)
4460 Broad River Road
Columbia, S. C. 29210

Re: Indictment # 98-GS-43-745

Dear Sir:

This office is in receipt of your letter dated November 1, 1999, requesting information on the above referenced case. I have enclosed certified true copies of your file. However, the only information concerning the Preliminary Hearing is evidenced on the copy of the arrest warrant. I have highlighted this in yellow. There is no such thing as a separate document containing the attorney waiving the hearing. It is just simply noted on the warrant by the Magistrate. In this case, this was Judge Mary K. Herbert. I have also enclosed PCR forms for your use. However, my understanding of the process is that you can not initiate a PCR until your appeal process is complete.

Sincerely,

O. V. Player, Jr.
Clerk of Court
November 5, 1999

OVP/gg

(Exhibit "A-2")

Debbie Mathis
Chief Deputy
436-2232

Common Pleas
436-2228
436-2231

Jury
Information
436-2233

Fines and
Resitution
436-2230

General Sessions
436-2265
436-2264

ARREST WARRANT

F- 562755

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

SUMTER

THE STATE

against

RAYMOND MAGAZINE

Address: RTB Box 277 I Hwy 15-N
SUMTER SCPhone: 704-291-1000 SSN: [REDACTED]Sex: M Race: B Height: 5'10" Weight: 190DL State: SC DL #: 60445T 657DOB: 07/14/56 Agency ORI # SC0430000Prosecuting Agency: 00Prosecuting Officer: 0007Offense: CRIMINAL SEXUAL CONDUCT
1ST DEGREE Offense Code: 16-3-652Code/Ordinance Sec. 16-3-652This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant RAYMOND MAGAZINE
on 1-29-98

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO

Sal 26-98/Bond Denied
Exhibit-A-3

EXHIBIT - A-3

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

SUMTER

Personally appeared before me the affiant INV K T YOSTbeing duly sworn deposes and says that defendant RAYMOND MAGAZINEdid within this County and State on 07/19/97 violate the criminal laws of theState of South Carolina (or ordinance of ☒ County/ ☐ Municipality of SUMTER)

in the following particulars:

1993 FEB 08 15 PM 1 05 IDENT H 97050542

CRIMINAL SEXUAL CONDUCT (1ST DEGREE) (16-3-652)

O. V. Pinner, State of South Carolina, Probable cause to believe that the defendant named above did commit
CLEARLY, CRIMINAL CONDUCT AND WHAT PROBABLE CAUSE IS BASED ON THE FOLLOWING FACTS:

SUMTER COUNTY, SUMTER COUNTY, SC

THAT THE DEFENDANT DID COMMIT THE ABOVE STATED OFFENSE IN THAT HE DID VIOLENTLY AND FELONIOUSLY
ASSAULT ONE, MELISSA HAYES, IN THAT HE DID USE EXCESSIVE FORCE WHILE ARMED WITH A KNIFE FORCED
SEXUAL INTERCOURSE UPON THE VICTIM ALL THE WHILE BEING AGAINST HER WILL. SAID OFFENSE HAVING
OCCURRED AT/ON HWY 15 NORTH BETWEEN DELUXE MOTEL AND WHITES ONE STOP IN THE COUNTY OF SUMTER, STATE
OF SC.PROBABLE CAUSE: DNA TEST MATCHED SUSPECT'S SAMPLES WITH THAT OF THE SAMPLES THAT WAS GAINED THROUGH
THE RAPE KIT OF THE VICTIM.

Sworn to and subscribed before me

on 1-22-98

Signature of Issuing Judge

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

SUMTER

ARREST WARRANT

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 07/19/97 defendant RAYMOND MAGAZINE
did violate the criminal laws of the State of South Carolina (or ordinance of☒ County/ ☐ Municipality of SUMTER) as set forth below:

DESCRIPTION OF OFFENSE:

CRIMINAL SEXUAL CONDUCT (1ST DEGREE) (16-3-652)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.Judge's Address 115 N MARVIN ST/PO BOX 1374SUMTER, SC 29151

Signature of Issuing Judge

Judge Code: 024Judge's Telephone 803-436-2200Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

P. H.

AFFIDAVIT

DECISION:

Form Approved by
S.C. Appellate General
July 28, 1990
SPA 518JUDGE'S SIGNATURE WaverCERTIFIED TRUE COPY
OF ORIGINAL FILE

Signature of Affiant

Affiant's Address INV K T YOST/107 E HAMPTON ST
SUMTER, SC 29150 CLERK OF COURT
SUMTER COUNTYAffiant's Telephone 723-1561 CERTIFIED TRUE COPY
OF ORIGINAL FILED

ORIGINAL

SEE APP-PG-# 400, JULY 19, 1997.

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SUMTER) FOR THE THIRD JUDICIAL CIRCUIT
RECORDED Case Number: 98-GS-43-745

STATE OF SOUTH CAROLINA) SEP 8 PM 2 15

Plaintiff,)
-vs-) CLERK OF COURT
SUMTER COUNTY)
(CHANGE OF VENUE FOR
JURY SELECTION)

Raymond Magazine)

Defendant.)

COME NOW THE DEFENDANT by and through his undersigned counsel who would respectfully request that an unbiased jury be selected in accordance with South Carolina Code of Laws 1976 (as amended) Section 17-21-85 (Jury selected from another county).

STATEMENTS OF FACTS

The Defendant is accused of raping a woman on July 17, 1997. The police matched the semen taken from the victim to that of the Defendant. However, they had acquired the Defendant's DNA sample from a prior incident for which the Defendant has not been convicted. Judge Thomas Cooper ruled that the prosecution would have to establish the chain of custody concerning the Defendant's DNA sample without mentioning the dates and times that the police had acquired the sample.

The trial took place on August 3-6, 1998, and ended in a mistrial. The Item newspaper reported the trial and the conclusion on August 7, 1998, (see attached) In this article, it reports the information about the police acquiring the Defendant's DNA from a prior investigation. This is and was the very information that Judge Cooper ruled to be inadmissible. The Solicitor's office has indicated that it intends to proceed with another trial against the Defendant.

The information that Judge Cooper ruled inadmissible because of its prejudicial nature has been exposed to the potential jurors of Sumter county and the Third Judicial Circuit. This exposure will prevent the Defendant from having a fair and impartial jury.

STATEMENT OF LAW

The right of trial by jury shall be preserved inviolate. Any person charge with an offense shall enjoy the right to a speedy and public trial by an impartial jury...

APP-PG-# 400, CASE JULY 19, 1997.

- 400 -

SEE Exhibit - #98-Discovery

DISCOVERY RESPONSE BY THE OFFICE OF THE ATTORNEY GENERAL

On 6-28-98 the State provided the following described
SCRCrimP Rule 5 and/or Brady Material to Defense Attorney Charles Brooks
in the case of State v. Raymond magazine
indictment number To be indicted:

Statements of Defendant (written, recorded, or oral):

oral statement of Defendant 2/3/98 reduced to writing

Defendant's Prior Record:

local

NCIC

Documents and Tangible Objects:

incident Report 2 pages
indictment

Reports of Examinations and Tests:

Std Report L97-9143 3 pages 8-4-98
Std Report L97-9143 1 page 8-18-97
" " 1 page 9-2-97

Other:

State's Rule 5 Response

photo ID lineup 1 page

Warner of extradition 5 pages

Envelope

Std Forensic sciences Request & lab sheet 2 pages

wanted sheet 1 page

Telephone message

Evidence chain of custody

Sexual Assault Examination (clearest copy I've got) 6p.

Arrest Report

photos available at law enforcement

This response is additional and supplementary to the permission granted previously by the State immediately upon being served with the defendant's discovery request. A duplicate copy is attached hereto and the State's request for discovery from the defendant as set forth in Part II is renewed.

Compiled by Jenel M. Donke Attorney General's Office

Received by Charles T. Brooks 6/30/98

See - Discovery

Exhibit - #98; AND #98-1.

AND

Exhibit - #26-2.

Exhibit-#98-1-Discovery

- (1) ON 07/19/97, I WAS CALLED OUT ON THIS CASE. I TALKED WITH VICTIM AND SHE COULD NOT GIVE ME MUCH OF A DESCRIPTION. SHE SAID THAT THE SUSPECT LAID SHEETS ON THE GROUND BEHIND THE DELUXE MOTEL. WE CHECKED AND WAS UNABLE TO FIND ANYTHING. A CSC KIT WAS DONE.
- (2) ON 07/21/97, I CALLED WELCH (BOYFRIEND) AND HE IS UPSET. THE VICTIM AND WELCH IS COMING IN TO SEE ME. I GOT WRITTEN STATEMENTS FROM BOTH OF THEM SAYING WHAT OCCURRED. THE VICTIM SAID THAT SHE COULD SHOW ME WHERE THIS RAPE OCCURRED. INV. TURNER AND I WENT TO THE SCENES WITH THE VICTIM. THE DITCH LOOKED LIKE NOTHING OCCURRED, BUT IT WAS TRASHED UP. THE WOODS IS AT THE POLICE CLUB HOUSE. I SAW OLD SHOE PRINTS THAT WERE THERE FOR SOME TIME. SHE ALSO SHOWED US WHERE BEHIND THE MOTEL WHICH NOTHING WAS THERE TO GET TO THE WOODS AREA NEAR THE POLICE CLUB HOUSE. THE SUSPECT WALKED THROUGH A YARD THAT RAYMOND MAGAZINE LIVES AT OVER A FENCE TO THE POND. MAGAZINE WAS ARRESTED AT THIS HOUSE BEFORE.
- (3) ON 07/23/97, I GOT SIX PHOTOS FROM THE JAIL, ONE OF MAGAZINE. THE VICTIM SAID THAT SHE WILL COME TO THE LEC TO LOOK AT A LINE UP TODAY. A SIX PHOTO LINE UP WAS MADE. MAGAZINE IS #2. I WENT TO THE DELUXE MOTEL TO SEE IF ANY OF THE MANAGERS/OWNER SAW ANYTHING ON THE NIGHT OF THIS CASE AND I WAS TOLD NO. THE VICTIM CAME TO THE LEC AND SHE PICKED #2 WHICH IS MAGAZINE, BUT SHE SAID THAT SHE IS NOT FOR SURE UNTIL SHE CAN SEE HIM FACE TO FACE. THE SLED FORMS WERE DONE. THE RAPE KIT WILL BE COMPARED TO RAYMOND MAGAZINE'S KIT THAT IS AT SLED FROM AN EARLIER CASE.
- (4) ON 08/08/97, I CALLED SLED. THEY ARE TRYING TO COMPARE THE KITS ASAP.
- (5) ON 09/16/97, I CALLED THE VICTIM TO LET HER KNOW ABOUT THE UPDATE, BUT HER NUMBER IS OUT OF SERVICE.
- (6) AS OF 01/13/98, I HAVE NO LEADS BACK FROM SLED, NOR DO I KNOW WHERE TO CONTACT THE VICTIM.
- (7) THIS CASE IS ADMIN CLOSED UNTIL FURTHER INFORMATION CAN BE DEVELOPED.
- (8) ON 01/21/98, I FOUND OUT THAT THE DNA SAMPLE (RAPE KIT), MATCHED THE SUSPECT, RAYMOND MAGAZINE PER SLED AGENT FITTS.
- (9) ON 01/23/98, I SIGNED THE WARRANT FOR CSC 1ST ON MAGAZINE. I WENT TO THE VICTIM'S ADDRESS BUT NO ONE WAS AT HOME. I LEFT A CARD ON BOTH DOORS. I TRIED TO SERVE THE WARRANT AT SUSPECT'S HOUSE, WHICH IS NEAR THE OLD POLICE CLUB HOUSE ON HWY 15 NORTH, NO LUCK.
- (10) ON 01/27/98, I WAS TOLD BY SPD OFFICER DUGGIN (PSI) THAT MAGAZINE IS WORKING IN JACKSONVILLE NC STAYING AT THE TRANGIAL MOTOR INN. I CALLED THE PD OFFICE AND ASKED IF AN OFFICER COULD CHECK THIS OUT FOR ME. (MAGAZINE WAS IN NCIC). AFTER 1900 I WAS ADVISED THAT HE WAS ARRESTED AND PUT IN ONSLOW COUNTY JAIL. PHONE 910-455-1472, JAIL NUMBERS ARE 455-0829 AND 455-1472.

EXHIBIT - # 26.-2.

-26-

DISCOVERY RESPONSE BY THE OFFICE OF THE ATTORNEY GENERAL

On 6-28-98 the State provided the following described
SCRCrimP Rule 5 and/or Brady Material to Defense Attorney Charles Brooks
in the case of State v. Raymond Magazine,
indictment number 97-154:

Statements of Defendant (written, recorded, or oral):

Waiver of Rts 1 page 11-30-96

Defendant's Prior Record:

NCIC

Documents and Tangible Objects:

Indictment

Incident Report 1 page

Reports of Examinations and Tests:

Sled Report L97-0840 2 pages

Other:

Consent to Give Samples 1 page 10-27-96

State's Rule 3 Response

Possible photos available at Law Enforcement

This response is additional and supplementary to the permission granted previously by the State immediately upon being served with the defendant's discovery request. A duplicate copy is attached hereto and the State's request for discovery from the defendant as set forth in Part II is renewed.

Compiled by Jenel M Donke Attorney General's Office

Received by Charles E Brooks 6/30/98

EXHIBIT - # 26.-2.

TUOMEY REGIONAL MEDICAL CENTER
129 NORTH WASHINGTON STREET
SUMTER, S.C. 29150

Exhibit - W-1

PAGE1

~~AYES, MELISSA R~~

376730

EDWARD ALLAN JONES GRIMBALL, MD

EMERGENCY ROOM NOTE

DATE OF ADMISSION: 07/19/97

TIME SEEN:

CHIEF COMPLAINT: Status post assault.

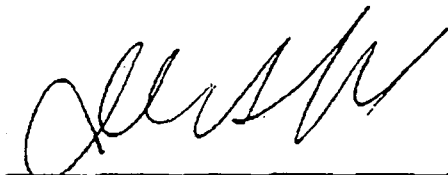
HISTORY OF CHIEF COMPLAINT: 24 year old caucasian female, allegedly raped in the early am. The patient presents now for evaluation.

The patient is evaluated with SLED rape kit. Pelvic examination is performed. The patient has a shaved mons pubis, no fibers are obtained. There appears to be dirt in THE introitus. There are no gross full lacerations to the vulva or to the vagina. The patient is status post hysterectomy. There is a clear fluid in the vaginal vault. This was obtained for DNA and wet prep. Bimanual examination shows no gross abnormalities. Lamp examination shows no gross external evidence of seminal fluid. The patient has multiple contusions and abrasions which are documented by police officials.

The rectal area shows no gross evidence of abrasions or lesions.

IMPRESSION: Status post assault, rape kit is performed.

PLAN: Rocephin 500 mg IM x 1 and Doxycycline 100 b.i.d. x 14 days was given to the patient for prevention of possible venereal disease. Lamps for HIV, VDRL are obtained. Further labs are pending. The patient is to follow up with primary MD in two days.



EDWARD ALLAN JONES GRIMBALL, MD

DICT: 07/19/97 0509
TRANS: 07/19/97 1021

LST

[#]
Exhibit - W-1;2,

AND

Exhibit - #5, - G.E

AND

Exhibit - H-#2;3.

APCC, DTV

F-33,

Exhibit - W-1 - General Examination

PATIENT: HAYES, MELISSA R	ACCT #: 11023857	LOC: ER	U #: 376730
REG DR: UNKNOWN	AGE/SX: 24/F	ROOM:	REG: 07/19/97
	STATUS: REG ER	BED:	DIS:

SPEC #: 0719:H00056U COLL: 07/19/97-0440 STATUS: COMP REQ #: 00722810
RECD: 07/19/97-0554 SUBM DR: GRIMBALL, EDWARD ALLAN JONES

ENTERED: 07/19/97-0542

OTHER DR: UNKNOWN

ORDERED: WET PREP

COMMENTS: Is Patient for surgery in AM: N
COMMENT: N

Test	Result	Flag	Reference
WET PREP	EPITHELIAL CELLS 10-12 HPF WBC 2-5 HPF RBC 1-2 HPF BACTERIA 1+ TRICHAMONAS NONE YEAST NONE		NEGATIVE

Exhibit - W-2.

SEE Exhibit-W-2, July 19, 1996 Case.

** END OF REPORT **

Tuomey Regional Medical Center
129 N. Washington Street
Sumter, S.C. 29150

RUN DATE: 07/19/97
RUN TIME: 2215

TUR NPR LAB **LIVE**
Summary Location Report

PAGE 3

LOCATION
EMERGENCY ROOM

Patient: HAYES, MELISSA R

#11023857

(Continued)

Microbiology Specimen Summary

Col	Date	Time	Specimen #	Source	Sp Desc	P/F	Organisms ...
07/19/97	0440	97	M0006155U	GENITAL		P	<none>

Source: GENITAL

Exhibit - H-2

GC CULTURE

PENDING

Pending List

87:M0006155U RECD: 07/19/97-0440 Recd: 07/19/97-0554 (R#00722811) GRIMBALL, EDWARD ALLAN
Ordered: GC CULTURE
Pending: GC CULTURE

SEE - Exhibit - H-2.

LABORATORY REPORT

7-196
REPRINT

COPY FROM TUOMEY HOSPITAL

307

17582 AREA/ROUTE/STOP: 0005400
TUOMEY HOSPITAL
ACCOUNTS PAYABLE
129 N WASHINGTON ST
SUMTER, SC 29150

SB SmithKline Beecham
Clinical Laboratories

MICROFILM# 07219794979

PATIENT NAME HAYES, MELISSA R		PATIENT ID 376730		ROOM NO. ER	AGE 24	SEX F	PHYSICIAN GRIMBALL, EDWARD A.	
PAGE 1	REQUISITION NO. 1613200	ACCESSION NO. AT000544V	LAB REF. # 11023857	COLLECTION DATE & TIME 07/19/97 04:40		LOG-IN DATE 07/19/97	REPORT DATE 07/22/97	TIME 5:39PM

REMARKS

REFRIGERATED SPECIMEN

SS#: [REDACTED]

CHART COPYEASTERN
TIME

REPORT STATUS	TEST	RESULT	UNITS	REFERENCE RANGE	SIT
FINAL		IN RANGE OUT OF RANGE			CO

CULTURE, CHLAMYDIA
TRACHOMATIS

SOURCE:

GENITAL

RESULT:

NONE DETECTED

>> END OF REPORT <<

EXHIBIT - H-3SEE - Exhibit - H-3

Tugmeyer Regional Medical Center
129 N. Washington Street
Sumter, S.C. 29150

RUN DATE: 07/19/97
RUN TIME: 2316

TUR NPR LAB **LIVE**
Summary Location Report

PAGE 1

LOCATION
EMERGENCY ROOM

Name: HAYES, MELISSA R Age/Sex: 24/F Attend Dr: GRIMBALL, EDWARD ALLAN J
Acct#: 11023857 Unit#: 376730 Status: DEP ER Location: ER
Reg: 07/19/97 Disch:

****HEMATOLOGY****

Day	1		
Date	JUL 19		
Time	0440	Reference	Units
=> WET PREP	(a)	(NEGATIVE)	

MISCELLANEOUS TESTS

Day	1		
Date	JUL 19		
Time	0440	Reference	Units
=> RPR	(b)	(NON REACTIVE)	

NOTES: (a) EPITHELIAL CELLS 10-12 HPF
WBC 2-5 HPF
RBC 1-2 HPF
BACTERIA 1+
TRICHOMONAS NONE
YEAST NONE
(b) NON-REACTIVE

See Exhibit-5, General Examination.

July 19, 1997

Hay Regional Medical Center

11023857

376730

Initial Triage

Patient's Name

HAYES, MELISSA R

24 F W 12/28/72

of Birth

Date 7-19-97 Time 0320

Chief Complaint "I was raped"

Assessment Obvious ecchymosis to neck, chest area. Crying. Police detective in room.

Tearful, anxious - crying. states occurred "probably around 12" (midnight). Swelling

Means of arrival: ☐ Ambulatory ☒ Wheelchair ☐ Carried ☐ Stretcher

Accompanied By: ☐ Spouse ☐ Parents ☐ Alone ☐ Other

Mental Status: ☒ Alert/Oriented ☐ Anxious ☐ Confused ☐ Cooperative ☐ Lethargic

ASA: ☒ Yes ☐ No

Care prior to arrival EMS

Hx of S/S of TB NO Precautions taken: Tissues Mask Isol Inst

LMP end of June Weight 105 Last Tetanus 1992 Immunization History

Medications NO

Allergies (Food and/or drug) "NO"

*Latex (Rubber) ☐ Yes ☒ No Food/Bananas ☐ Yes ☒ No Chestnuts ☐ Yes ☒ No*Avocados ☐ Yes ☒ No Post Dental Procedures ☐ Yes ☒ No Poinsettias ☐ Yes ☒ No

*Any positive response will require further evaluation

Past Medical History: Hypertension Diabetes Heart Disease Seizures Other

Vital Signs: B/P 130/78 Temperature 98 Pulse 110 Respirations 20

Nursing Diagnosis

☐ Pain related to unknown etiology evidenced by chief complaint☒ Pain related to mechanical/chemical/thermal trauma evidenced by chief complaint

PAIN SCALE 0-1-2-3-4-5

☐ Health seeking behavior related to desire for evaluation, or need for follow-up as evidenced by chief complaint☐ Impaired skin integrity related to mechanical/thermal trauma evidenced by chief complaint☒ Ineffective individual/family coping related to life stresses as evidenced by chief complaint☐ Hyperthermia as evidenced by chief complaint☐ Altered respiratory function as evidenced by chief complaint☐ Altered tissue Perfusion Specify: Cerebral, peripheral Cardiopulmonary☐ Other

Exhibit - 6

To FHC/TMP

Time

Nurses Signature Jacqueline Crookley, RN

Date & Time	Focus	Data/Action/Response	Progress Notes
		Below left eye around cheek. Bruise to left jaw chin. Bruising/redish/purplish areas c	
		abrasions noted around neck and to chest. No deformities, obvious fractures noted	
		Explained rape kit to pt. Consent signed	
0325		Police detective interviewing pt	PC

Legend of Signatures

Exhibit - #6.

JAC JC Crookley, RN

11023857
 HAYES, MELISSA R
 24 F W

376700

12/28/72

Exhibit-7²

Date _____

Date & Time	Focus	Data/Action/Response	Progress Notes
0330		Rape - / Sexual Assault Kit begin.	
		Pictures taken by detective & pt's permission ——— JPC	
0400		Police exams done by Dr. Shunball. 1x while a sperm noted under UV waves lamp. Cultures collected ——— JPC	
0430		Blood drawn. Emotional support given — JPC	
0500		Detective in (Wingate) to interview one & take pictures & pt's permission - oriented.	
0540		Examination finished. Reception 50mg! given. Bloodwork & drug info explained.	
0600		Attempting to locate significant other via phone & no answer. Police called & escort pt home. Nausea meds given and scrub suits given to Airtel.	
		Emotional support offered. Dist of census cards given. Rx given for antibiotic & info explained. Pt more calm, fearful answers about transmission of sexual	

Legend of Signatures

JPC Crowley, RN Exhibit - #7.

Patient's Name HAYES, MELISSA R. REG ER
11023857 07/19/97

HAYES, MELISSA R
11023857

Exhibit - # 8.

Date 7-14-92

[illegible]

Exhibit - 8.

Legend of Signatures

JPC Jcrokey, 2d

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Raymond Magazine, Respondent,

v.

State of South Carolina, Petitioner.

ON WRIT OF CERTIORARI

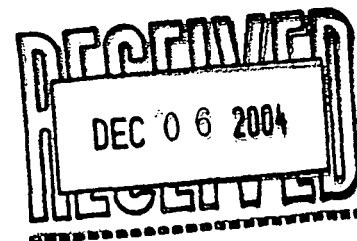
Appeal from Sumter County
Thomas W. Cooper, Jr., Circuit Court Judge
Howard P. King, Post-Conviction Relief Judge

Opinion No. 25908
Submitted September 23, 2004 – Filed December 6, 2004

REVERSED

Attorney General Henry D. McMaster, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley W. Elliott, and Assistant Attorney General Elizabeth R. McMahon, all of Columbia, for Petitioner.

Assistant Appellate Defender Robert M. Pachak, of S.C. Office of Appellate Defense, of Columbia, for Respondent.



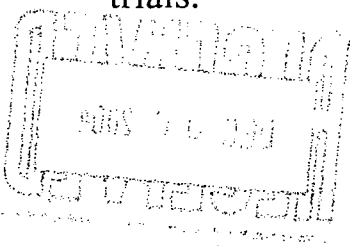
CHIEF JUSTICE TOAL: Respondent Raymond Magazine was arrested for criminal sexual conduct in the first degree (CSC). He was indicted on charges of kidnapping, attempted murder, assault and battery with intent to kill, CSC, and possession of a weapon. The post-conviction relief (PCR) judge granted a new trial after finding that Respondent was not personally served with a copy of the indictment and that counsel was ineffective for (1) failing to intelligently evaluate each juror during jury selection and (2) failing to request a charge on assault and battery of a high and aggravated nature (ABHAN) as a lesser-included offense of CSC. After granting State's petition for certiorari, we reverse.

FACTUAL/PROCEDURAL BACKGROUND

Late one night, the victim was walking along Highway 15 in Sumter after a fight with her boyfriend. She and her boyfriend were on their way to Lee County; he pulled the car over; she got out; and after she refused to get back into the car, he drove away. The victim testified that Respondent appeared shortly thereafter, pulled her into a ditch, beat her up, put a knife to her throat, and raped her. The victim also testified that Respondent forced her to walk with him into the woods and later to an area behind a motel. Along the way and behind the motel, he raped her at least two more times and forced her to perform oral sex. The victim was eventually released and called 911 from the motel.

At a bond hearing before trial, Respondent said that he did not know the victim and that he was out of town on the day of the alleged crime. At trial, Respondent did not testify but maintained that he was innocent.

The first trial resulted in a hung jury. In the second trial, Respondent was found guilty of kidnapping, CSC, and ABHAN. He was sentenced to thirty years for CSC and ten years for ABHAN, to be served consecutively. He was also sentenced to thirty years for kidnapping, to be served concurrently. The same defense counsel represented Respondent in both trials.



The PCR judge correctly found that counsel failed to properly evaluate and select jury members. Counsel admitted that he gave up his initial strategy and ended up selecting jurors that he had struck the first time—jurors whose names he had written “No” next to. In other words, counsel did not even show that he had a trial strategy for jury selection. Nevertheless, Respondent did not present any evidence to support a finding that counsel’s error resulted in a violation of Respondent’s right to a trial by a competent and impartial jury.

Therefore, the PCR court erred in finding counsel ineffective for failing to use all available peremptory strikes.

III. JURY CHARGE

The State argues that the PCR judge erred in finding counsel ineffective for failing to request an ABHAN charge as a lesser-included offense of CSC. We agree.

ABHAN is a lesser-included offense of CSC. *State v. Primus*, 349 S.C. 576, 582, 564 S.E.2d 103, 106 (2002). A trial judge must charge the jury on a lesser-included offense if there is any evidence from which it could be inferred that the defendant committed the lesser rather than the greater offense. *Brightman v. State*, 336 S.C. 348, 350-51, 520 S.E.2d 614, 615 (1999). Evidence that a physical fight—instead of rape—occurred warrants a charge of ABHAN as a lesser-included offense of CSC. *State v. Pressley*, 292 S.C. 9, 10, 354 S.E.2d 777, 777-78 (1987). In *Pressley*, the victim, who was the defendant’s fourteen-year-old daughter, testified that the defendant jumped on her, put his hands around her throat, straddled her, slapped her, and then raped her. *Id.* at 9-10, 354 S.E.2d at 777. The defendant, on the other hand, testified that he and his daughter argued, he slapped her, shook her, and when she tried to get away, he grabbed for her, tearing off her clothes. *Id.* The Court held that because the defendant’s testimony, if believed, would establish that he was guilty of only the lesser-included offense, the trial judge should have charged the jury on ABHAN. *Id.* at 10, 354 S.E.2d at 778.

SEE - Exhibit - December 06, 2004 Case -

In the present case, the trial judge charged the jury with ABHAN as a lesser-included offense of assault and battery with intent to kill. The judge did not, however, charge the jury with ABHAN as a lesser-included offense of CSC in the first degree. Moreover, counsel did not request that the judge charge the jury with ABHAN as a lesser-included offense of CSC.

At the PCR hearing, counsel testified that he was not aware that, under certain circumstances, ABHAN was a lesser-included offense of CSC. He also testified that he could not remember whether he had researched, at that time, the elements of the various offenses with which his client was charged.

The PCR judge ruled that according to the facts and evidence, Respondent was entitled to the ABHAN charge. Moreover, the judge ruled that Respondent's case was prejudiced by counsel's failure to request the charge. Therefore, the PCR judge found that the conviction for CSC in the first degree should be reversed.

At the bond hearing, Respondent denied the charges and said he was out of town on the day of the alleged crime. At trial, Respondent did not testify or present any witnesses to refute the victim's testimony or to suggest that something other than rape occurred. Moreover, Respondent's counsel did not present any evidence from which it could be inferred that Respondent committed ABHAN rather than CSC. Later, at the PCR hearing, Respondent testified that he was not with the victim on the night in question and that he did not rape the victim. In sum, the record did not contain any evidence warranting the lesser charge.

Therefore, the PCR court erred in finding counsel ineffective for failing to request an ABHAN charge as a lesser-included offense of CSC.

CONCLUSION

Because there is no evidence of probative value sufficient to support the PCR court's ruling, we REVERSE.

MOORE, WALLER, BURNETT and PLEICONES, JJ., concur.

RAYMOND MAGAZINE, # 254723
B.R.C.I- MURRAY- UNIT- R.M # 163
BROAD RIVER ROAD
Columbia, S.C. 29210

RECEIVED

SEP 07 2012

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THE Supreme Court OF South Carolina
DANIEL E. SHEAROUSE CLERK OF COURT.
POST OFFICE BOX 11330
Columbia, South Carolina
29211

LEGAL MAIL

