

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BERKELEY COUNTY

R. Markley Dennis, Jr., Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

STEVEN LEE MORGAN,

APPELLANT

APPELLATE CASE NO. 2013-000895

RECORD ON APPEAL

LAURA R. BAER
Appellate Defender

ALAN WILSON
Attorney General

CARMEN V. GANJEHSANI
Appellate Defender

MARK R. FARTHING
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

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

SCARLETT ANNE WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

Attorney for Appellant

Attorneys for Respondent

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	
STATE OF SOUTH CAROLINA	)	
	)	
	)	
v.	)	Case No. 12-GS-08-0496-0500
	)	
STEVEN LEE MORGAN,	)	
	)	
Defendant	)	

TRANSCRIPT OF JURY TRIAL

The within jury trial in the above-captioned matter was held on April 19-23, 2013, before The Honorable R. Markley Dennis, Jr. , in Courtroom E of the Berkeley County Courthouse, 300 California Avenue, Moncks Corner, South Carolina; attended by counsel as follows:

APPEARANCES:

Anne Williams, Assistant Solicitor
 Bryan Alfaro, Deputy Solicitor
 9th Judicial Circuit
 Appearing for State

Chad Shelton, Esq.
 Keisha White, Esq.
 9th Circuit Public Defenders Office
 ...Appearing for Defendant

Deborah Garrison
Circuit Court Reporter – 9th Judicial Circuit
 P O Box 901
 Johns Island, South Carolina 29457
dgarrison@sccourts.org

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1 hearing concerning those questions. I believe
2 that is what it suggests. At least that's what it
3 suggests to me.

4 SOLICITOR WILLIAMS: Okay.

5 THE COURT: If you feel otherwise, let
6 me know. But I think that needs to be done.

7 CHAD SHELTON: The only direct
8 evidence that we would have of that is if she did
9 testify to it.

10 THE COURT: Oh, if she opens the door,
11 obviously. If she up and starts - and explains
12 the presence, then I think that may crack the
13 door. But we probably ought to have a hearing
14 outside the jury's -- in camera, before we'd go
15 any further into it. Okay?

16 CHAD SHELTON: Yes, sir.

17 THE COURT: That way we can make sure
18 that the record is clear concerning it.

19 CHAD SHELTON: Yes, sir.

20 SOLICITOR WILLIAMS: Thank you, Your
21 Honor.

22 THE COURT: All right.

23 SOLICITOR WILLIAMS: With regard to the
24 second Motion, Your Honor, uh, there have been two
25 very interesting United States Supreme Court cases

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1 that deal directly on this issue. Both cases
2 actually support the Court allowing the other
3 forensic scientist to testify about the results
4 that were originally formulated or ---

5 THE COURT: Folks, let me just --
6 let me cut you off. This isn't foreign to me
7 either. This happens every day in civil court.
8 Doctors typically in malpractice cases review
9 files and then render opinions. That is what we
10 are talking about. I mean, it really is nothing
11 new insofar as the world of expert testimony. As
12 we know, the Rule doesn't even say that it has to
13 be admissible, that they can consider anything.
14 You can't bring out inadmissible evidence. You
15 can in cross examination, or the Court can. But
16 clearly a witness - if the witness is qualified
17 and then meets the other requisite tests that are
18 outlined in *Watson* and its progeny, then, folks, I
19 have no problem with it. I --- does it open some
20 questions for cross examination, sure it does.
21 Does a person not testify because he doesn't
22 agree? That's another thing. Is this person - is
23 the person not available? Is that why you're not
24 calling him?

25 SOLICITOR WILLIAMS: Your Honor,

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1 the original analyst just had a baby. We could
2 drag her in if we had to, and that's why we wanted
3 to get this ruling. Mr. Shelton has been very
4 kind to stipulate to the chain. Understandably,
5 he just can't stipulate to ---

6 THE COURT: Oh, I understand that
7 he can't do that.

8 SOLICITOR WILLIAMS: Absolutely.

9 THE COURT: But if the person is
10 otherwise qualified, I don't have any problem with
11 it. Now, granted, *Watson* is pretty clear. That
12 person -- as I recall, that person had never
13 really done any specific studies on cruise
14 controls. He was an engineer but he - he had no
15 background in dealing with that. The witness has
16 to meet those tests, but I am sure that this
17 witness will. I think I - as I understand, this
18 witness was part of the peer review that reviewed
19 the work and passed the opinion, that said that it
20 was done improperly.

21 SOLICITOR WILLIAMS: Yes, Your Honor.

22 CHAD SHELTON: And, Your Honor, for
23 purpose of the record, putting strategic things
24 aside, I would object on the grounds that this is
25 essentially a backdoor way for the Solicitor to

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1 get in the analyst's opinions without the analyst
2 being present.

3 THE COURT: Mr. Shelton, to my
4 knowledge, it's the law. I was involved in this
5 case, indirectly. I sat right over there and
6 watched the trial, *Jackson v Humble Oil*. My
7 former doctor - I guess that he was - he was a
8 part-time physician, Dr. Robert Solomon. He was
9 contacted on Friday. The case went to trial on
10 Monday. I think Buster Holland and Tommy Tisdale
11 were the defense counsel. George Bishop and Bob
12 Wallace tried the case - Big George, not Little
13 George. The issues were whether or not this
14 witness could render an opinion. He never saw the
15 plaintiff in his life, he just read the records.
16 But he rendered an opinion about the injuries that
17 the plaintiff sustained. Number one, the
18 timeliness of it. But you don't have a timeliness
19 objection, as I understand. You are aware of this
20 witness testifying and the essence of the
21 testimony.

22 CHAD SHELTON: Yes, Your Honor.

23 THE COURT: But clearly that's just - I
24 mean, that's just a common practice, at least in
25 the civil side, that's been done for years. We

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1 typically - and I'll tell you the strategy behind
2 it. We have a doctor from Charleston that before
3 - before county lines really disappeared, if you
4 tried a case in Berkeley before a Berkeley jury
5 you wanted a doctor that a Berkeley jury was
6 likely familiar with. That was the reason that
7 you wanted their faces and their opinions, because
8 it might carry a little more weight than somebody
9 that they didn't know.

10 But - so it's not an uncommon - but, again,
11 we have to allow the rule. The witness has to
12 have the requisite knowledge. That has to be
13 established. Do you challenge the witness'
14 background, experience and training?

15 CHAD SHELTON: I have not received
16 his CV.

17 THE COURT: Well, what we may want to
18 do - because as I understand *Watson*, I'm supposed
19 to make a determination. I think that there are
20 three questions that I have to address. So we may
21 want to do that before we render - you can get him
22 qualified and then we'll excuse the jury and go
23 thru the essence of his opinion. I can make a
24 determination before the jury hears it then.

25 CHAD SHELTON: And this may be really

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1 premature. But, uh, based off of the *Sandy*
2 *Williams v Illinois* case, the Supreme Court did
3 give four safeguards that would include some jury
4 instructions that I would ask, if this expert does
5 testify, to ---

6 THE COURT: And what is the essence of
7 the ---

8 CHAD SHELTON: That it must instruct
9 the jury that out-of-court statements cannot be
10 accepted for their truth and that an expert's
11 opinion is only as good as independent evidence as
12 the underlying premises. And that if the
13 prosecution cannot muster any independent
14 admissible evidence to prove that foundational
15 facts that are essential to the relevance of the
16 expert's testimony, then the expert's testimony
17 cannot be given any weight by the triers of the
18 facts.

19 THE COURT: You know what? I love that
20 charge but I betcha that's out of a state that
21 doesn't have a Constitutional prohibition for
22 charging on the facts. That's a charge on the
23 facts. Federal charge, no question about it.
24 I've been trying for probably seventeen years,
25 'let's do Federal charges and then we can talk

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1 about specific cases, specific evidence.' I'd
2 love to do it, but can't.

3 But I will tell you this -- I almost can
4 do it from heart. It's online. You can go look
5 at the civil charge on expert witnesses, because
6 basically I simply say, "Generally a witness is
7 not allowed to render an opinion, except in very
8 limited areas." That's a 701 opinion.

9 "However, some witnesses because of their
10 background, training and experience, they are
11 allowed to render opinions in the area of their
12 expertise. But the fact that an expert renders
13 an opinion is not controlling on you. You
14 consider the expert's testimony the same as any
15 other witness that testifies. You have to assess
16 whether or not the expert has the requisite
17 background, experience and training to render an
18 opinion and the basis for that opinion.

19 Furthermore, you are not controlled by the
20 expert's opinion. And the fact that the expert's
21 opinion is not contradicted directly does not
22 necessarily render it undisputed. You have the
23 right to believe to disbelieve an expert's opinion
24 in its entirety."

25 So I think that I cover that, what their

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1 general concerns are, in the general charge on
2 experts. But we will talk about that when we get
3 to that point specifically.

4 CHAD SHELTON: Yes, sir. Thank you.

5 THE COURT: Okay.

6 SOLICITOR WILLIAMS: And, Your Honor,
7 just briefly, there is a very small chain in this
8 case for the evidence that the expert is going to
9 testify to. Mr. Sheldon has stipulated to the
10 chain, so we will write up a stipulation.

11 THE COURT: That's fine.

12 SOLICITOR WILLIAMS: If for any reason
13 he becomes uncomfortable with that because of the
14 foundational facts, or the language in *Williams*,
15 it is two witnesses and we will be have to ---

16 THE COURT: That's fine. Unless it
17 changes, I will assume that we will function with
18 a stipulation. But if you change your mind that
19 you agree with that, which is your right to do,
20 please make it known on the record.

21 CHAD SHELTON: Absolutely. And the
22 discussions were that we don't need the SLED
23 person who checked it in, we don't need the person
24 that took it from one place to the other, ---

25 THE COURT: I understand.

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1 CHAD SHELTON: We don't need that.

2 THE COURT: Okay. Anything else?

3 SOLICITOR WILLIAMS: No, Your Honor.

4 THE COURT: That all?

5 CHAD SHELTON: That's it.

6 THE COURT: See you Monday then. Thank
7 you.

8 SOLICITOR WILLIAMS: Your Honor, may I
9 approach. This is just the indictment, witness
10 list. We may finish by Tuesday afternoon.

11 THE COURT: That's fine.

12 CHAD SHELTON: I have some *voir dire*. I
13 can e-mail that?

14 THE COURT: Just e-mail it to me.

15 CHAD SHELTON: Thank you.

16 THE COURT: Thanks, Mr. Morgan. See
17 you on Monday. Let me ask, was there ever any
18 offer made in this case?

19 SOLICITOR WILLIAMS: Your Honor, the
20 offer was thirty years.

21 THE COURT: Okay. And that was
22 rejected, I understand that.

23 SOLICITOR WILLIAMS: Yes, sir.

24 THE COURT: But you instructed your
25 attorney to do that, Mr. Morgan?

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1 Also from MUSC:

2 Dr. Langdon Hartsock

3 Any of those persons? (No response).

4 Thank you. There appear to be none.

5 The dispute, ladies and gentlemen, that
6 brings us here today is basically set forth in
7 these documents that I hold in my hand. There are
8 five of them, I think -- (upon review), yes, there
9 appear to be. They are called indictments. An
10 indictment is really nothing more than the formal
11 charging document. It merely contains the
12 allegations against Mr. Morgan and sets up the
13 basis of this dispute and frames the issues, so to
14 speak. It is not evidence, it won't accompany you
15 to your jury room.

16 What I need to share with you now is what
17 is alleged so that I can ask you certain questions
18 about that. It is alleged that on -- in one of
19 the indictments, that Mr. Morgan did, in Berkeley
20 County, on or about January 29th, 2012, possess a
21 knife or visually displaced what appeared to be a
22 knife during the commission of or attempted
23 commission of attempted murder, which is a violent
24 crime as defined by our laws.

25 It is also alleged that Mr. Morgan did,

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1 in Berkeley County on January 29, 2012, commit a
2 sexual battery upon the victim, Rose Lampkin,
3 without consent and with the use of aggravated
4 force, to-wit penal/digital penetration; all in
5 violation of the law prescribing such conduct in
6 this state.

7 It is also alleged that Mr. Morgan did,
8 in Berkeley County on or about January 29th, 2012,
9 -- and by the way, that crime was criminal sexual
10 conduct in the first degree.

11 It is alleged that on the 29th of
12 January, 2012, that he unlawfully entered the
13 residence of Rose Lampkin located at 107 Crystal
14 Street in Goose Creek without consent and with the
15 intent to commit a crime therein; basically in
16 violation of the statute which is conduct known as
17 burglary in the first degree.

18 It is also alleged that Mr. Morgan did,
19 in Berkeley County on or about January 29th,
20 unlawfully seize, confine, inveigle, decoy,
21 kidnap, abduct and carry away Rose Lampkin
22 without authority of law; which again violated
23 the conduct prescribed by the section designat-
24 ing the crime of kidnaping. It's alleged
25 further that on that date, January 19th, 2012,

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1 that he willfully, feloniously and intentionally
2 attempted to kill another person, namely Rose
3 Lampkin, with malice aforethought, either
4 express or implied by means of a knife; which
5 violated the section setting forth the crime of
6 attempted murder.

7 I share that with you first of all to
8 find out if any member of the jury panel has heard
9 anything, read anything, talked with anybody about
10 these alleged crimes or Mr. Morgan's involvement
11 in these alleged incident? If so, please stand.

12 All right, I am going to ask you to come
13 forward, please, sir. Attorneys may approach, as
14 well.

15 SIDEBAR:

16 THE COURT: What is your number?

17 JUROR NUMBER 133: Juror 133.

18 I know the Lampkins and some of them - or I think
19 Rose Lampkin may live pretty close to where I
20 live. I think that it would affect me.

21 THE COURT: Thank you, sir.

22 (SIDEBAR CONCLUDED)

23 THE COURT: Juror Number 133 will be
24 excused from further service.

25 (JUROR NUBMER 133 EXCUSED)

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1 THE COURT: Thank you, ladies and
2 gentlemen, for taking care of that. Mr. Fowler,
3 that will be your seat for the balance of the
4 trial. Your number, sir?

5 JUROR NUMBER 52: Number 52, Michael
6 Fowler.

7 THE COURT: Thank you sir. Thank you,
8 ladies and gentlemen. I hope that you had a good
9 lunch. We are now ready to begin this trial.
10 Before we do that, Ms. Hill would you please
11 administer the oath to the jury?

12 CLERK: Yes, sir.

13 (WHEREUPON JURY SWORN)

14 THE COURT: Thank you very much, ladies
15 and gentlemen. By virtue of that oath you have
16 now become the judge that I mentioned that you
17 would be with me. Now we will work together to
18 resolve this dispute. It's an honor to serve with
19 each one of you.

20 We went through a number of questions and
21 you will recall that we talked about, in the last
22 one, that each of you said that there was nothing
23 about this case that would give you any concern
24 about your ability to apply the oath that you just
25 took. I am confident that is correct.

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1 I want to assure you of something. When
2 you walked in that door, you brought everything
3 with you that you are going to need to fulfill
4 that commitment. Rest comfortably with that. You
5 brought with you your common sense, your sense of
6 logic and reason, your life's experiences. That
7 is exactly what you are expected to utilize when
8 you begin analyzing the evidence.

9 You also brought something else that is
10 very important in judging or performing that task
11 that you just accepted. You brought an open mind.
12 Think about it, all of the questions that we
13 talked about, you each answered that 'no, I don't
14 know anything about the case' or 'there's nothing
15 about the case that has been said that give me any
16 particular concern or pause. I have an open mind.
17 Haven't made any decisions.'

18 It is very important that you maintain
19 that status, that you have and keep that open
20 mind. Both in honoring the commitment that you
21 just made that you will decide this case based on
22 the evidence and in complying with the law that we
23 talked about. There are a number of principles
24 and -- and one principle that I talked to you
25 about is that Mr. Morgan, today as he sits there,

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1 we all consistent with the law in this case have
2 to presume actively that he is innocent of these
3 charges, that he is not guilty of these charges.
4 That cannot change until you are instructed to
5 begin your deliberations and analyze the evidence
6 in this case, to make the decision -- and this is
7 what this case is about. Whether or not the State
8 has produced sufficient evidence to convince you
9 beyond a reasonable doubt whether or not he is
10 guilty of one or more of these crimes. Until
11 then, you must maintain that posture and that
12 open mind, that he is not guilty of these charges.
13 The State and the State alone has the burden of
14 proving that.

15 At the conclusion of this trial, one of
16 the parts of my instruction will be that I will
17 outline for you the various elements of each
18 crime. At the appropriate time, you will be
19 instructed to analyze the evidence and to answer
20 the question for yourself: 'Am I convinced of
21 that element beyond a reasonable doubt?'

22 We will talk about that term at the
23 conclusion. But I will tell you now that a
24 reasonable doubt is a doubt that would make an
25 honesty conscientious juror searching for the

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1 truth in a case to hesitate to act or to take
2 some action. That is the standard.

3 If your answer to each one of those
4 questions is, 'Yes, I am convinced' then the
5 State will have met its burden of proof and you
6 must find him guilty of that particular crime.

7 On the other hand, if in analyzing the
8 evidence your conclusion is that 'no, I am not
9 convinced to that standard for that particular
10 element', if that is your decision, then you must
11 return a verdict of not guilty. Why? Because
12 the State would have failed to meet its burden of
13 proof.

14 That is what the burden of proof means.
15 Guilty simply means that the State established
16 each element of that crime beyond a reasonable
17 doubt and the jury, as instructed, returned a
18 verdict of Guilty. Not Guilty means that the
19 State failed on or more elements of that crime
20 and therefore, as instructed within compliance
21 of the law, the jury returned a verdict of Not
22 Guilty.

23 So that is what we will be about.
24 That's the whole purpose of this, to analyze the
25 State's evidence. As I mentioned to you, the

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1 State is the party that brings these claim, who
2 makes these claims against Mr. Morgan. The State,
3 and the State alone, has the burden of proof.
4 They go first. You will hear the evidence from
5 the State.

6 Mr. Morgan has absolutely nothing to
7 disprove, explain or -- he doesn't have to answer
8 anything that the State says. Why? Because Mr.
9 Morgan, under that presumption, is not guilty of
10 these offenses.

11 Now, while Mr. Morgan has nothing to
12 prove or disprove he still has the right, if he
13 chooses, to present any evidence for your
14 consideration. That's another very important
15 reason why you don't want to prematurely decide
16 anything about this case. But probably the most
17 compelling reason and really the strongest reason
18 that you don't want to decide this case early is
19 that if you do, you will have violated your oath.
20 Why? Because you would have started your
21 deliberations prematurely.

22 The last instruction that I will give you
23 during my charge portion, which will be the last
24 phase of this process, is when you may begin your
25 deliberations. So until the court gives you that

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1 instruction, please remember that your duty, your
2 responsibility is to certainly listen and absorb
3 the evidence. When I say absorb -- some jurors
4 like to take notes. If you want to take notes, we
5 will make notepaper available for you. That's
6 fine. I don't know how good note-takers that you
7 are, but one of the things that you are going to
8 be analyzing is the credibility and the
9 believability of witnesses. That, as we know,
10 comes not only from what somebody says but how
11 they say it. If you happen to be taking a note,
12 looking down to write it, you might have missed
13 body language that might be critical to you in
14 making a determination. Say that should occur
15 during the trial, please remember something.
16 While it might be something that triggers the
17 thought, 'well, I am not quite so sure about the
18 credibility of that testimony', do not conclude
19 that it is not. Make the mental note that you
20 noted that about that particular witness, but
21 await your instructions to begin deliberations.
22 When you talk about it, some of your fellow jurors
23 may give you some very logical and reasonable
24 explanation for that, allay that concern that you
25 may have. But you certainly expected to make

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1 those notes, mentally or otherwise, as you want.

2 One of the important things that you
3 need to be aware of -- Ms. Garrison, as I
4 mentioned, is our court reporter and she alone has
5 the responsibility of keeping the record. If in
6 your deliberations you have a disagreement about
7 what a witness said or didn't say, we can replay
8 that testimony for you after you have started your
9 deliberations so that you can resolve that dilemma
10 for you should that arise. I mention that to you
11 because -- but if anyone wants to take notes, let
12 the bailiff know and we will make sure that you
13 have notepads.

14 There are four distinct parts to this
15 process. As I mentioned to you, the charge
16 portion is the last portion.

17 You will have two opportunities to hear
18 from the attorneys, they will speak to you before
19 you hear the evidence and after you hear the
20 evidence. Before, we call that opening statements
21 and that will occur in just a moment. They will
22 talk to you about some of the evidence that you're
23 going to hear, maybe some of the issues that may
24 be involved. Those remarks will be extremely
25 helpful as we work through the evidentiary portion

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1 of the proceeding.

2 After you've heard the evidence, then
3 they talk to you in what we call closing
4 arguments. In closing arguments, until the
5 opening statements, you will have heard the
6 evidence obviously. You will not have started
7 your deliberations but you will have heard the
8 evidence. At that point they can discuss that
9 evidence with you and discuss reasonable
10 inferences that you may draw from that.

11 I am confident that you will find their
12 remarks very beneficial when you begin to resolve
13 this dispute. But I would remind you of some-
14 thing, and I will remind you throughout the trial.
15 They are officers of this court. They have a very
16 important responsibility to represent their
17 clients, to comply with the rules that govern
18 these proceedings and to advocate their respective
19 client's positions. Please remember that you
20 should give them your undivided attention. But
21 while their remarks are very important, they
22 should never be considered evidence. The evidence
23 will come during the evidentiary portion of the
24 process when the witnesses will appear and take
25 the stand. You will have an opportunity to see

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1 and hear those witnesses testify. It is that
2 evidence that you ultimately will analyze to
3 decide the true facts of the dispute.

4 I look forward to trying this case with
5 you. It's an honor to serve with each one of you.
6 I thank you for your attention to my remarks. I
7 would hasten to add that my remarks, just as the
8 attorney's remarks, should never be considered
9 evidence. As I mentioned to you when I qualified
10 you, that's the beauty of this process. Once you
11 were sworn and took that oath, now that
12 responsibility belongs to you. You and I will
13 work together to resolve this dispute. I will
14 take care of resolving the legal matters and you
15 will resolve the factual matters. I will give
16 you the law at the end and you will take care of
17 resolving the factual matters when you are
18 instructed to do so.

19 Thank you. Give your attention now to
20 the State as they give their opening remarks. Ms.
21 Williams? Mr. Alfaro?

22 SOLICITOR ALFARO: May it please the
23 Court?

24 THE COURT: Yes, sir.

25 SOLICITOR ALFARO: On January 29th, 2912,

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1 Rose Lampkin was the only one in the house on
2 Crystal Street in Goose Creek, here in Berkeley
3 County. That morning -- she had gone to bed, she
4 was home alone, alone in her bedroom, in her own
5 house, safe and secure with the serenity of being
6 home alone in your own home, the sanctity of that.
7 All of that sanctity, serenity and safety of that
8 was shattered at 4:30 that morning when the
9 defendant, Steven Morgan, came to her home, went
10 into her backyard, took a piece of wood, firewood,
11 threw it through the back sliding glass door,
12 shattering that glass, and forced his way into her
13 home. That is when it started.

14 That is when -- you will hear testimony
15 from Rose, she will describe to you the hours of
16 abuse, beatings, threats, the use of a knife and
17 the repeated violent sexual assaults that were
18 perpetrated on her by the defendant. She will
19 testify. She will come up on the witness stand
20 and she will tell you all the details, as horrific
21 and as violent as they are. She will tell you the
22 details of what happened to her that morning.

23 She will tell you how once the defendant
24 had finally left that she was able to crawl to her
25 front door and wait for someone to come help her.

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1 A passerby came and got someone to call 911. You
2 will hear from the person -- the people who saw
3 her that morning. You will hear from the police
4 officers, the first responding officers that got
5 there to her house around 8:45 that morning. They
6 will describe for you the physical injuries that
7 were so visible on her: bruising, battering,
8 blood, injury to her leg. You will hear from the
9 medical personnel who treated her for those
10 injuries: the cuts, the bruises, the knee injury.
11 You will hear from the crime scene technician who
12 responded to the scene, collected the evidence.
13 You will hear detailed explanation of what
14 evidence was taken, what tests were done on those
15 items and which of those items had the DNA of the
16 defendant on them. All of those things you will
17 hear from that witness stand.

18 As Judge Dennis told you, the State has
19 the burden of proof. We have to prove to you
20 beyond a reasonable doubt that the defendant is
21 guilty of burglary first degree, criminal sexual
22 conduct in the first degree, kidnaping, attempted
23 murder and possession of a weapon during a crime
24 of violence. We will have to prove to you, and we
25 will, through testimony and evidence each element

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1 of each of those offenses.

2 As Judge Dennis also said, you've got
3 your common sense with you and all those skills
4 that you get through life with. At the end of
5 this trial, after hearing all the evidence, all
6 the testimony, seen all the pictures, heard all of
7 the testimony of the scientific evidence, we will
8 have proven to you beyond a reasonable doubt that
9 he is guilty of each of these offenses.

10 Some of these cases that you see in the
11 movies or on TV, one of the big issues is 'who did
12 it.' You don't know who the perpetrator is. Rose
13 is going to testify when she comes to the witness
14 stand that she knows that it was Mr. Morgan. They
15 used to date. He used to live there. But he'd
16 been out of that house, they'd been out of that
17 relationship for weeks and months before this
18 happened. She will tell you about that relation-
19 ship, she will tell most importantly about what
20 happened to her that morning. That's what this
21 case is about, this case is about the sanctity,
22 the safety and the security that she felt in her
23 home and in herself that was shattered by that
24 man, Steven Morgan.

25 THE COURT: Thank you, Mr. Alfaro. Mr.

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1 Shelton?

2 CHAD SHELTON: Thank you, Your Honor,
3 may it please the court?

4 THE COURT: Yes, sir.

5 CHAD SHELTON: One of the greatest
6 things that ever happened to me was becoming a
7 father. I have an almost four-year-old son and a
8 fifteen-month-old son. My almost four-year-old
9 son has a great imagination. I love it, coming
10 home. He loves to play Super Heroes, Superman,
11 Batman, Spiderman. The fifteen-month-old, he's
12 everywhere. You put him down in a room and before
13 you know it, everything is spread out across the
14 room. It's all there, thrown everywhere. Before
15 the fifteen-month-old started throwing everything
16 around the room, I made it key that my son, my
17 almost four-year-old, that we would pick
18 everything up and put everything back in its
19 place. Well, one of the things that my four-year-
20 old loves to do, that all four-year-olds love to
21 do, are puzzles. He has Batman puzzles, Mickey
22 Mouse puzzles, Superman puzzles. Now with the
23 fifteen-month-old throwing everything around, we
24 don't get a chance to put everything together
25 before bed. We've got to just push it off to the

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1 side.

2 The other night we were getting together
3 before bed and I wanted to make sure that it was
4 all cleaned up. So we got down, started putting
5 the puzzles together. I started putting the
6 Batman puzzle together and he started picking up
7 the Superman pieces. Well, he started attaching
8 those to the Batman puzzle. I said, 'Son, we
9 can't do that. That goes to that puzzle.' But he
10 said, 'Dad, I want to fight the guerilla.' That's
11 our library book that has both Batman and Superman
12 fighting Guerilla Rye (phonetic). It doesn't work
13 for that puzzle. 'I'm sorry, they can't be
14 attached to this one.' Went through the process
15 to explain it to a four-year-old.

16 It's like this case. There are things
17 that don't make sense. There is a story that the
18 State wants you to believe and hear but the pieces
19 just don't fit the puzzle. Puzzle pieces that
20 just don't fit that story.

21 All I can ask, all that Steven can ask
22 is that you pay attention, listen to the evidence.
23 The State has evidence that just does not make
24 sense, just does not fit that story. All I can
25 ask is that you pay attention and listen to the`

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1 evidence.

2 THE COURT: Okay, Mr. Sheldon. Ms.
3 Williams? Mr. Alfaro?

4 SOLICITOR WILLIAMS: The State would
5 call Dan Moats.

6 (WITNESS TAKES STAND)

7 DANIEL M. MOATES, II, having been sworn
8 to tell the truth, and nothing but the truth,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR WILLIAMS:

12 Q. Mr. Moates, where do you live?

13 A. [REDACTED]

14 Q. And where is that in relation to -- do you
15 know Rose Lampkin?

16 A. Yes, I live next door.

17 Q. How long have you lived there?

18 A. Nine years.

19 Q. How long has she lived there? Do you know?

20 A. She was living there when I moved in, so I am
21 not exactly sure.

22 Q. And do you remember anything out of the
23 ordinary happening in the early morning hours of
24 January 29th, 2012?

25 A. Yes, ma'am.

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1 Q. Can you tell us what that was?

2 A. We were awakened by a loud bang noise about
3 4:00 o'clock in the morning, a dog barking. My
4 wife and I both woke up, heard three more bangs.
5 We jumped up and were looking out the front window
6 to see if we could see cars or lights or anything.
7 Then we walked over -- we went downstairs after
8 that, we looked out the front windows there and we
9 still didn't see anything. Then I flipped on the
10 back porch light and looked out of the window. It
11 sounded as if it was in our house. We never saw
12 anything out that window either. So I actually
13 went through my garage and went outside, stood
14 outside and -- I didn't see anything, I didn't
15 hear anything. I went back upstairs.

16 Q. Was it dark at that time?

17 A. Yes.

18 SOLICITOR WILLIAMS: Your Honor, I am
19 going to show the witness what has been marked as
20 State's Exhibit 4, and show it to defense counsel.
21 May I approach?

22 THE COURT: You may.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR WILLIAMS:

25 Q. Mr. Moates, would you look at that picture

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1 and see if it accurately depicts the way that the
2 houses looked. Of course this was the next day,
3 but if it accurately reflects the way that the
4 houses looked.

5 A. It does.

6 SOLICITOR WILLIAMS: Your Honor, at
7 this time we would ask to move State's Exhibit 4
8 into evidence.

9 THE COURT: Any objection?

10 CHAD SHELTON: No objection.

11 THE COURT: Without objection, State's
12 Exhibit 4 is admitted. It is a photograph.

13 (SO ENTERED AS STATE'S EXHIBIT 4)

14 SOLICITOR WILLIAMS: May we publish?

15 THE COURT: You may. Ladies and
16 gentlemen, while you are doing that, let me just
17 tell you now that when an exhibit is introduced
18 into evidence and we go through the process that
19 has just occurred, that exhibit will accompany
20 you to your jury room. So you will have an
21 opportunity to study it in more detail when you
22 begin your deliberations. Typically they will
23 display it visually, as they are doing it now on
24 the screen. But please know that you will have an
25 opportunity to study it more closely when you do

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1 begin your deliberations. Thank you.

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR WILLIAMS:

4 Q. Mr. Moates, this little button here is a
5 pointer. I will ask you some questions and maybe
6 you can show the jury where different things are.

7 A. Okay.

8 Q. Whose house is that the back of?

9 A. This is Rose's house.

10 Q. And where is your house?

11 A. This (indicating) is my house.

12 Q. Okay. It's kinda hard to see there, but what
13 is between the two houses?

14 A. My privacy fence.

15 Q. And when you went outside that night, it was
16 dark?

17 A. Yes, ma'am.

18 Q. So when you went out into your backyard that
19 night and it was dark, could you have seen over
20 the fence in the dark?

21 A. No, I couldn't. And my garage door is on the
22 other side of my house, and I was standing on the
23 opposite side, over there (indicating).

24 Q. Okay.

25 A. I just stood in the doorway.

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1 SOLICITOR WILLIAMS: Thank you, Mr.

2 Moates. No further questions.

3 THE COURT: Cross examine?

4 CHAD SHELTON: Yes, sir.

5 CROSS EXAMINATION

6 BY CHAD SHELTON:

7 Q. This thing that happened, what you heard was
8 at night?

9 A. (Affirmative nod), at about four in the
10 morning.

11 Q. At night, sounds can travel pretty far?

12 A. Is that a question?

13 Q. Yes.

14 A. Yeah.

15 Q. This neighborhood, as you are coming from
16 Charleston to Moncks Corner on Highway 52, it's
17 off to the left by the KFC, the Taco Bell, a
18 church?

19 A. It's pretty far back in there.

20 Q. But off of 52 is how you get into the
21 neighborhood?

22 A. You can, yeah.

23 Q. Okay. And along side of 52 is a railroad?

24 A. Yes, there is.

25 Q. And you said, I think, that you actually went

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1 to the garage?

2 A. Yes, I did.

3 Q. But the garage is on the other side of your
4 house?

5 A. (Affirmative nod), it is.

6 Q. You got out of your house, you went to the
7 garage thinking that maybe the sound happened on
8 that side?

9 A. No. Because that's where my back door is.

10 Q. Okay. And you thought - so you went to that
11 side of the house?

12 A. I went to that side of my house because
13 that's how I can actually get to my back yard.

14 Q. And you opened the garage?

15 A. Yeah, I stood in my doorway. Not the front
16 garage door, but the rear door into my back yard.

17 Q. Okay.

18 A. I stood in my doorway, looking out into my
19 back yard.

20 Q. Okay. You had no idea what the sound was?

21 A. I didn't at the time, no.

22 CHAD SHELTON: That's all. Thank
23 you.

24 THE COURT: Redirect?

25 SOLICITOR WILLIAMS: No, Your Honor.

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1 THE COURT: You may come down. Do you
2 wish for this witness to be excused?

3 SOLICITOR WILLIAMS: Please, Your
4 Honor.

5 THE COURT: Any objection?

6 CHAD SHELTON: No, Your Honor.

7 THE COURT: You are excused.

8 (WITNESS STEPS DOWN)

9 THE COURT: Call your next witness,
10 please.

11 SOLICITOR WILLIAMS: Rose Lampkin.

12 (WITNESS TAKES STAND)

13 ROSE MARIA LAMPKIN, having been sworn to
14 tell the truth, and nothing but the truth,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY SOLICITOR WILLIAMS:

18 Q. Ms. Lampkin, where do you live?

19 A. I live at [REDACTED] in Goose Creek,
20 South Carolina.

21 Q. Is that where you were living on January
22 29th, 2012?

23 A. Yes, ma'am.

24 Q. Is that in Berkeley County?

25 A. Yes, ma'am.

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1 Q. And how long have you lived there?

2 A. This July will be sixteen years.

3 Q. Do you have any children?

4 A. One son.

5 Q. How old is he?

6 A. He'll be twenty-four in a couple of weeks.

7 Q. Where is he?

8 A. He is in college.

9 Q. Does he live with you from time to time, in
10 between school?

11 A. Right, he comes home for breaks.

12 Q. How big is he?

13 A. Six foot, six (6'6").

14 Q. Do you know Steven Morgan?

15 A. Yes, I do.

16 Q. Do you see him in the courtroom?

17 A. Yes, I do.

18 Q. Can you point him out, for the record?

19 A. He is right here (indicating defendant).

20 Q. What is he wearing?

21 A. A white shirt.

22 SOLICITOR WILLIAMS: Your Honor,
23 please let the record reflect that the victim
24 has identified the Defendant, Steven Morgan.

25 THE COURT: It so reflects.

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR WILLIAMS:

3 Q. How did you meet Steven Morgan?

4 A. I met Steven through his sister several years
5 ago. He had came from Georgia to visit his sister
6 for the Thanksgiving holidays and she'd introduced
7 me to Steven.

8 Q. At some point in time, did y'all date?

9 A. Yes.

10 Q. And did he live with you?

11 A. Yes, he did live with me.

12 Q. How long did he live with you for?

13 A. A little over two years.

14 Q. What was that relationship like?

15 A. In the beginning, I thought that it was
16 something to look forward to. We talked about
17 growing the relationship together and moving on.
18 But as it got into the relationship further, he
19 got very jealous, a lot of threatening, thinking
20 that I was messing around, doing things. It just
21 got to the point that I got tired of being accused
22 of doing things that I knew that I wasn't doing.

23 Q. At some point did he move out of the home?

24 A. Well, he didn't move out but I put him out
25 because there were some problems going on with him

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1 accusing me, just constantly threatening me,
2 yelling, saying what he was going to do to me. I
3 just got tired of it. So I packed up all of his
4 things, put them in the truck and took it to the
5 truckstop.

6 Q. Did anyone help you with that?

7 A. My son did.

8 Q. Do you remember the date of that?

9 A. December 14th.

10 Q. How do you remember that date?

11 A. It was his birthday, actually.

12 Q. What year was that?

13 A. 2012.

14 Q. Well, the date in question is January 29th,
15 2012.

16 A. So it was December 14th, 2011. Thank you.

17 Q. All right.

18 A. This is kinda hard for me to remember.

19 Q. And at that time were you working?

20 A. Yes.

21 Q. Where were you working?

22 A. I work at Rooms To Go Furniture.

23 Q. And was he working?

24 A. Who?

25 Q. Mr. Morgan?

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1 A. Yes, he was.

2 Q. Did you each have a vehicle?

3 A. Yes.

4 Q. What was the vehicle that he was using?

5 A. The pickup truck that I owned.

6 Q. Was that -- who owned that?

7 A. I did.

8 Q. So when he left on the 14th of December,

9 2011, did he take that truck with him?

10 A. I took the truck to the truckstop myself.

11 He already had keys, so -- yeah, I basically gave

12 him the truck because I just didn't want to have

13 anything else to have to do with him.

14 Q. But you still owned it?

15 A. Yes.

16 Q. The evening in question, January 29th, 2012,

17 do you remember where you were that day or earlier

18 in the evening?

19 A. On the 29th, you say?

20 Q. Yes. January.

21 A. I went to a birthday party that was down in

22 Huger, out in the country, and I'd gotten back

23 home about 2:00 o'clock that morning.

24 A. Yes.

25 Q. At that time, was Sean living in the home?

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1 A. Sean had already gone back to college.
2 He'd already gone back from Christmas break.

3 Q. After Mr. Morgan moved out but before that
4 night, had Sean been in the house? Like for the
5 Christmas break?

6 A. Yeah, he came home for the Christmas
7 holidays.

8 Q. And while you were at work during the day,
9 what would Sean be doing?

10 A. Who knows? I mean, he had friends that would
11 visit and he had friends that he would go visit as
12 well, along with just sitting around the house
13 doing nothing. Yeah.

14 Q. Did he have a girlfriend at that time?

15 A. Who knows? I've seen several girls at the
16 house before, so -- I'm not sure if he was dating
17 any of them seriously or just friends.

18 Q. Okay. And what was going on with your home
19 at the time of this event?

20 A. I was having - I'd had a lightening strike
21 at my house. I had a guy that was doing some
22 electrical work. He's put in a new stove for me.
23 I'd been in the house for a long time. So I'd
24 pulled up the carpet and was about to do some
25 renovating, new carpet, in the house and so on.

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1 It was just in disarray. There was a lot going on
2 in there, but one project at a time.

3 Q. After you got home that night, a little after
4 2:00, tell us what you remember happening after
5 that.

6 A. When I got home that night, of course I went
7 to bed. Several hours later I was awakened by a
8 loud noise. I have lots of mirrors downstairs in
9 my house and the first thing that I thought was
10 that a nail had given on one of the mirrors. So I
11 jumped up, thinking that a mirror had fallen from
12 the wall. So I jumped out of the bed and I ran to
13 the room door at the top of the stairs. That's
14 where I saw Steven running up the stairs towards
15 me.

16 Q. Did he say anything to you?

17 A. He come up the stairs in a vengeance, he was
18 very upset. He was -- you know. He grabbed me,
19 he started choking me to the point where I just
20 couldn't take it anymore. I would fake like I was
21 just totally out to keep him from choking me any
22 harder. He would slap me. He started asking me,
23 he started saying, 'I am here to kill you. If I
24 can't have you, nobody can have you.'

25 I said, 'Steven, why would you want to do

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1 that? You've got your children and everything to
2 live for.'

3 He said, 'I don't care. Right now I am upset
4 with you. You put me out of this house and I had
5 no place to go.'

6 I said, 'Well, you had your sister's that you
7 could go to.'

8 Of course everything that I said was the
9 wrong answer. I would continually get hit in the
10 face and choked and -- there was a knife that he
11 had out that he said, 'I will cut you. I will
12 kill you with this knife if you don't listen to
13 what I tell you to do ...' -- or to just answer the
14 questions as he wanted them to be answered.

15 Q. Where -- at any point in time did the knife
16 injure you?

17 A. It did. It did. That happened later on that
18 morning, yeah. Yeah.

19 Q. Tell us what happened after that. You said
20 that you were pretending to pass out so -- so tell
21 us what happened.

22 A. At that point that's when he -- after the
23 initial contact of him coming up the stairs, that
24 is when he threw me on the bed, snatched off all
25 the clothes that I was wearing and he attempted to

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1 have sex with me -- against my will. He tried.

2 He couldn't get an erection. So he started -- he
3 wanted me to put his penis in his (sic) mouth and
4 do that. Then after that ---

5 Q. Did he put his penis in your mouth?

6 A. Yes, he did. Then he got up and he got some
7 Vaseline to try to have sex with me, (emotional).

8 Q. At some point -- at this point -- if you need
9 to stop at any time, please just let me know.
10 At any point was he able to get his penis into
11 your vagina? I am sorry that I have to ask you
12 that.

13 A. Yeah. But, I mean, it was so crazy. You
14 know, it was just such a crazy morning. But I
15 mean, he did. He did do just that, yes.

16 Q. And did you try to get away at any point?

17 A. Of course.

18 Q. Tell us what happened.

19 A. After that happened, Steven, you know, he -
20 he sat there on the bed. He lit a cigarette and
21 he kinda calmed down somewhat. At that point, to
22 try to keep him calm, to keep him from hitting me
23 again, to keep him from choking me again, you
24 know, I sat there and I lit up a cigarette with
25 him, to try to keep him calm. He got up and he

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1 looked out the window. He kept looking out the
2 window. I don't know why.

3 That's why -- I had my cell phone by the bed.
4 I grabbed it and I tried to run. I thought this
5 might be a chance that I could get away so that I
6 don't get hit again. So I grabbed the cell phone.
7 That's when he jumped up and ran behind me.

8 At the time that I was running down the
9 stairs, he went to grab me. At the same time it
10 was a pushing effect. My stairs are like six or
11 seven stairs, then you turn and you come down
12 again. I was able to get down the first flight of
13 stairs but that's when he said, 'Where are you
14 going?' He grabbed me and he pushed me. At that
15 point I tumbled down the stairs. I have ceramic
16 floors downstairs, so my knee -- my right knee
17 impacted the ceramic floor, my head went through
18 the sheetrock. At that point, you know, he had
19 followed me the whole way down. He grabbed my
20 head and started slamming it against the cement
21 floor, asking me, 'Where do you think that you're
22 going?' You know, 'get back up the stairs.'

23 When I went to get up, I realized that I
24 couldn't walk. I said, 'Steven, I can't walk.'
25 I couldn't walk. He said, 'Just get back up the

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1 stairs.' Of course he was yelling and screaming
2 at me. That's when he had the knife to my neck,
3 and I have the wound to show it. I sat there. I
4 am so lucky that it didn't puncture more than it
5 did. But he said, 'I will kill you with this
6 knife if you don't get back up those stairs.' He
7 realized that I was trying to get away. I didn't
8 care -- I realized that I didn't have no clothes
9 on at that time. I was just going to run into the
10 neighborhood and just scream if I could. I guess
11 that he was aware of that. He took me by my hair
12 and my hands and just pulled me back up the
13 stairs, just to rape me again.

14 Q. Tell us about what happened when you got back
15 upstairs.

16 A. When we got back upstairs, he did the same
17 thing. He went to rape me again. I am trying to
18 figure out why, because at this point I was beaten
19 up, torn apart, my knee was busted, I couldn't
20 walk. He dragged me up on the bed and he sexually
21 assaulted me again. I am sitting there saying I
22 could not believe that he was doing because he was
23 doing it again to me, in the shape that I was in.
24 I laid there after that was over, he laid there
25 after he did what he did.

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1 Then he got up from the bed and he started
2 pacing the floor, just kind of pacing the floor.
3 You know, at this time the sun was just starting
4 to come up a little. He went to the linen closet
5 and grabbed a cloth or something and started - he
6 dampened it and started wiping the blood off my
7 face. He wiped my vagina with the cloth.

8 Then he started looking around the room.
9 He grabbed a couple of hangers and he -- he took a
10 hanger and he -- first of all, he made me lay on
11 my stomach. He said, 'lay on your stomach.' I
12 did. I tried to do everything that he said
13 because I didn't know when he was going to hit me
14 again or take the knife and stab me. I just
15 didn't know what to expect that night. So he took
16 some hangers, he took a hanger and he tied my
17 hands behind my back. First he stuffed my mouth.
18 He took a towel -- he stood there, took a towel
19 and ripped it into about four or five pieces. He
20 took pieces of the towel and stuffed it down my
21 mouth. Then he took another piece, wrapped it
22 around my face. He had some tape that he took and
23 taped up my face. That's when he went and that's
24 when he went and got the hangers and tied my hands
25 together. He tied my two feet, my ankles

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1 together. At that point he took another piece of
2 the towel and -- I had never heard hog-tied but I
3 learned that's what you call it when someone is
4 tied with your feet pulled to your arms, together.
5 He hog-tied me and -- that's when I was laying on
6 the bed on my stomach.

7 He asked me, he said, 'Where are your keys?'
8 I said -- you know, I wouldn't talk because I had
9 that stuff in my mouth. I was like 'uhhhh'. So
10 he started going off in my pocketbook. He was
11 looking for the keys. He found the keys and
12 started out of the room.

13 Before he left the room, he took the clothes
14 -- I had a whole bunch of clothes laying every-
15 where. He took a whole bunch of clothes and the
16 covers and he threw it on top of me like someone
17 was going to start a fire. I didn't know if he
18 was going to set me on fire, if he was going to
19 light a match or anything. I didn't know what to
20 think. He left me there.

21 Q. When he hog-tied you, was that when your knee
22 was injured?

23 A. The knee got injured -- right, (affirmative
24 nod) -- when I tumbled down. That was after the
25 knee was injured, yes.

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1 Q. Rose, I'm sorry to have to ask you this
2 question but you just described a second sexual
3 assault after you went back upstairs.

4 A. Yes.

5 Q. Where did Mr. Morgan penetrate your body with
6 his penis the second time, or the third time.

7 A. Of course the vagina. I cannot remember -
8 it's been over a year and I don't remember exactly
9 where it was taking place, but between the vagina
10 and the anal. He tried to do it that way, too.
11 That's why he had the Vaseline.

12 Q. Was that one of the sexual assaults, when he
13 tried to assault you rectally?

14 A. Oh, yes. Yes.

15 Q. And after he left, what happened next?

16 A. Well, after he left -- well, before he left
17 he took what was remaining of my telephone,
18 because it had fallen apart, the battery was in
19 one place and the top was in another. He picked
20 it up and he flushed it down the toilet before he
21 left.

22 He told me that he was going to get some
23 coffee and he said that he would be back. He
24 pretty much left me thinking that he would be
25 back.

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1 You know, before he left, I was in pretty
2 much so much pain that I was begging Steven to
3 please call 911, because I was in so much pain.
4 And he said that he would, you know, when he was
5 ready. That when he was ready that he would.

6 But, anyway, he left and said that he was
7 going to go get some coffee and that he would be
8 back. So, you know, I laid there, my breath was
9 -- my air started to feel cut off. I laid there
10 and I prayed to God. You know, I said, 'I don't
11 know how I am going to get out of this --
12 (emotional)'. It was just by the grace of God --
13 (emotional). Keep in mind I was tied up with
14 hangers. I wasn't tied up with a shoestring. I
15 was afraid I was going to give up and die in that
16 room.

17 But God gave me strength. I laid there for
18 thirty to forty-five minutes and it was really
19 cold. I have really small hands and wrists, so I
20 was able to wiggle my hands out of the hangers
21 that were so tightly wrapped around my hands.
22 Like I said, it was nothing but the grace of God
23 that I was able to get out of that.

24 Then once I was able to do that, I stood up
25 from the bed to try to hop. You know, I couldn't

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1 do that. I tried to undo the hangers that were
2 around my feet, but he had those wrapped up at
3 least six or seven times. It was really hard but I
4 got out.

5 I thought that I'd try to hop on my good leg
6 to get downstairs to get some help. I couldn't.
7 My body just collapsed. So at this point, I
8 grabbed a housecoat that was on my door and I sat
9 on it. And, uh, (emotional), I just - I had to go
10 backwards down the stairs because the knee was all
11 messed up. So I just kind of pushed myself down
12 the stairs, backwards, until I got to the very end
13 of the stairs.

14 I opened the front door -- I reached up and
15 opened the front door. Luckily there are
16 neighbors that walk in my neighborhood and there
17 was guy that was walking by. I kind of screamed
18 out to him, asked him to please come help me
19 because I needed to call 911, that I needed an
20 ambulance, that I was in pain. As he got closer
21 to the door, he couldn't believe what he was
22 seeing, what he saw. He went to the neighbor's
23 house next door, but she didn't answer. Then he
24 walked down to a neighbor's a couple of doors down
25 and -- I think that he was in the yard and he

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1 asked the guy for the phone. He brought his
2 cellphone down and I was able to talk to the 911
3 operator.

4 Q. Where did you go next?

5 A. The ambulance came and picked me up.

6 Q. And how long were you in the hospital?

7 A. I was in the hospital for a week.

8 Q. What were your injuries?

9 A. I had broken blood vessels in my neck from
10 the choking, I had my knee that was busted really
11 bad and I ended up having surgery on that. I
12 couldn't walk for months.

13 SOLICITOR WILLIAMS: Beg the court's
14 indulgence for just a moment.

15 THE COURT: Certainly.

16 SOLICITOR WILLIAMS: Your Honor, I am
17 going to show defense counsel State's Exhibits 1,
18 5, 7, 10, 11, 12, 25, 26, 60, 61, 62, 63, 64, 65
19 and 66.

20 CHAD SHELTON: (Upon review), Your
21 Honor, may we approach?

22 THE COURT: Sure.

23 (OFF RECORD SIDEBAR)

24 THE COURT: All right, that is he only
25 objection?

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1 CHAD SHELTON: Yes, sir.

2 THE COURT: All right. State's
3 Exhibits 1, 5, 7, 10, 11, 12, 25, 26, 60, 61, 62,
4 62, 64 and 65 are admitted without objection. The
5 objection to 66 is that it is cumulative. We have
6 had a sidebar concerning that. If necessary, we
7 can place more detail on the record at the first
8 break. I am admitting 66 subject to the objection
9 of being cumulative.

10 Ladies and gentlemen, just for your
11 information, there are two ways of dealing with
12 matters of law. One is to excuse you from the
13 courtroom and the other is to do what we just did,
14 have a sidebar. We call it a sidebar where we are
15 discussing matters of law. When those occur,
16 those are matters for my consideration. There is
17 nothing extremely private about it. It's just
18 better if you don't have to say 'I'm not supposed
19 to think about it' it if it something that you're
20 not supposed to hear. That's why we do that. So
21 when we do that, we're really trying to
22 accommodate you but not having to send you out and
23 bring you back. So just understand that's part of
24 it. Thank you very much.

25 You may proceed.

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1 SOLICITOR WILLIAMS: Thank you, Your
2 Honor.

3 CHAD SHELTON: Thank you, Your Honor.

4 SOLICITOR WILLIAMS: May I approach the
5 witness?

6 THE COURT: You may.

7 SOLICITOR WILLIAMS: Thank you, Your
8 Honor.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR WILLIAMS:

11 Q. Rose, if you would just look at that stack of
12 pictures and tell us if these pictures accurately
13 depict the way that things looked when this event
14 occurred.

15 A. (Upon review), yes, ma'am.

16 SOLICITOR WILLIAMS: Your Honor, at
17 this time we would move these exhibits into
18 evidence.

19 THE COURT: They are so admitted
20 without objection, except as to 66.

21 (SO ENTERED AS STATE'S EXHIBIT 1)

22 (SO ENTERED AS STATE'S EXHIBIT 5)

23 (SO ENTERED AS STATE'S EXHIBIT 7)

24 (SO ENTERED AS STATE'S EXHIBIT 10)

25 (SO ENTERED AS STATE'S EXHIBIT 11)

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1 (SO ENTERED AS STATE'S EXHIBIT 12)

2 (SO ENTERED AS STATE'S EXHIBIT 25)

3 (SO ENTERED AS STATE'S EXHIBIT 26)

4 (SO ENTERED AS STATE'S EXHIBIT 60)

5 (SO ENTERED AS STATE'S EXHIBIT 61)

6 (SO ENTERED AS STATE'S EXHIBIT 62)

7 (SO ENTERED AS STATE'S EXHIBIT 63)

8 (SO ENTERED AS STATE'S EXHIBIT 64)

9 (SO ENTERED AS STATE'S EXHIBIT 65)

10 (SO ENTERED AS STATE'S EXHIBIT 66)

11 SOLICITOR WILLIAMS: Permission to
12 publish?

13 THE COURT: You may.

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR WILLIAMS:

16 Q. State's exhibit 1. Rose, this little red dot
17 -- this is a pointer, so -- what is that a picture
18 of?

19 A. My front door.

20 Q. State's Exhibit 5, is that where that
21 occurred? The events occurred?

22 A. Right. Yes.

23 Q. Explain to the jury what that is?

24 A. That is my junk in the back yard.

25 THE COURT: Hold on. You're going to

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1 need to keep your voice elevated. Thank you.

2 MS. LAMPKIN: That is my backyard. It was
3 January. Leaves were everywhere. It was a wreck.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR WILLIAMS:

6 Q. If you wouldn't mind, would you point to
7 where -- did you learn at some point where the
8 crashing sound had come from?

9 A. Yes. It came from the sliding glass door.

10 Q. What was the condition of the sliding glass
11 door when you saw it next?

12 A. It was crumpled into millions of pieces.

13 Q. Do you see that door in that picture?

14 A. Yes.

15 Q. What is off to the right and bottom of that
16 door?

17 A. To the right and bottom?

18 Q. Right on the ground there, in front of
19 the ---

20 A. Oh, that's leaves that were on the ground.
21 Like I said, the guy - there was renovating going
22 on and there was just a bunch of junk, to be
23 honest with you.

24 Q. Are there some logs?

25 A. Yes, there are some logs too.

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1 Q. Where did that come from?

2 A. A tree had been cut down by a neighbor and
3 they had asked me if I wanted them to burn in the
4 fireplace. I had put them on the back porch.

5 SOLICITOR WILLIAMS: Your Honor, I am
6 going to show defense counsel what has previously
7 been marked as State's Exhibit 98.

8 CHAD SHELTON: (Review).

9 SOLICITOR WILLIAMS: If I may ---

10 THE COURT: You may.

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR WILLIAMS:

13 Q. What was this?

14 A. This was a piece of wood from a tree that was
15 cut down by a neighbor.

16 Q. Where was it found in relation to that house?

17 A. That morning -- after that morning, it was
18 found -- from the force that it took him to break
19 that door, it slid all the way to the front door.
20 From the back door to the front door.

21 Q. So this was thrown through the window?

22 A. Right.

23 SOLICITOR WILLIAMS: Your Honor, at
24 this time we would offer State's Exhibit 98.

25 THE COURT: Any objection?

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1 CHAD SHELTON: No objection.

2 THE COURT: Without objection, State's
3 Exhibit 98, a piece of wood, is admitted.

4 (SO ENTERED AS STATE'S EXHIBIT 98)

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR WILLIAMS:

7 Q. Could you please publish State's Exhibit 7?

8 This is hard to see in this light, but point out
9 for the jury where is the sliding glass door.

10 Where are we looking from?

11 A. This is the front door and the sliding glass
12 door is there.

13 Q. In the actual picture, you might be able to
14 see it better, but point out where the broken
15 glass is.

16 A. The glass was scattered from the back sliding
17 door all the way up to this front window that ran
18 along my front door, here. I mean, there was
19 glass everywhere. I still find pieces of glass in
20 the house now, hidden, from the broken glass.

21 Q. Where did the log wind up?

22 A. It winded (sic) up in this front window all
23 the way to the front. From the sliding glass door
24 it slid all the way to that front window.

25 Q. Looking at State's Exhibit 12. I don't know

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1 if this is any clearer, but -- so those -- if you
2 could just point out all the broken glass and how
3 much of that window/door was shattered that night.

4 A. All this side here (indicating). I am going
5 to be honest with you, when I came down the stairs
6 after all of that, I never did, you know, check
7 out how everything looked. I just knew that it
8 was broken, that there was glass everywhere in the
9 living room floor. It was scattered over the
10 whole floor. From what I could tell, both of the
11 doors were broken. I am not sure if it was one or
12 two. I didn't even look at -- at this point I was
13 so frazzled and just wanted some help.

14 SOLICITOR WILLIAMS: Your Honor, I am
15 showing defense counsel State's Exhibit 18, 20 and
16 21.

17 CHAD SHELTON: (Review).

18 SOLICITOR WILLIAMS: May I approach?

19 THE COURT: You may.

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR WILLIAMS:

22 Q. If you would just look through these pictures
23 and tell us if they accurately depict the way that
24 things looked that evening?

25 A. (Upon review), yes.

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1 SOLICITOR WILLIAMS: We would move 18,
2 20 and 21 in at this time, Your Honor.

3 CHAD SHELTON: No objection.

4 THE COURT: 18, 20 and 21?

5 SOLICITOR WILLIAMS: Yes, Your Honor.

6 THE COURT: Each being a photograph,
7 admitted without objection.

8 (SO ENTERED AS STATE'S EXHIBIT 18)

9 (SO ENTERED AS STATE'S EXHIBIT 20)

10 (SO ENTERED AS STATE'S EXHIBIT 21)

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR WILLIAMS:

13 Q. Explain to the jury what that (State's
14 Exhibit 18) is a picture of.

15 A. That is the blood that I had lost after I'd
16 fallen down the stairs, my knee had impacted the
17 floor, my head went through the sheetrock and --
18 that is where Steven had the knife to my neck,
19 where he punctured me there, and that's where I
20 lost blood from the puncture I'd gotten from the
21 knife.

22 Q. Explain where that staircase is in relation
23 to the front door.

24 A. This is the flight of stairs. If we were to
25 make a right here, the front door sat right off to

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1 the left there.

2 Q. And your bedroom would be?

3 A. Up those stairs, just to the right.

4 Q. State's Exhibit 20. Tell the jury what that
5 is, please.

6 A. This is where I had fallen and the blood that
7 I shed there. This is where my head went into
8 that sheetrock with the fall that I had coming
9 down the stairs headfirst. My right knee got
10 messed up right there.

11 Q. State's Exhibit 21. What is that?

12 A. That is the hole in the wall from where I'd
13 fallen and went into the wall.

14 Q. State's Exhibit 60. Tell us what that is.

15 A. That's me.

16 Q. And is that the way that you looked after Mr.
17 Morgan left you that night?

18 A. Yes. I look at that picture and I just can't
19 believe it.

20 Q. State's Exhibit 61. Tell us what that injury
21 is right there on your neck.

22 A. That is where he had the knife, here
23 (indicating), after I'd fallen down the stairs and
24 everything. He was threatening me to get back
25 upstairs, had the knife there to my neck, said

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1 that he would kill me if I didn't get back
2 upstairs and do what he said for me to do.

3 Q. State's Exhibit 62. Do you have any idea how
4 you got the redness that is all around the
5 perimeter of your forehead?

6 A. The redness, I think, came from the impact
7 of going into that sheetrock, that stuff, just
8 messing it up like that.

9 Q. State's Exhibit 63. Was that taken at the
10 hospital?

11 A. It could have been. I don't know. It could
12 have been the hospital. I am trying to look at
13 the background to see where it was. It could have
14 been at the front door. I had so many pictures
15 taken of me that day. You know, between the
16 people that got there and then the hospital.

17 Q. Do you know the injury to the top of your
18 nose, do you know how you got that injury?

19 A. You know, I still sort of have that mark
20 there. I don't know whether it came from whether
21 he had the knife there or -- I don't know how that
22 happened, how that mark had gotten there. It
23 stuck with me for a good long time.

24 Q. State's Exhibit 64. Were there marks around
25 your neck? Is that what that picture depicts?

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1 A. Yes.

2 Q. What was that from?

3 a. From the choking, lots of choking. I mean,
4 I had -- I had to have a blood transfusion because
5 of the broken vessels in my neck.

6 Q. State's Exhibit 66. That's the other side of
7 your face. Do you remember how you got that
8 injury?

9 A. Boxing. Lots of boxing. My jawbone still
10 slightly hurts now from that.

11 Q. Okay. Now, Rose, at some point you said that
12 Mr. Morgan left with your keys.

13 A. (Affirmative nod).

14 Q. At some point did you learn that he was
15 apprehended?

16 A. Yes.

17 Q. And what happened to the truck?

18 A. The truck was brought back or was driven back
19 from Georgia and I sold the truck to a friend.

20 Q. Who was that friend?

21 A. His name was Victor Mazyck. I had not seen
22 the truck. I was still in Columbia with my mom.

23 I was staying with her after all the injuries.

24 I think my son picked it up from the police

25 department after it had gotten back here.

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1 Q. Did you hear from Mr. Mazyck after you sold
2 the truck?

3 A. Yes. Yeah, because he had to come and give
4 me some money. He'd called and told me that he
5 had found some stuff in the truck that I might
6 have wanted.

7 Q. Did he say where he found he?

8 A. Yes. It was in the center console. He was
9 going to change the console to put his own console
10 in there. To his surprise he found my car keys
11 that Steven had taken that morning, along with the
12 knife that he had used during the attack.

13 Q. And he brought those to you, you said?

14 A. Yes. He brought them all the way to
15 Columbia. That's when I think I'd told -- had
16 called the investigator and told him that he had
17 found them. Victor called down there and took it
18 to the police department. He was great.

19 SOLICITOR WILLIAMS: Your Honor, I am
20 showing defense counsel what has been marked as
21 State's Exhibit 83, 84, 89 and 90.

22 CHAD SHELTON: (Review).

23 SOLICITOR WILLIAMS: May I approach the
24 witness?

25 THE COURT: You may.

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR WILLIAMS:

3 Q. Showing you State's Exhibit 83 and 84. Do
4 these picture accurately reflect what's shown in
5 the pictures at the time that you saw it?

6 A. Yes.

7 Q. Now showing you State's Exhibit 89, which is
8 knife. Do you recognize what this is?

9 A. Yes.

10 Q. What is that?

11 A. It is a knife.

12 Q. Is it the knife that was used that evening?

13 A. Yes.

14 SOLICITOR WILLIAMS: Your Honor, at
15 this time we would move 83, 84, and 89 into
16 evidence.

17 THE COURT: Any objection?

18 CHAD SHELTON: No objection.

19 THE COURT: Without objection, State's
20 Exhibit 83 and 84, each being a photograph, is
21 admitted without objection. State's Exhibit 89 is
22 a knife, and it is admitted.

23 (SO ENTERED AS STATE'S EXHIBIT 83)

24 (SO ENTERED AS STATE'S EXHIBIT 84)

25 (SO ENTERED AS STATE'S EXHIBIT 89)

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR WILLIAMS:

3 Q. Now showing the witness State's Exhibit 90.

4 Do you recognize what this is?

5 A. This is my car keys. It has a leather ring
6 with my name on it.

7 Q. When Mr. Mazyck brought you this knife, when
8 was the last time that you had seen them?

9 A. On that morning of January 29th.

10 Q. And who had them?

11 A. Steven.

12 Q. And when you say Steven, you mean Steven
13 Morgan?

14 A. Yes.

15 Q. And Mr. Mazyck found them where?

16 A. He found them under the console. I am not
17 sure if the police had checked it for evidence,
18 but it would never have been found if that center
19 console had not been lifted up the way that Victor
20 -- he didn't like the console that was in there,
21 so he lifted it up to put his own and that's when
22 he found these pieces.

23 Q. And when you're talking about the console,
24 you're talking about the console of the truck that
25 Steven was driving?

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1 A. Right.

2 SOLICITOR WILLIAMS: May we publish 83
3 and 84?

4 THE COURT: You may.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR WILLIAMS:

7 Q. State's Exhibit 83, can you tell the jury
8 what that is?

9 A. That's the pickup truck that I owned.

10 Q. Is that the truck that Mr. Morgan took that
11 night?

12 A. Yes.

13 Q. Is that the truck that you then sold to Mr.
14 Mazyck?

15 A. Yes. Now, he didn't take the truck -- the
16 truck was taken to the truckstop when I put him
17 out. He had the truck with him. I didn't have no
18 problem with him having the truck. I had pretty
19 much given Steven the truck. Yes, it's the truck
20 that he was driving.

21 Q. Now, after all of these events transpired,
22 did you learn where Mr. Morgan went to after the
23 event?

24 A. I was told that he went to Georgia.

25 Q. Okay. And was he captured in Georgia at some

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1 point

2 A. That's what I was told.

3 Q. After that event, after he was captured and
4 apprehended, did you hear from him again?

5 A. Yes. He actually wrote me a couple of months
6 after I'd gotten back home.

7 Q. And when you lived with Mr. Morgan for those
8 two years, did you have an opportunity to observe
9 his handwriting?

10 A. Yes.

11 Q. And did you see cards, letters?

12 A. Yes. He'd given me several cards.

13 Q. Would you recognize his handwriting if you
14 saw it, based on that experience?

15 A. Yes.

16 SOLICITOR WILLIAMS: Your Honor, I am
17 going to mark this as State's Exhibit 100 and 101,
18 which is a letter and an envelope.

19 THE COURT: Okay.

20 SOLICITOR WILLIAMS: (Tenders to
21 defense counsel).

22 CHAD SHELTON: (Review).

23 SOLICITOR WILLIAMS: May I approach?

24 THE COURT: You may.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR WILLIAMS:

2 Q. Is this item (State's Exhibit 100) as you
3 received it?

4 A. Yes.

5 A. And you recognize the handwriting on that
6 letter and envelope?

7 A. Yes.

8 Q. Whose handwriting is it?

9 A. Steven's.

10 Q. Was this sent to your home?

11 A. Yes.

12 SOLICITOR WILLIAMS: Your Honor, at
13 this time we would move State's Exhibit 100 and
14 Exhibit 101 into evidence.

15 THE COURT: Any objections?

16 CHAD SHELTON: We object on 403, Your
17 Honor.

18 THE COURT: 403? Meaning -- what?
19 Cumulative?

20 CHAD SHELTON: Prejudicial, Your
21 Honor.

22 THE COURT: Certainly the objection is
23 noted as to 403, but you're not -- you're not
24 saying that it is not relevant, you're just saying
25 that it is prejudicial?

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1 CHAD SHELTON: Yes, Your Honor.

2 THE COURT: Subject to objection of
3 counsel, State's Exhibits 100 and 101 are
4 admitted.

5 (SO ENTERED AS STATE'S EXHIBIT 100)

6 (SO ENTERED AS STATE'S EXHIBIT 101)

7 SOLICITOR WILLIAMS: Your Honor, may I
8 publish this by reading?

9 THE COURT: You may.

10 SOLICITOR WILLIAMS: This letter was
11 dated August 26, 2012, postmarked August 27th,
12 2012, (reading):

13 "Dear Rose:

14 I hope and pray that this letter
15 finds you in the best health in Jesus name. I
16 know that you probably wasn't looking forward to
17 receiving a letter from me. But, Rose, I am
18 feeling the same emotional and mental pain myself.

19 Rose, it is not enough words to
20 express my sorrows. Out of all people, not
21 knowing that I allowed the devil to come into my
22 life and manipulate me. Rose, I never intended
23 for such tragic to happen. The devil allowed his
24 worker to slip god knows what in my drink. Rose,
25 I thought my life was about to be over. All I

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1 wanted was help. My instinct led me home to you,
2 not being fully alert of my conscious. I just
3 wanted someone to help me.

4 Rose, my dear, since I've been
5 incarcerated, I've really grown closer to God.
6 I've been fasting and praying and crying out to
7 God to step in the situation, to take control, so
8 that you and your family don't have hard feelings
9 towards me.

10 Rose, there is so much stuff that I
11 would like to say but I am not sure how you feel
12 at this moment. So I am going to end this letter
13 but not my thoughts of hoping that I will be able
14 to hear a positive response from you soon.

15 In Jesus name. God bless.

16 P.S.: Please tell Grandmama that I
17 still love her and think of her daily, that I am
18 human, that I got manipulated by the devil and
19 sin. Sorry. Please pray for me."

20 Court indulgence for just a moment.

21 THE COURT: Yes, ma'am.

22 SOLICITOR WILLIAMS: Showing the
23 defense counsel what has been marked as State's
24 Exhibit 86.

25 THE COURT: Before you do that, let's

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1 go ahead and let the jury take a break at this
2 point.

3 SOLICITOR WILLIAMS: Okay.

4 THE COURT: Ladies and gentlemen, we'll
5 let you go to your jury room. Do not discuss the
6 case, do not begin your deliberations. We will be
7 with you in about ten to fifteen minutes.

8 (JURY OUT @ 3:10 P.M.)

9 THE COURT: Anything from the State
10 before we recess?

11 SOLICITOR WILLIAMS: No, sir.

12 THE COURT: Anything from the defendant
13 before we recess?

14 CHAD SHELTON: No.

15 THE COURT: We looked at the exhibits.
16 I think that my discussion with you is that while
17 there were certainly some cumulative features of
18 the photographs, I felt that there were enough
19 differences to admit them. Your objection to
20 cumulative is certainly noted for purposes of
21 review. Thank you very much.

22 Ms. Lampkin, during this break you may
23 step down but I'd ask that you not have any
24 conversation with any of the attorneys. Thank
25 you. We will be at-ease for about fifteen

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1 minutes.

2 (BRIEF RECESS)

3 (DEFENDANT PRESENT)

4 THE COURT: Ms. Lampkin, you may resume
5 the stand. Invite the jury to return.

6 (JURY IN @ 3:10 P.M.)

7 THE COURT: Thank you, ladies and
8 gentlemen. We are ready to resume at this time.
9 Ms. Williams, thank you for allowing the
10 interruption. You may resume your examination,
11 Solicitor.

12 SOLICITOR WILLIAMS: Thank you, Your
13 Honor. Your Honor, at this time the State would
14 like to move State's Exhibit 90 into evidence.
15 I am not sure that we moved that into evidence
16 before the break.

17 THE COURT: Any objection?

18 CHAD SHELTON: No, sir.

19 THE COURT: State's Exhibit 90 is a bag
20 containing car keys?

21 SOLICITOR WILLIAMS: Yes, Your Honor.

22 THE COURT: Without objection, State's
23 Exhibit 90 is admitted.

24 (SO ENTERED AS STATE'S EXHIBIT 90)

25 DIRECT EXAMINATION RESUMED

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1 BY SOLICITOR WILLIAMS:

2 Q. Ms. Lampkin, just to go over the time line of
3 when Mr. Morgan moved out of the home, you
4 testified that he moved out of the home December
5 14th, 2011, and you put his truck at the truckstop
6 so that he could get it?

7 Q. That's right.

8 Q. Did he ever have any permission to come back
9 into the home between December 14th and January
10 29th

11 A. No. I asked him not to.

12 Q. Did he ever come back into the home during
13 that time?

14 A. None other than the 29th, the morning when he
15 broke in. He did show up at the house maybe two
16 weeks after the 14th at 1:00 o'clock in the
17 morning, blowing the horn, beating on the door.
18 He'd called me at work and something told me that
19 he might come by that night. I made sure that my
20 son was there. Sure enough, he came by. He was
21 trying to get in the door or trying to get into
22 the window.

23 Q. What did you do ---

24 A. And that window screen is off right now.
25 I don't know what he was trying to do.

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1 Q. --- in response to this?

2 A. At this point, uh, you know, my son was
3 concerned that he was trying to get in. So he
4 figured that we needed to call the cops.

5 Q. Did you?

6 A. Yeah, Sean called the cops from his phone.

7 Q. Do you remember the exact date of that event?

8 A. No, I don't.

9 Q. Would it refresh your memory to look at the
10 police report?

11 A. Yes.

12 SOLICITOR WILLIAMS: Your Honor, may I
13 approach?

14 THE COURT: Have it marked for
15 identification only, please.

16 COURT REPORTER: State's Exhibit 102
17 for identification.

18 THE COURT: Ladies and gentlemen, one
19 of the things that you may hear in a trial --
20 generally when witnesses are shown a document --
21 when I was coaching mock trials, I used to tell my
22 students that every document has to have a name.
23 That's why we mark them, so that we have a way of
24 identifying it for the record and for your
25 purposes, too. It's not uncommon to have

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1 witnesses view documents that are marked for
2 identification. If that exhibit is admitted, then
3 it will certainly accompany you to your jury room.
4 If it is not admitted, then you can consider
5 testimony regarding the document but the document
6 will not accompany you to the jury room - unless
7 it is actually admitted. Sorry to interrupt you.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR WILLIAMS:

10 Q. Don't tell us anything that's in the report
11 but does that refresh your memory as to the date
12 when he attempted to try to get in?

13 A. Right. Yes, ma'am.

14 Q. When was the date?

15 A. 12/30/2011.

16 Q. So roughly two weeks after he moved out?

17 A. Um-humm, (affirmative nod).

18 Q. He never lived in that home again?

19 A. (Negative gesture).

20 Q. Never had permission to enter again?

21 A. No.

22 Q. And when you were describing the assault, you
23 talked about that at one point -- you told us the
24 whole story, but do you even know how long that he
25 was in the home?

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1 A. It was several hours, two to three hours.
2 Like I said, I knew that -- as soon as the sun
3 came up, you know, he was trying to get out of
4 there before it got too bright outside. He kept
5 looking out the window, for whatever reason. It
6 was several hours. He came in around 4:00 or
7 4:30. I never had a chance to look at any clocks.
8 I didn't look at anything with time, so --
9 (pause).

10 Q. And you testified that at one point you tried
11 to run away?

12 A. (Affirmative nod).

13 Q. Did you try other ways to try to stop the
14 assault from happening?

15 A. In the midst of Steven being up there, you
16 know, hitting me and choking me, you know, I was
17 trying to make nice with him, to calm him down.
18 There were several times when I started quoting
19 Bible verses to him. That seemed like it calmed
20 him down, took some of the anger out of him for a
21 moment.

22 Q. You said that you had smoked a cigarette with
23 him. Did you try to talk to him, reason with him?

24 A. Yes. That's why we sat there, to see if he -
25 he'd calmed down and that's why I sat there with

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1 him and lit a cigarette, since he was not beating
2 me at that point in time. I was trying to make
3 nice with him so that he would not continue to
4 beat on me again.

5 Q. At any point did the two of you go to a
6 different portion of the house?

7 A. No. The whole incident basically took place
8 upstairs other than me running, falling down the
9 stairs and being dragged back up the stairs.

10 Q. And did you put any clothing on at any point
11 in the evening?

12 A. Yes. I had put on a jacket. You know, I
13 just found something. Because it was cold, there
14 was a jacket that I put on. After he came
15 upstairs, he wanted to go -- he drug me downstairs
16 to see some of the work that I had being done in
17 the house. I'd had a new stove put in and stuff,
18 so he wanted to see that stuff. He said, 'I guess
19 you think some other man is going to be in here
20 enjoying this with you' and -- you know.

21 SOLICITOR WILLIAMS: Your Honor, I had
22 previously shown defense counsel Number 86. May I
23 approach?

24 THE COURT: You may.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR WILLIAMS:

2 Q. If you would, just look in there and tell us
3 what this is.

4 A. It is a corduroy jacket of mine.

5 Q. When was the last time that you wore this?

6 A. On the 29th when Steven had been to the
7 house.

8 Q. That is what you were wearing at the time?

9 A. Right, that's what I had put on.

10 SOLICITOR WILLIAMS: Your Honor, at
11 this time we would move State's Exhibit 86 into
12 evidence.

13 THE COURT: Any objection?

14 CHAD SHELTON: No objection.

15 THE COURT: Without objection, State's
16 Exhibit 86 is admitted. A bag containing a
17 corduroy jacket.

18 (SO ENTERED AS STATE'S EXHIBIT 86)

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR WILLIAMS:

21 Q. Rose, if you could just tell us what is on
22 the collar?

23 A. That's blood that I shed from the wound to
24 where the knife was at my neck.

25 Q. And do you have any idea where all the blood

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1 came from?

2 A. Just dripping out of the wound from the time
3 that it happened.

4 SOLICITOR WILLIAMS: I have already
5 shown defense counsel State's Exhibit 87, 88 and
6 72. May I approach?

7 THE COURT: You may.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR WILLIAMS:

10 Q. First, Rose, if you could tell us that this
11 picture (State's Exhibit 72) accurately depicts
12 what is in it as of the night of this event?

13 A. Yes, that's my knee.

14 SOLICITOR WILLIAMS: We would move for
15 its admission, State's Exhibit 72.

16 CHAD SHELTON: No objection.

17 THE COURT: State's Exhibit 72, a
18 photograph, is admitted without objection.

19 (SO ENTERED AS STATE'S EXHIBIT 72)

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR WILLIAMS:

22 Q. And can you tell us what these are in this
23 bag?

24 A. Those are the hangers that were used that
25 morning to tie me up.

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1 SOLICITOR WILLIAMS: Your Honor, we
2 would ask that State's Exhibit 87 be moved into
3 evidence.

4 THE COURT: Any objection?

5 CHAD SHELTON: No objection.

6 THE COURT: State's Exhibit 87, a bag
7 containing coat hangers, admitted without
8 objection.

9 (SO ENTERED AS STATE'S EXHIBIT 87)

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR WILLIAMS:

12 Q. And if you could just explain to the jury
13 what he did with these hangers?

14 A. The one that you have there is the one that
15 was tied around my hands, behind my back.

16 Q. There's different ---

17 A. Now, those I'm not familiar with. There were
18 basically two, one that he had around my hands and
19 then one that he had around my ankles.

20 Q. Okay.

21 A. And I remember that the one that he had
22 around my ankles had a whole lot more - yeah, I
23 think that's the one that was around my ankles.

24 SOLICITOR WILLIAMS: Your Honor, we
25 would move for admission of State's Exhibit 87, a

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1 ban containing hanger pieces.

2 THE COURT: Any objection?

3 CHAD SHELTON: No objection, Your
4 Honor.

5 THE COURT: Without objection, State's
6 Exhibit 87 is admitted, a bag containing pieces
7 of hanger.

8 (SO ENTERED AS STATE'S EXHIBIT 87)

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR WILLIAMS:

11 Q. Showing you what has been marked as Exhibit
12 88. What is that?

13 A. That's the towel that was stripped into
14 several pieces.

15 SOLICITOR WILLIAMS: Your Honor, at
16 this time we would move State's Exhibit 88 into
17 evidence.

18 THE COURT: Any objection?

19 CHAD SHELTON: No, sir.

20 THE COURT: State's Exhibit 88, a bag
21 containing strips of towel admitted without
22 objection.

23 (SO ENTERED AS STATE'S EXHIBIT 88)

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR WILLIAMS:

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1 Q. Tell the jury what he did with these strips
2 of towel that are knotted?

3 A. This is the one that was tied from my -- that
4 drew my hands and my feet together. The other
5 one is the one that was stuffed in my mouth.

6 Q. And you talked a little bit about going to
7 the hospital and having your knee operated on.
8 Was that before you left the hospital or did you
9 have to go back?

10 A. That was the very last surgery that they
11 performed before leaving the hospital. I think
12 the day before I left was when they did the knee
13 surgery.

14 Q. Okay. State's Exhibit 72, tell the jury what
15 that is. I don't know if you will be able to see
16 that.

17 A. That is a picture of my swollen knee after
18 several hours/days. It's hard to see.

19 Q. Your kneecap was broken?

20 A. Yes.

21 Q. And while you were at the hospital, what
22 other procedures were preformed on you? After
23 you went to the emergency room, did you see any
24 other nurses?

25 A. Oh, god. I saw lots and lots of nurses.

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1 Q. Was there a sexual assault examination done?

2 A. Yes, they did all that testing. Checked
3 everything.

4 Q. And why did you not go back to your home
5 right away?

6 A. Well, the main thing it was just terrifying
7 thinking about going back to that house after
8 what had taken place just several days earlier.
9 Then I couldn't walk. I had to have care. My
10 mother and my father took care of me in Columbia
11 until I was able to come back to work, to come
12 back home. So I was there for several months.

13 SOLICITOR WILLIAMS: Court's
14 indulgence, please.

15 THE COURT: Very well.

16 SOLICITOR WILLIAMS: I have no further
17 questions.

18 THE COURT: State's 102, is that an
19 exhibit? It needs to come back here, to be left
20 here.

21 SOLICITOR WILLIAMS: Sorry, Your Honor.
22 I have a bad habit of doing that.

23 THE COURT: No problem. Thank you,
24 Ms. Williams.

25 SOLICITOR WILLIAMS: Thank you.

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1 THE COURT: You may cross-examine, Mr.
2 Sheldon.

3 CROSS EXAMINATION

4 BY CHAD SHELTON:

5 Q. You and I have never talked or discussed this
6 case?

7 A. No, we have not.

8 Q. You said that you and Steven broke up,
9 officially broke up around his birthday in 2011?

10 A. Yes.

11 Q. And you took his - took the truck and all
12 his clothes and left them at the truckstop.

13 A. Right.

14 Q. He was an over-the-road truck driver?

15 A. Yes. I mean, he came home -- sometimes he
16 would have to stay overnight but most of the time
17 he would come back to town to spend the night.

18 Q. And y'all were together for about three
19 years?

20 A. Yeah, over two years. I am not sure exactly
21 but it was over two years.

22 Q. And you started living together about a half
23 year into the relationship or when did he start
24 living with you?

25 A. Probably about six months or so after I met

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1 him.

2 Q. And you met Steven through his sister,
3 Janette?

4 A. Yes.

5 Q. Were you -- did you have any financial issues
6 or problems with your home at the time that Steven
7 moved in?

8 A. As far as?

9 Q. Did he help with you going through a
10 foreclosure?

11 A. Well, it wasn't really a foreclosure. It was
12 just kind of getting behind. I work at a strictly
13 commission job and those checks fluctuate some
14 time to time.

15 Q. And it was in about 2008 when all the issues
16 were going on with homes and ---

17 A. Exactly. I think -- yeah, I had some
18 financial issues going on but, thank God, I made
19 it through.

20 Q. And Steven lost his car in all of that, too,
21 didn't he?

22 A. Yeah. That was a long story, but yeah, he
23 did.

24 Q. And when everybody was back on their feet,
25 that's when you got a car and he got a truck?

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1 A. Well, I always had my car. So I had gotten
2 the truck -- because he wanted a truck. He said
3 that he was going to start doing some light yard-
4 work for people, making a couple of dollars here
5 and there. So I was willing to help him with the
6 truck or get the truck so that he could -- you
7 know, to help him out so that he could help
8 himself.

9 Q. Did you -- and when you left the truck, you
10 called Steven's mother to tell her that you had
11 left the truck at the truckstop?

12 A. Yes. I had a long in-depth conversation with
13 her. I just kind of let her know that, you know,
14 Steven and I were having some problems, that I
15 couldn't deal with him threatening me. Just
16 jealous. I knew that I wasn't doing anything. I
17 was there to help him as much as I could.

18 Q. And I think it was Mr. Mazyck that you sold
19 the truck to, around the end of March?

20 A. I think it was right around that time.

21 Q. So the truck from about January 30th to the
22 end of March was in your possession or ---

23 A. It was sitting in my yard. Yeah, sat in my
24 driveway.

25 Q. And Mr. Mazyck, is he related to somebody

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1 close to you -- or who is Mr. Mazyck?

2 A. He is actually my girlfriend Chantelle's
3 husband's brother.

4 Q. And Chantelle was one of the first persons
5 that you called after this incident?

6 A. Right. I called her that morning.

7 Q. And then your home was also struck by
8 lightening?

9 A. It had been stuck in August of that year.
10 That's why I was getting all those repairs done.
11 Yes.

12 Q. And about - did you go to Outback with Steven
13 to celebrate his birthday the week before ---

14 A. I think that we did. We went out to eat
15 somewhere, yeah. We went out to eat somewhere and
16 that's when I had gotten with the contractor, you
17 know, to give him the check to do the work.

18 Q. Then you went to like Home Depot or Lowe's
19 and picked out all your appliances?

20 A. Yeah, we did.

21 Q. And this contractor -- who was the
22 contractor?

23 A. His name was Eric Cooper.

24 Q. And he doesn't have a company or anything.
25 It was just one of your friends that was going to

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1 help do a lot of the work?

2 A. Well, he was actually recommended to me by a
3 friend, a classmate, of mine. Yeah. That he was
4 an electrician that could do the work.

5 Q. Did he show up at Outback that night?

6 A. He showed up to get the check for that work
7 to be done.

8 Q. Are you aware that he called Steven a couple
9 of days later?

10 A. I was aware that Steven called him a couple
11 of days later.

12 Q. Are you aware that Mr. Cooper had thought
13 that Steven was actually your son?

14 A. That story was a mix-up from the beginning.
15 I told Steven that I didn't know what he was
16 talking about, that Steven had thought that the
17 call was my son. But it was -- it was mix-up with
18 Steven trying to start something, as always with
19 jealousy arising.

20 Q. And this was like the straw that broke the
21 camel's back?

22 A. Pretty much.

23 Q. The last argument?

24 A. Yeah, because it was just too much jealousy
25 -- you know, here you are living in my house, rent

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1 free. Why are you accusing me of anything, every
2 little thing? You know, if I went to the store
3 for thirty minutes and stayed too long I would be
4 accused for something.

5 Q. And y'all had been arguing about this?

6 A. Yeah.

7 Q. You gave a written statement to the police
8 after this incident?

9 A. After the incident took place?

10 Q. Yes.

11 A. Well, yes. They questioned me when they got
12 there that morning. I was questioned at the
13 hospital and everything.

14 Q. You talked to a lot of people about this?

15 A. Oh, my goodness, (affirmative nod), a lot of
16 people.

17 Q. You talked to the police on the scene?

18 A. Right.

19 Q. And Investigator Goodyear was there?

20 A. Yes.

21 Q. And then you probably would have told the
22 medical people about what had occurred?

23 A. Oh, yeah, the story was told -- you know, I
24 had a -- they had drugged me up so bad because of
25 all the injuries and everything, so I was telling

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1 the story -- I don't know how many times, but I
2 told the story to everyone to the best of my
3 ability.

4 Q. And you also would have talked to the sexual
5 assault nurse?

6 A. Yes, she was there as well.

7 Q. And have you had a chance to review your
8 written statement that you gave to the police,
9 before you came here today?

10 A. I have reviewed that because I had notes for
11 my insurance. When I was down, I had to contact
12 the police department to get a copy of the police
13 report because I had to send that in to my
14 insurance with my job, in order to get all these
15 bills paid. So ---

16 Q. The Solicitor's Office didn't let you review
17 your statement before you came here today?

18 A. Did they let me review my statement?

19 Q. Did you look at your statement or read it
20 before you ---

21 A. Right. I've looked at several notes along
22 the way from everybody.

23 Q. I think that you said that it was a pretty
24 crazy night, a crazy morning.

25 A. It was crazy. It was like something you

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1 would see on *C.S.I.*

2 Q. And in your statement you said that you heard
3 a noise about 4:30 in the morning?

4 A. Yes.

5 Q. And then you saw Steven approaching?

6 A. Yes. He was running up the stairs in a rage.

7 Q. And your statement says that he accused you
8 of putting him out?

9 A. Yes. He said that, you know, it was -- why
10 did I put him out, that he had no place to go.

11 Q. Then he started hitting you and told you to
12 take off your clothes?

13 A. Well, he pretty much ripped the clothes off.
14 I didn't really have a choice.

15 Q. So he -- he ripped the clothes off of you.
16 He didn't order you to take the clothes off?

17 A. Well, he ordered. He ripped. There was just
18 a whole lot going on during that time.

19 Q. And he said that he will take this knife and
20 "I will kill you, I will kill myself."

21 A. Yes.

22 Q. And then he forced you to have intercourse in
23 different positions?

24 A. Yes.

25 Q. He started to smoke a cigarette and that's

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1 when you tried to run down the stairs?

2 A. Yes, he was smoking a cigarette and he was
3 calming down from the rage that he'd had, you
4 know, from the time that had got in there. So
5 that's the time that I thought that I would have a
6 break to try to get away and not be hit on again.

7 Q. Then in your written statement you said that
8 you fell trying to leave and he grabbed and shoved
9 you into the wall.

10 A. Right. So -- when I got up, when he was
11 sitting there and I went to run from him, that's
12 when he went behind me to catch me. When he
13 turned when he went to grab me, it was like a
14 shoving effect.

15 Q. But in your written statement you never
16 mentioned anything about him shoving you into the
17 tile floor.

18 A. No, it was basically the fall that did that.
19 When I was being -- when he was trying to grab me
20 was when I tumbled down the stairs. When I
21 tumbled down the stairs, me hitting the bottom,
22 hitting that ceramic tile, going through that
23 wall.

24 Q. And maybe I am missing something. But in
25 your direct examination you also mentioned that

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1 he was taking your head and banging it on the ---

2 A. Right. Once it'd gotten to the base of that
3 stairs and once he had gotten to me, he had taken
4 my head and was banging it on the ceramic tile; as
5 if to say that this was my punishment for having
6 tried to get away from him.

7 Q. But you don't mention anything about that in
8 your statement?

9 A. Like I said, several statements were asked to
10 me different ways; so, you know, ---

11 Q. Would it help to refresh your memory to see
12 your written statement?

13 A. Sure.

14 COURT REPORTER: Defendant's Exhibit 1
15 for identification.

16 MS. LAMPKIN: And I don't have my glasses
17 now.

18 CROSS EXAMINATION CONTINUED

19 BY CHAD SHELTON:

20 Q. (Tenders).

21 A. Do you want me to read it?

22 Q. You can just go through that and see if it
23 refreshes your memory.

24 A. You don't want me to read it, though?

25 Q. You can read it to yourself.

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1 A. Oh, okay. (Upon review), okay.

2 Q. Do you see the part where you say that he
3 threw you into the wall?

4 A. *"He grabbed and shoved me into the wall."*
5 Okay.

6 Q. You didn't mention anything about him
7 grabbing you and shoving you into the tile,
8 knocking your head into the tile?

9 A. Well, like I said, the story was told several
10 different times at the hospital. Actually my
11 girlfriend wrote that because I wasn't able to
12 write, but that's what I was saying. But it
13 happened. Whether I wrote it on here or not, it
14 happened. Believe me.

15 Q. So you say that your girlfriend was writing
16 the statement?

17 A. Right, on the hospital, right up next to my
18 hospital bed, because I wasn't in a condition to
19 write anything. As I was speaking, it was being
20 written.

21 Q. But you did sign that?

22 A. Yes, I signed it. I scribbled my name.

23 Q. And you were at the hospital?

24 A. Yes.

25 Q. At the time that you wrote this statement, do

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1 you remember if you had already given your initial
2 information to the hospital staff?

3 A. As far as what?

4 Q. As far as what had happened?

5 A. You know, when I got there that morning there
6 was so many people around me, uh, I must have had
7 ten/twelve doctors or nurses around my bed. There
8 was a lot going on. I am sure that I gave
9 information that was being asked of me at that
10 time.

11 Q. Do you remember that you denied alcohol use
12 to the doctor?

13 A. That I denied alcohol use?

14 Q. Yes.

15 A. As far as?

16 Q. Using alcohol that night?

17 A. Well, I told them -- they asked me had I had
18 anything to drink and I told them that I'd been to
19 a birthday party and, yes, I did have a drink that
20 night.

21 Q. That was to the sexual assault nurse that you
22 said that. Do you deny using alcohol to the
23 doctors and to the nurses?

24 A. I don't believe that I denied it. I would
25 never say that I hadn't when I knew that I had.

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1 Q. And about two hours or so later you give
2 another statement to Ms. Hall, who was a sexual
3 assault nurse. Do you remember?

4 A. I don't remember. It's hard to remember
5 everything that took place that week.

6 Q. Nowhere in your written statement do you
7 mention your keys being taken.

8 A. Okay. Like I say, the story was told to
9 several different people throughout several
10 different times.

11 Q. And you mentioned that you hopped downstairs
12 naked?

13 A. No. I said that I attempted to hop from the
14 bed to go downstairs, but I couldn't. My weight
15 would not hold me on my good leg. So I had to sit
16 down on a blue housecoat -- if you look back at
17 the pictures, there is a blue housecoat that is at
18 the front door; is what I sat on so that I didn't
19 get splinters in my behind trying to get down the
20 stairs. So I sat on something to try to go down
21 the stairs.

22 Q. Do you remember telling the sexual assault
23 nurse that you guys were arguing about 'why I
24 wouldn't take him back.'

25 A. To be honest with you, I can't remember a lot

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1 of stuff that was asked me in that hospital. I
2 was under a whole lot of medication due to the
3 injuries that I had. So there were several
4 questions asked of me and I am sure that I
5 answered them to the best of my ability, but I
6 couldn't recall what was said.

7 Q. You never mentioned the cell phone in your
8 written statement?

9 A. Like I said, these statements were -- I had
10 questions being asked of me all -- the whole day,
11 that whole Sunday after being admitted to the
12 hospital. There were questions being asked to me
13 and, uh, -- I mean, I wrote a lot -- I mean,
14 people were taking notes all around me. So what
15 was said on that time or any other time ----

16 Q. This would have been the only statement that
17 you actually signed, though.

18 A. Yeah, but you know what, I didn't realize
19 that signing or speaking, the cops asking me
20 questions, the nurse asking me questions, I just
21 answered them. So, (shrug).

22 Q. With your cell phone having been flushed down
23 the toilet, we can no longer get any information
24 from that?

25 A. As far as -- you could probably get something

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1 from the cell phone company as far as whether
2 there were more calls made from that phone. I
3 didn't have the phone later.

4 Q. So we couldn't get any information that you'd
5 invited Steven over that night?

6 A. No, I didn't. I would never have done that. .
7 Never.

8 Q. You do mention that Steven agreed to call
9 911?

10 A. During the whole attack?

11 Q. That he agreed to call 911?

12 A. Yeah, but he knew that he wasn't going to
13 call 911. He said that he would have, I begged
14 and pleaded that he would but he said when he was
15 ready to - and there was a lot of profanity used
16 that I'd rather not use but he said that he would
17 call, that he would call when he was ready to
18 call.

19 Q. And that was after he'd used some towels to
20 clean up your face, to take some blood off your
21 face, and then ---

22 A. Right.

23 Q. --- he offered to call 911?

24 A. Well, yeah, but throughout the whole second
25 half of that when I was asking him to stop hitting

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1 me and beating me and I kept saying that I was in
2 pain, 'please call 911.' You know, he said that
3 he would call when he was ready to call.

4 Q. In your earlier statement, you said that
5 everything happened upstairs?

6 A. Right, other than me falling down and the
7 impact of my knee hitting the ceramic tile and my
8 head hitting into the wall.

9 Q. Okay. Then at some point in time he hog-tied
10 you up but you were still able to see him flush
11 the cell phone down the toilet?

12 A. Okay. When I heard the flush -- okay? I
13 heard the flushing of the toilet and I knew that
14 my cell phone had been on that floor right there
15 in front of the bathroom, somewhere on that floor
16 with all that stuff that I had in the room. So
17 when I did get untied and was looking around for a
18 phone so that I would be able to call, that's when
19 I realized that that was why the flush was there,
20 because he'd picked up what was left of that phone
21 to flush it down the toilet.

22 Q. So everything took place upstairs that day.
23 At some point you went downstairs to check out all
24 the new equipment in the house?

25 A. Yeah. Right after -- right after Steven had

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1 gotten there, and after some of the beating and
2 everything had taken place, uh, after the sexual
3 assault, that's when I grabbed that green jacket
4 and he said, 'Let's go downstairs so that I can
5 see what kind of work you've been having done in
6 the house.' So that's when I grabbed that jacket,
7 because it was cold and I just need to put some
8 clothes, something over me to go back downstairs
9 to look at ---

10 Q. I think that you just said as Steven got
11 there. So -- but you were struck upstairs and you
12 saw a chance to escape. When did that occur?

13 A. Okay, that didn't occur until we had got back
14 up there. Okay? After we walked back up the
15 stairs, that occurred after that.

16 Q. Okay. So obviously that must have happened
17 before you fell down the stairs?

18 A. Right, because I was able to walk.

19 Q. And you indicated that you put the jacket on
20 and you were bleeding, but wasn't it your
21 statement that he didn't cut you with the knife
22 until after you fell down the stairs?

23 A. Exactly. I was fine. I was perfectly fine.
24 That jacket was still on me when I attempted to
25 run. You have to remember that that is what I had

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1 on when we had went downstairs just to view those
2 things. That's what I had on.

3 Q. So you didn't bleed on the jacket when you
4 went down to view those things?

5 A. Right. I bled after I had fallen. That's
6 what I had had on around me.

7 Q. You also mentioned some family and friends
8 that were helping support you after you left the
9 hospital?

10 A. Yes, sir.

11 Q. I think that you went to Columbia?

12 A. I went to Columbia. My mom and my stepdad
13 took me in, fed me breakfast, lunch and dinner
14 from bed.

15 Q. And there were other family, other friends,
16 that were helping you and your son, financially
17 and supporting your son for ---

18 A. He has a dad that helps as well. Yes.

19 Q. The incident report from December 30th, with
20 Goose Creek, where you son called the police, do
21 you remember your son coming downstairs and
22 refusing to give his name?

23 A. I don't know. That night I stayed upstairs.
24 He came downstairs and talked to the cops. I
25 didn't come downstairs, so I didn't know anything

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1 about that.

2 Q. Okay.

3 A. I don't know why he wouldn't have.

4 Q. And you don't remember -- you didn't overhear
5 him say that there were golf balls being thrown at
6 the house?

7 A. Golf balls? I don't ---

8 Q. Today you're saying that Steven was trying to
9 get into the house?

10 A. Right. He'd came by wanting to talk, or
11 whatever the case may be, and he rung the doorbell
12 several times. This was 1:00 o'clock in the
13 morning and I wasn't going to open my door at that
14 time. There's nothing to talk about at 1:00
15 o'clock in the morning. I didn't open the door.
16 He was banging on the door, I didn't open the
17 door. I think that I heard the truck horn blow a
18 couple of times on the outside. And, uh, -- I
19 don't know anything about golf balls.

20 Q. How many cigarettes did you smoke that
21 morning with Steven.

22 A. I am not sure. Like I said, I was trying to
23 make nice with Steven, to calm him down, whatever
24 it took. Once I saw that he was calming down and
25 wasn't going to try to hit me anymore. That's

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1 when he sat there and lit a cigarette and I lit
2 one with him so that, you know, he'd kinda bring
3 some peace there for a moment and kind of give me
4 a break from the beating.

5 Q. You do a pretty good job of keeping your
6 house clean?

7 A. My house was a wreck that morning.

8 Q. Because of the renovations?

9 A. Well, because of the renovations and because
10 of a lot of mix-up that was going on at that time.
11 There was a lot going on in the house. Like I
12 said, I had pulled the carpets up a month or two
13 before.

14 Q. The upstairs was pretty messy.

15 A. Yes.

16 Q. But downstairs there were some things piled
17 up but in all -- the ground was ---

18 A. The downstairs wasn't as bad. I tried to
19 keep the downstairs decent. The upstairs was a
20 mess.

21 Q. And a lot of your tables were glass and, like
22 you said, you had a lot of mirrors in your home?

23 A. Yes.

24 Q. So you don't have the habit of throwing
25 cigarettes on the ground or ---

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1 A. No. No.

2 Q. You had some testimony about Mr. Mazyck
3 finding some stuff in the truck.

4 A. Right.

5 Q. You weren't there when he found the stuff in
6 the truck?

7 A. No, I wasn't.

8 Q. You have no idea where the things were found?

9 A. Right, until he called and told me that he'd
10 found some thing that he thought I'd want to know
11 about.

12 Q. And I believe that you mentioned that you
13 believe that the police must have missed it
14 because they had searched the truck?

15 A. He was amazed. He said, you know, 'Rose, if
16 anyone had searched that truck, because of where
17 those things were, no one would have ever thought
18 to have lifted that center console. You know,
19 maybe to have thought to lift up the little center
20 arm thing but never to have actually lifted the
21 whole console.'

22 Q. You don't know where that was found. You're
23 just taking Mr. Mazyck word for it?

24 A. Right.

25 Q. When -- I think it was Mr. McCurdy that came

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1 in, that he was the first one that called, called
2 the police; do you remember that?

3 A. Right. I think.

4 Q. And you were pretty frazzled, pretty upset at
5 that point in time?

6 A. Yeah.

7 Q. Do you remember about asking him to get a
8 tarp for the window?

9 A. I don't know whether I asked him or whether
10 -- I mean, my neighbors, the few that came up,
11 were concerned that I needed to put something at
12 that broken window. But I don't know whether,
13 you know, I asked or not. Like I said, I don't
14 remember. People were talking, cops were there.
15 I am not sure, but I don't think that I would have
16 asked. I didn't care. I just wanted to get to
17 the hospital at that point. I didn't care about
18 that window, that sliding glass door.

19 Q. You don't know if this wood went through the
20 window?

21 A. That was the piece of wood that was all the
22 way against -- I mean, nothing else had taken
23 place down there. That was the only piece of wood
24 that was on my living room floor, that was up
25 against, that had slid all the way from that

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1 sliding glass door up against the front window.

2 Q. But you weren't down there, so you didn't see
3 the wood go through the window?

4 A. Of course not. I was sleeping. I was
5 sleeping.

6 Q. Did you do anything as a result of your keys
7 being missing?

8 A. I didn't understand the question.

9 Q. Did you -- strike that question. So he
10 invited you to -- let's go back to the incident.
11 He invited you downstairs to look at the
12 improvements. Did y'all look at the work that was
13 being done?

14 A. All we did was walk basically downstairs.
15 I'd had a new stove put in, I looked at the stove.
16 That's when he -- he had the knife in his hand the
17 whole time and, I mean, he took -- I'd had granite
18 tops put down in the kitchen and he kind of took
19 the knife and scraped it across the top; you know,
20 just doing that (gesturing). Then we went back up
21 the stairs after that.

22 Q. Is that when he was asking you about who was
23 the person that was doing all the work?

24 A. Well, he knew who was doing the work. But he
25 was, you know, trying to say that I was getting

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1 the house fixed up to enjoy with someone else
2 since he was not there anymore. That was not
3 true.

4 Q. You walked back upstairs together?

5 A. Yes, he'd held -- you know, he had my arm the
6 whole time, so he wasn't going to let me get away
7 from him. So he had me walk pretty much back up
8 the stairs. He was probably afraid that I would
9 try to run out the door or something.

10 Q. And according to your testimony, he let you
11 put the jacket on after he allegedly sexually
12 assaulted you?

13 A. Yes, because I told him that -- it was cold,
14 it was January. I was freezing, I was naked and I
15 need to put some type of clothing on.

16 Q. And you were perfectly fine with that at the
17 time that you went downstairs?

18 A. Fine with what?

19 Q. Fine -- you were perfectly fine with ---

20 A. I was already pretty beat up. I'd been hit
21 in the face, choked -- yeah, I mean, -- yeah. I
22 was already pretty much attacked before going down
23 there. I was just being obedient when he was
24 telling me what he wanted to do. He was telling
25 me that he wanted to go downstairs and see what

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1 had been taking place downstairs. I did just what
2 he told me to do. I mean, I had a knife at my
3 neck the whole time. I wasn't going to do
4 anything else but do what he said.

5 Q. And you said that you and Steven argued about
6 infidelity on your part?

7 A. I mean, he -- he didn't trust me, for
8 whatever reason. You know, I'd seen on his cell
9 phone where he had e-mails being sent from some
10 female. You know, I knew that he was going out.
11 I didn't go out. I went to work, I came home.
12 And he -- he just was accusing me because he knew
13 that he was doing things.

14 Q. Prior to this he was doing things?

15 A. Right, because he was going -- he was going
16 out. Once he left that house, I didn't know where
17 he went but I know that he would not be home. He
18 would not come back for several days sometimes.

19 Q. And prior to this incident you never called
20 911, never called the police?

21 A. On Steven or for what?

22 Q. Well, to the house, the home?

23 A. Well, we did on 12/30, that morning. I mean
24 on the date of 12/30.

25 Q. But prior to breaking up you'd never called

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1 the police?

2 A. No.

3 CHAD SHELTON: No further questions.

4 THE COURT: Redirect?

5 SOLICITOR WILLIAMS: Briefly.

6 REDIRECT EXAMINATION

7 BY SOLICITOR WILLIAMS:

8 Q. Mr. Shelton kept talking about - asking you
9 questions about this statement. You've had an
10 opportunity to look at this two-page statement,
11 right?

12 A. Right.

13 Q. Do you remember what time that you gave this
14 statement?

15 A. I would not be able to tell you what time.

16 Q. Would it refresh your memory to look at it?

17 A. Yeah. I mean, I know that it was done maybe
18 the second day in the hospital, though -- I'm not
19 sure. Maybe that same day.

20 THE COURT: Ms. Williams, are you
21 showing her a statement?

22 SOLICITOR WILLIAMS: I am showing her
23 the statement that Mr. Shelton had.

24 THE COURT: It should be marked as an
25 exhibit.

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1 MS. LAMPKIN: Yeah.

2 THE COURT: Show her that so that we
3 know what we are talking about. Was it the
4 exhibit that was marked for identification only?

5 SOLICITOR WILLIAMS: Okay.

6 MS. LAMPKIN: It was the same day.

7 REDIRECT EXAMINATION CONTINUED

8 BY SOLICITOR WILLIAMS:

9 Q. And what time was it that you gave that
10 statement?

11 A. 12:30 P.M. is what it says here.

12 Q. Do you remember about what time that it was
13 when you went to the hospital?

14 A. Well, I was picked up that morning. I was
15 probably at the hospital, checked in by 12:00 --
16 I'm thinking - I don't know what time. Like I
17 said, I had no sense of nothing that morning. I
18 am thinking by that time it was probably 9:00 or
19 10:00. I'm not sure.

20 Q. So you were admitted to the hospital for a
21 few hours after you gave the statement?

22 A. Right.

23 Q. And so you'd had painkillers.

24 A. Oh, gosh, yeah, they used all kinds of drugs
25 on me.

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1 Q. But you've had an opportunity to look at this
2 statement just now, right?

3 A. Yes.

4 Q. And you pretty much tell the same story that
5 you told in here, correct?

6 A. To the best of my ability. Like I said, it's
7 been over a year since this incident happened.
8 But I know that it happened.

9 Q. But you couldn't possibly put every single
10 detail in two pages, could you?

11 A. Right. And like I said, I was asked the
12 story so many times -- from nurses to
13 investigators to policemen -- and I told it to the
14 best of my ability in the condition that I was in.

15 Q. And Mr. Shelton asked you about the defendant
16 flushing parts of your phone or throwing them in
17 the toilet.

18 A. Right.

19 Q. Had he ever done that to you before?

20 A. Yes. He'd gotten upset with me about
21 something and walked over and flushed the phone
22 down the toilet.

23 Q. Thank you.

24 SOLICITOR WILLIAMS: Nothing further.

25 THE COURT: Recross?

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1 CHAD SHELTON: Yes, sir.

2 RECROSS EXAMINATION

3 BY CHAD SHELTON:

4 Q. You said that you gave the statement at 12:30
5 p.m. Do you remember if you talked to the SANE
6 nurse, the SANE sexual assault nurse?

7 A. I couldn't tell you.

8 Q. Did you lose consciousness at any point in
9 time?

10 A. During the time that I was in the hospital?

11 Q. At any point in time during that morning?

12 A. No more than the drugs that they had given me
13 for the pain that I was suffering from my wounds.

14 CHAD SHELTON: Thank you.

15 THE COURT: Very well, you may step
16 down.

17 (WITNESS STEPS DOWN)

18 THE COURT: Call your next witness,
19 Solicitor.

20 SOLICITOR WILLIAMS: John McCurdy.

21 (WITNESS TAKES STAND)

22 JOHN MCCURDY, having been sworn to tell
23 the truth, and nothing but the truth, testified as
24 follows:

25 DIRECT EXAMINATION

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1 BY SOLICITOR WILLIAMS:

2 Q. Mr. McCurdy, where do you live?

3 A. At [REDACTED]

4 Q. And where is - do you know Rose Lampkin?

5 A. Yes, I do.

6 Q. How do you know her?

7 A. She is one of my neighbors about three doors
8 down. Her son and my daughter went to high school
9 together, and grade school.

10 Q. How long have you lived there?

11 A. About fifteen years, I guess.

12 Q. Do you remember anything unusual happening in
13 the early morning hours of January 29th, 2012?

14 A. Yes, I do.

15 Q. Can you tell us what that was?

16 A. I was getting ready to leave for work that
17 morning and one of the other neighbors, kind of an
18 elderly gentleman that walks in the neighborhood,
19 kind of ran up to me a little bit and asked if I
20 had a phone, that he needed to make an emergency
21 call. He kind of explained what was going on and
22 we kind of rushed over to the house a little bit.

23 Q. Is he a Pilipino gentleman?

24 A. Yeah, he's an Oriental.

25 Q. And when you got to the house, what did you

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1 see?

2 A. Miss Rose was kind of sitting/laying against
3 the door, the door was open, asking for help. I
4 immediately called 911. She told me that her ex-
5 boyfriend had beaten her up.

6 CHAD SHELTON: Objection.

7 THE COURT: Sustained. Hearsay.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR WILLIAMS:

10 Q. If you would just describe what she looked
11 like when you saw her?

12 A. She was -- uh, she looked like she had been
13 beaten. She was in a lot of pain and she was --
14 I almost didn't recognize her. She was pretty
15 swollen in the face. I just called 911. She was
16 wearing a blanket or a little jacket of some sort,
17 like a nightcoat, housecoat.

18 Q. What was her demeanor like?

19 A. She was pretty well calm but I could tell
20 that she was in pain and she was needing some
21 help, and that's what I did.

22 SOLICITOR WILLIAMS: Thank you.

23 THE COURT: Cross-examine.

24 CROSS EXAMINATION

25 BY CHAD SHELTON:

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1 Q. You didn't hear or see anything earlier that
2 night?

3 A. No, I didn't.

4 Q. You gave a written statement, a signed
5 statement.

6 A. (Affirmative nod).

7 Q. And also an interview with the police that
8 was on tape?

9 A. Yes.

10 Q. You said that it looked like she had washed
11 herself up?

12 A. Yes, it looked like she had cleaned herself
13 up a little bit, maybe. I couldn't really tell.
14 I could tell that she was definitely in a lot of
15 pain and was just asking us to call somebody, to
16 call for help.

17 Q. She kept talking to you about wanting to get
18 -- she asked you about a tarp for the back window?

19 A. Yes, she was asking -- I think that it was
20 starting to rain that afternoon or something and
21 she was really concerned about -- when I walked up
22 to the door, I could see that the back glass door
23 was busted and that other stuff was, you know,
24 messed around in the house, was out of order.

25 Q. And she seemed concerned about that window?

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1 A. Yes, she was.

2 Q. And -- I think that you really wanted to help
3 but you knew that you shouldn't touch or go into
4 the home or anything like that?

5 A. Yes.

6 Q. You didn't see anybody leaving the home?

7 A. No.

8 CHAD SHELTON: No further questions.

9 THE COURT: Redirect?

10 REDIRECT EXAMINATION

11 BY SOLICITOR WILLIAMS:

12 Q. Do you remember your statement?

13 A. Pretty much, yes.

14 Q. Do you remember describing what it looked
15 like in the dining room of the home?

16 A. Yeah, you could tell that the table and
17 chairs in the dining room were -- the glass door
18 was broken and the table and chairs were kind of
19 slid around to the side a little bit. I can't
20 remember if there was much else destroyed in the
21 house because I didn't really pay a whole lot of
22 attention. I was more concerned about Miss Rose.

23 Q. Do you remember saying that it looked like
24 there had been a struggle?

25 A. Yes.

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1 Q. Do you remember saying that she was
2 complaining about pain in her leg?

3 A. Oh, yes, definitely. She was definitely in
4 pain.

5 SOLICITOR WILLIAMS: Nothing further.

6 THE COURT: Recross?

7 CHAD SHELTON: Just briefly.

8 RECROSS EXAMINATION

9 BY CHAD SHELTON:

10 Q. You mentioned -- you said that the table and
11 chairs were broken?

12 A. No, were moved around in there a little bit.
13 You could tell that it wasn't neat, you know, you
14 would tell that maybe a struggle had went on in
15 that area.

16 Q. That was in the living room?

17 A. Well, as you look through the front door it
18 looked like the living room, then the dining room
19 and then the sliding glass door on the back side.
20 You can see straight in.

21 Q. So not the dining room off to the left?

22 A. No, I didn't see that dining room off to the
23 left. What I saw was straight inside, you can see
24 the kitchen/dining room area and the sliding glass
25 door.

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1 Q. And it looked like there was a bunch of
2 tables and chairs ---

3 A. That's what it looked like to me. Like I
4 said, I didn't really look at the inside a lot.
5 I could see the glass door was definitely busted
6 in. Miss Rose was right there at the front door,
7 she was kind of leaning or laying against the
8 door.

9 CHAD SHELTON: Nothing else.

10 THE COURT: Redirect?

11 SOLICITOR WILLIAMS: No, Your Honor.

12 THE COURT: Come down, please.

13 (WITNESS STEPS DOWN)

14 THE COURT: Call your next witness.

15 SOLICITOR ALFARO: William Tisdale.

16 SOLICITOR WILLIAMS: May Mr. McCurdy be
17 excused, Your Honor.

18 THE COURT: Any objection, Mr. Shelton?

19 CHAD SHELTON: No, Your Honor.

20 THE COURT: Mr. McCurdy, you are free
21 to leave. Thank you, sir.

22 (WITNESS TAKES STAND)

23 WILLIAM TISDALE, having been sworn to
24 tell the truth, and nothing but the truth,
25 testified as follows:

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1 DIRECT EXAMINATION

2 BY SOLICITOR ALFARO:

3 Q. Mr. Tisdale, could you tell the jury where
4 you were working on January 29th, 2012?

5 A. The Goose Creek police department.

6 Q. In what capacity were you working for Goose
7 Creek?

8 A. I was a police officer.

9 Q. Are you currently with Goose Creek?

10 A. No, sir.

11 Q. How long were you with the Goose Creek Police
12 Department?

13 A. About two and a half years.

14 Q. When did you leave Goose Creek?

15 A. December 28th, 2012.

16 Q. Prior to your time with Goose Creek, did you
17 have any other prior law enforcement experience?

18 A. Yes, sir. I was with the City of Charleston
19 Police Department and with the Georgetown Police
20 Department.

21 Q. How long were you with those respective
22 agencies?

23 A. About five years with Georgetown and about a
24 year with Charleston City.

25 Q. What are you doing now?

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1 A. I am a graduate student at The Citadel,
2 pursuing a master's in business administration
3 degree.

4 Q. On January 29th, 2012, did you have the
5 opportunity to respond to [REDACTED] in
6 Goose Creek?

7 A. Yes, sir. I was the first officer on the
8 scene.

9 Q. Do you recall approximately what time that
10 you were dispatched and responded on that scene?

11 A. The call was dispatched about approximately
12 8:43 a.m. and I arrived on scene at 8:48 a.m.

13 Q. When you got to the scene, were there any
14 other law enforcement officers present?

15 A. No, sir.

16 Q. Were there any other medical personnel or
17 fire personnel on the scene?

18 A. There were two rescue members from the Goose
19 Creek Fire Department.

20 Q. In relation to their arrival, did you get
21 there before or after them?

22 A. Just after. I saw their truck driving down
23 the street as I was as well.

24 Q. And is that location in Berkeley County?

25 A. Yes, sir.

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1 Q. What type of incident were you responding to
2 that morning?

3 A. The call initially came out as a medical
4 assist call, which is just a general call. As I
5 was driving to the location more information came
6 out and it was turned into an assault call and a
7 burglary call.

8 Q. When you got to the scene, was the victim
9 still at the scene?

10 A. Yes, sir, she was.

11 Q. Where was the victim at when you got there?

12 A. The victim was laying in the doorway of the
13 residence, seated in the doorway.

14 Q. Inside or outside?

15 A. Inside/outside. Halfway inside and halfway
16 outside.

17 Q. Did you get a look at the victim when you got
18 there?

19 A. Yes, sir, I did.

20 Q. Can you describe for the jury her condition
21 when you arrived?

22 A. She was very battered. Her face was bloody,
23 it was swollen, her kneecap, her right kneecap I
24 believe, was swollen and looked out of place. She
25 had numerous cuts and contusions about her body.

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1 Q. While you were at the scene, did she receive
2 any medical attention?

3 A. She was speaking with the firefighters when
4 I was on scene. Then she was transported to the
5 hospital by Hanahan EMS.

6 Q. So when you got to the scene, she was
7 conscious?

8 A. Yes, she was conscious. She was able to talk
9 and provide a little bit of information prior to
10 treatment from the paramedics.

11 Q. Based on your conversation and her infor-
12 mation, was she able to provide information about
13 a suspect?

14 A. Yes. In speaking with her prior to her
15 treatment, she advised that her ex-boyfriend, Mr.
16 Steven Morgan, broke into her residence around
17 4:00 o'clock in the morning, tied her up with
18 clothes hangers and strips of towel and commenced
19 to physically and sexually assault her.

20 Q. The information that you obtained regarding
21 the suspect, was that relayed to other officers in
22 the area?

23 A. Yes, sir. It was BOLO'ed out to surrounding
24 jurisdictions, as well as a description of the
25 vehicle that he was traveling in and a general

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1 description of him.

2 Q. At some point did you enter into the home?

3 A. Yes, sir, myself and Sergeant Tavelle did a
4 protective sweep of the inside of the residence to
5 make sure that he was not on the scene.

6 Q. Can you describe for the jury what you saw
7 when you went into the house?

8 A. When I went into the house -- it was a two-
9 story house. I observed, looking to the right,
10 shards of glass from a sliding glass door that was
11 not there. There was a brick in the back of the
12 corner. Ms. Lampkin was laying in the doorway.
13 Going up the stairs, there was a wall on the
14 right-hand side and there was a hole in the wall
15 that appeared to be like from a round object, or a
16 head, hitting the wall. There were numerous
17 bloodstains on the base of the stairs. Going
18 through the upstairs, we just did a quick check to
19 make sure that nobody was up there. The bedroom
20 was in disarray, clothes were strewn about
21 everywhere.

22 Q. Other than doing the protective sweep and the
23 observations that you made, did you do any other
24 activity inside the house?

25 A. No, sir.

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1 Q. And when you respond to -- when you used
2 to respond to crime scenes, is it common that a
3 responding officer will prepare some sort of
4 diagram or sketch of the residence?

5 A. Yes, sir, we did a crime scene sketch of the
6 first floor of the house.

7 Q. Did you prepare one in this case?

8 A. Yes, sir.

9 Q. When did you prepare that sketch?

10 A. I don't remember what time. It was shortly
11 after my arrival, I believe.

12 Q. But you did it at the scene?

13 A. I believe so. Yes, sir.

14 Q. I show you what has been marked for
15 identification as State's Exhibit 77. Do you
16 recognize that?

17 A. Yes, sir, it is my sketch of the bottom floor
18 of the residence.

19 Q. Is that a fair and accurate representation of
20 the sketch that you preformed (sic) on that day?

21 A. Yes, sir, it is.

22 SOLICITOR ALFARO: Your Honor, at this
23 time the State would ask that Exhibit 77 be
24 admitted.

25 THE COURT: Any objection?

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1 CHAD SHELTON: No objection.

2 THE COURT: Without objection, State's
3 Exhibit 77 is admitted.

4 (SO ENTERED AS STATE'S EXHIBIT 77)

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR ALFARO:

7 Q. There is a laser pointer there, the top
8 button and State's Exhibit 77 is displayed behind
9 you. It probably is not going to fit on the whole
10 screen, so we will kind of do it in segments.

11 Using that laser pointer, if you would just walk
12 the jury through what is depicted in that diagram

13 A. Here in the victim, she is depicted laying
14 here in the doorway.

15 This is the stairwell.

16 This is kind of a foyer area.

17 Here is the couch.

18 This was the sliding back window. Shards of
19 glass were strewn about from the rear to the front
20 of the house.

21 This is the stairwell.

22 There were bloodstains here, as well as a
23 hole in the wall right there about the center of
24 the stairwell and the wall.

25 Q. Can you pin it down a little bit more?

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1 A. (Indicating).

2 Q. And when you got to the scene, you said that
3 the victim was seated?

4 A. Yes, sir, she was seated - (indicating).

5 Q. I'd ask that you look through these exhibits
6 -- State's Exhibit 8, 9, 16 and 19 -- and once
7 you've had a chance to look at them, I'd like to
8 ask you a couple of questions about then.

9 A. (Review).

10 Q. Do you recognize what is contained in those
11 pictures?

12 A. Yes, sir.

13 Q. Do each of those pictures fairly and
14 accurately depict the scene as you saw it that
15 morning, the crime scene?

16 A. Yes, sir.

17 SOLICITOR ALFARO: Your Honor,
18 at this time the State would ask that State's
19 Exhibits 9, 9, 16 and 19 be admitted into
20 evidence.

21 THE COURT: Any objection?

22 CHAD SHELTON: No objection.

23 THE COURT: Without objection, State's
24 Exhibits 8, 9, 16 and 19 are admitted, each being
25 a photograph.

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1 (SO ENTERED AS STATE'S EXHIBIT 8)

2 (SO ENTERED AS STATE'S EXHIBIT 9)

3 (SO ENTERED AS STATE'S EXHIBIT 16)

4 (SO ENTERED AS STATE'S EXHIBIT 19)

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR ALFARO:

7 Q. We have put State's Exhibit 8 on the screen
8 behind you. With the laser pointer, can you show
9 the jury, using the laser pointer, -- you
10 described on your crime scene sketch that there
11 was some glass throughout the residence. Can you
12 point to where that was located?

13 A. Yes, sir. The glass starts here, there are
14 some shards here, here, and continue on down to
15 the bottom of the screen.

16 Q. And on State's Exhibit 9, do you know what is
17 depicted in that? It may be easier for you to see
18 by looking at the actual picture?

19 A. This is one of the objects that was thrown
20 through the window. It's a piece of wood. There
21 are several shards of glass depicted here as well,
22 here, and here, and over here.

23 Q. And on State's Exhibit 16?

24 A. This is the stairwell on the right.

25 This is the hole in the wall.

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1 The front door to the residence. The victim
2 was laying on the other side of the wall.

3 This is a hole.

4 This is the stairwell and there are blood
5 droplets down here.

6 Q. And State's Exhibit 19?

7 A. This is the stairwell of the residence.

8 Blood droplets here, blood here and all the
9 way down the stairwell -- here, here, here, on the
10 base of the stairwell in the foyer.

11 Q. Let me show you what has been marked for
12 identification as State's Exhibit 33. Do you
13 recognize ---

14 A. Yes, sir.

15 Q. And does this picture fairly and accurately
16 depict the scene as it was on the day of the
17 incident?

18 A. It does.

19 Q. We are going to put 33 ---

20 SOLICITOR ALFARO: At this time, Your
21 Honor, the State would ask that State's Exhibit 33
22 be admitted into evidence.

23 THE COURT: Any objection?

24 CHAD SHELTON: No objection.

25 THE COURT: Without objection, State's

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1 Exhibit 33, a photo, is admitted.

2 (SO ENTERED AS STATE'S EXHIBIT 33)

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR ALFARO:

5 Q. We are going to put that on the screen behind
6 you.

7 A. This is the hole in the wall that is located
8 in the front of the stairwell.

9 This is the front door of the residence.

10 This is the size of the hole that was in the
11 stairwell or in the hallway next to the stairwell.

12 Q. Were you still at the scene when the victim
13 was transported by EMS?

14 A. Yes.

15 Q. Did you have an opportunity to speak with the
16 victim at MUSC?

17 A. Yes, sir, I did.

18 SOLICITOR ALFARO: Thank you. Please
19 answer any questions that Mr. Shelton may have.

20 THE COURT: You may cross examine.

21 CROSS EXAMINATION

22 BY CHAD SHELTON:

23 Q. I apologize, should I still call you Officer
24 or call you Mister?

25 A. Either is fine.

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1 Q. Mr. Tisdale, what were your duties that day?

2 A. That day I was assigned to patrol the south
3 end of the city, which is basically the (Highway)
4 52 area, Pineview, the Red Bank area.

5 Q. And I think on scene that you secured the
6 scene?

7 A. Yes, sir, with crime scene tape.

8 Q. And you made sure that Ms. Lampkin was
9 getting medical attention?

10 A. That's right.

11 Q. And you took some information from her?

12 A. Right.

13 Q. Did you actually take some pictures?

14 A. Yes, sir, I took digital photographs of her.

15 Q. Did you take pictures of the scene?

16 A. I am not sure. I am not sure if they're the
17 ones that are in evidence or not.

18 Q. And did you take the picture before or after
19 you followed her to the hospital?

20 A. Before. She was being treated at the time.

21 Q. So was she pointing out specific places?

22 A. No, sir. She was occupied with the
23 paramedics.

24 Q. But did you come to some information that
25 they were doing some renovations on the household?

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1 A. No, sir, I didn't know that.

2 Q. The last -- the sliding glass door, there
3 were glass shards outside the home also?

4 A. I didn't step outside the victim's residence.

5 Q. And what has been marked as State's Exhibit
6 19, what was that on the stairwell?

7 A. Looks like CD cases, a mini CD tower.

8 Q. And there was nothing disturbed with the CDs?

9 A. No, sir.

10 Q. And State's Exhibit 8, in between the glass
11 door and where the wood was found there is also a
12 glass table.

13 A. Yes, sir.

14 Q. And there is a glass vase on the table?

15 A. Yes, sir.

16 Q. And that was not disturbed?

17 A. It doesn't appear that way; no, sir.

18 Q. And in State's Exhibit 13 there is a couch or
19 some type of furniture that's right there in front
20 of the glass door also?

21 A. Yes, sir.

22 Q. Those were not displayed on your drawing of
23 the crime scene?

24 A. No, sir.

25 Q. Do you remember there being a beige towel at

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1 the front door?

2 A. I don't remember. She was wearing like some
3 like of nightgown or it could have been a towel
4 over herself.

5 Q. And there was a towel upstairs?

6 A. I don't recall - don't remember.

7 Q. You don't remember if she indicated that she
8 was using any alcohol or drinking any alcohol that
9 night?

10 A. No, sir.

11 Q. She was not using alcohol or you don't
12 remember that she ---

13 A. I don't recall.

14 Q. Do you have your report with you?

15 A. Yes, sir. It's not mentioned in there.

16 Q. There is a little box that you can check on
17 that, is there not?

18 A. Yes, there is.

19 Q. And it says "Victim using alcohol?"

20 A. It says "no."

21 Q. And I think that you explained this, that the
22 initial call was a nonemergency call?

23 A. Right, it was a medical assist call.

24 Q. And you're not sure of what was said to 911?

25 A. No, sir.

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1 CHAD SHELTON: No further questions.

2 THE COURT: Redirect?

3 SOLICITOR ALFARO: No, sir.

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

6 (WITNESS STEPS DOWN)

7 SOLICITOR ALFARO: May this witness be
8 excused, Your Honor?

9 THE COURT: Any objection.

10 CHAD SHELTON: No, sir.

11 THE COURT: You are free to leave, Mr.
12 Tisdale.

13 SOLICITOR ALFARO: May we approach, Your
14 Honor?

15 THE COURT: Sure.

16 (OFF RECORD BENCH CONFERNECE)

17 THE COURT: Does anyone need a break at
18 this point? If so, raise your hand. (No
19 response). Thank you. Call your next witness.

20 SOLICITOR WILLIAMS: The State calls
21 Laura Brigada.

22 (WITNESS TAKES STAND)

23 LAURA BRIGADA, having been sworn to tell
24 the truth, and nothing but the truth, testified as
25 follows:

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1 DIRECT EXAMINATION

2 BY SOLICITOR WILLIAMS:

3 Q. Ms. Brigada, where do you work?

4 A. I work in the pediatric emergency department
5 at MUSC.

6 Q. How long have you worked there?

7 A. Just about two months.

8 Q. What kind of training and experience is
9 required to have that job?

10 A. To be a nurse - well, I have my bachelor's
11 degree, so four years of undergraduate school.
12 Then additional training since graduating --
13 clinical rotation since school, then since then
14 various certifications: trauma classes, advanced
15 cardiac, life support classes, things like that.

16 Q. Were you working at MUSC on January 29th,
17 2012?

18 A. Yes, I was. At that time I was working in
19 the adult emergency department at MUSC.

20 Q. Did you come into contact with a patient
21 named Rose Lampkin on that date?

22 A. Yes, I did.

23 Q. Do you remember about what time that was?

24 A. About 9:50, according to my documentation,
25 that day.

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1 Q. And how did she arrive at the hospital?

2 A. By ambulance with police.

3 Q. What observations did you make about her
4 appearance and condition when you first saw her?

5 A. Am I able to look at my documentation?

6 Q. Sure.

7 SOLICITOR WILLIAMS: If we could mark
8 this report for Nurse Brigada as State's Exhibit
9 103.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR WILLIAMS:

12 Q. What observations did you make about her
13 appearance when you first saw her?

14 A. (Upon review), she arrived with a right knee
15 deformity, abrasions to the right knee; a puncture
16 wound of laceration to the right side of her neck;
17 bilateral eye redness, a right orbital contusion
18 or bruise around the right eye, swelling; and
19 multiple facial abrasions.

20 Q. What was your primary focus? As an ER nurse,
21 what is your primary job when you first get a
22 patient in? What is your primary focus at that
23 time?

24 A. To stabilize them, to make sure that they
25 don't have any life-threatening injuries; if they

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1 do, to treat those appropriately. Then to monitor
2 their stay throughout the emergency department.

3 Q. So in order to determine what ailments that
4 they have, do you have to take a medical history?

5 A. Yes.

6 Q. And what constitutes a medical history? Is
7 it just the past or -- could you explain that to
8 the jury?

9 A. It is both the prior medical history,
10 including any prior ailments or injuries that the
11 patient has had, as well as the history of the
12 present illness, which includes the patient's
13 account of what happened leading up to them being
14 seen in the emergency department.

15 Q. And what was your understanding, after you
16 obtained the medical history, of what had happened
17 to her that night?

18 A. Well, she reported to me ---

19 CHAD SHELTON: Objection, Your Honor.
20 Hearsay.

21 WITNESS: Sorry.

22 SOLICITOR WILLIAMS: Your Honor, we
23 would just offer this for the purpose of medical
24 diagnosis or treatment.

25 THE COURT: You are going to have to

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1 lay a better foundation for that for purposes of
2 medical diagnosis. I'll sustain it as hearsay.
3 Thank you.

4 DIRECT EXAMINATION CONTINUED
5 BY SOLICITOR WILLIAMS:

6 Q. After they come into the emergency room,
7 do you then have to direct them to difference
8 departments?

9 A. The doctor would determine what tests that he
10 wants to order and from there she would be moved
11 to radiology departments or wherever to have those
12 tests done and then go back to the emergency room.

13 Q. Do you make any determination of whether a
14 person has to go to the SANE nurse department?

15 A. Yes.

16 Q. How do you determine if a patient has to go
17 to the SANE nurse department?

18 A. Based on the patient's report of what
19 happened.

20 Q. And if a patient reports sexual abuse, is
21 that a trigger for going to the SANE nurse
22 department?

23 A. Yes.

24 Q. And based on what the patient tells you of
25 how they got their injuries, is that how you

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1 determine what other departments that you would
2 direct them towards?

3 A. Yes, because some injuries might not be
4 apparent on the outside, so you need to base your
5 treatment on what the patient tells you happened.

6 Q. So did you refer her to the SANE nurse
7 department that night, or that morning?

8 A. I did not contact the SANE nurse. Sometimes
9 the doctor contacts the SANE nurse. So I am not
10 sure what time that she got contacted. I know
11 that she got admitted, so it may have been after
12 she left the emergency department.

13 Q. Did you have -- based on what the patient
14 told you, did that come into play as far as
15 whether or not she was referred to the SANE nurse
16 department?

17 A. I do not recall. But usually in this type of
18 case when someone reports this, the SANE nurse is
19 contacted. So they may have been contacted by
20 somebody else in that department.

21 Q. Did you notice any injuries that were
22 consistent with strangulation?

23 CHAD SHELTON: Objection. Leading.

24 THE COURT: Overruled.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR WILLIAMS:

2 Q. Did you notice any injuries that were
3 consistent with strangulation?

4 A. The patient had right and left eye redness as
5 well as many facial abrasions. She did have what
6 I would describe as a puncture wound on the right
7 side of her neck as well.

8 Q. And is it common for -- you talk about eye
9 redness -- that to develop later, after
10 strangulation?

11 A. Yes. Any form of bruising or impact to the
12 eyes, that can take hours or days to develop.

13 Q. And did this patient report -- you can't say
14 who she said did it, but you can only say when and
15 where. Did she report that she had been sexually
16 abused?

17 A. Yes, she did.

18 Q. And do you remember if she said where or when
19 that occurred?

20 A. I recall that she said that it was that
21 morning, at her house.

22 Q. Okay.

23 SOLICITOR WILLIAMS: I am showing
24 defense counsel what has been marked as State's
25 Exhibit 67.

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1 CHAD SHELTON: Same as 66. We'd
2 object that it is cumulative.

3 THE COURT: Let me see it.

4 SOLICITOR WILLIAMS: (Tenders).

5 THE COURT: (Upon review), it's been
6 admitted. I note that it is cumulative. We had
7 a sidebar concerning it. State's Exhibit 67 is
8 admitted subject to objection of counsel as
9 cumulative. Thank you.

10 (SO ENTERED AS STATE'S EXHIBIT 67)

11 SOLICITOR WILLIAMS: May I approach the
12 witness, Your Honor?

13 THE COURT: You may.

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR WILLIAMS:

16 Q. Tell me if this is how the patient looked
17 that day when you saw her?

18 A. Yes, I believe so.

19 SOLICITOR WILLIAMS: Your Honor, at
20 this time the State would offer State's Exhibit
21 67 into evidence.

22 THE COURT: It has been admitted,
23 subject to the objection of counsel.

24 SOLICITOR WILLIAMS: Your Honor, I
25 apologize but this will not show on the board.

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1 So I would ask permission to publish it ---

2 THE COURT: You may publish is.

3 Ladies and gentlemen, again, it is not uncommon
4 for them to circulate for your review but you'll
5 have an opportunity to study it in more detail
6 when you retire because it has been admitted.

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR WILLIAMS:

9 Q. What is that called when someone's eyes are
10 red, red, red like that from strangulation? What
11 kind of hemorrhaging is that called?

12 A. Petechial hemorrhage.

13 Q. Do you know if the patient -- if you
14 administered a bedpan to the patient during the
15 time that she was in your care? Just yes or no.

16 A. Yes.

17 Q. How many times?

18 A. I believe that it was four: 10:00 o'clock,
19 10:50, 11:45 and 1305.

20 Q. Thank you.

21 SOLICITOR WILLIAMS: I have no further
22 questions of this witness.

23 THE COURT: You may cross examine.

24 CROSS EXAMINATION

25 BY CHAD SHELTON:

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1 Q. Ms. Brigada, everything that you know is
2 based off -- everything that you know about this
3 case is based on what Ms. Lampkin tells you?

4 A. And my observations of her on that day.

5 Q. Right. But you weren't there, so you don't
6 know what happened?

7 A. Correct.

8 Q. So you are -- everything is based off of what
9 she tells, gives information to you.

10 A. Yes.

11 Q. You do know that she says that she lost ---

12 SOLICITOR WILLIAMS: Objection.

13 THE COURT: Basis?

14 SOLICITOR WILLIAMS: Hearsay.

15 THE COURT: I will be happy to object
16 it, but you might want to rethink it. What's the
17 question, again?

18 CHAD SHELTON: I will strike the
19 question.

20 THE COURT: Thank you.

21 CROSS EXAMINATION CONTINUED

22 BY CHAD SHELTON:

23 Q. Are you aware that petechial hemorrhaging can
24 come from more than one source?

25 A. Yes.

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1 Q. What would be some of the sources that
2 petechial hemorrhaging can come from?

3 A. Vomiting, anything with exertion. I didn't
4 actually document that the patient had that. I
5 documented that the patient had bilateral eye
6 redness. As far as taking a closer look at her
7 eyes, that would be up to the doctor. So I don't
8 know if that would be in the doctor's notes.

9 Q. Vomiting could be a source of it?

10 A. Yes.

11 CHAD SHELTON: No further questions.

12 THE COURT: Redirect?

13 SOLICITOR WILLIAMS: Nothing, Your
14 Honor.

15 THE COURT: You may come down. Do you
16 wish this witness to be excused?

17 SOLICITOR WILLIAMS: Please, Your
18 Honor.

19 THE COURT: Any objection?

20 CHAD SHELTON: No objection.

21 THE COURT: Thank you. You may be
22 excused. Leave the report right there on the
23 stand.

24 (WITNESS STEPS DOWN)

25 THE COURT: Call your next witness.

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1 SOLICITOR WILLIAMS: The State calls
2 Nancy Hall.

3 (WITNESS TAKES STAND)

4 NANCY HALL, having been sworn to tell the
5 truth, and nothing but the truth, testified as
6 follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR WILLIAMS:

9 Q. Ms. Hall, where do you work?

10 A. At the Medical University of South Carolina.

11 Q. How long have you worked at MUSC?

12 A. Fourteen and a half years.

13 Q. In what capacity have you worked there for
14 fourteen and a half years?

15 A. Registered nurse.

16 Q. What kind of training and background is
17 required to be a registered nurse?

18 A. I have an associate degree in nursing.

19 Q. What about -- before you become a nurse, do
20 you have to do any kind of training or hours at
21 the hospital or ---

22 A. Yes, ma'am.

23 Q. Where do you work right now?

24 A. I work as a sexual assault nurse examiner.

25 Q. And what is that called?

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1 A. SANE.

2 Q. Is that Sexual Assault Nurse Examiner?

3 A. It is.

4 Q. How long have you been a SANE nurse?

5 A. Three years.

6 Q. Is there additional training required to be a
7 SANE nurse?

8 A. Yes.

9 Q. Can you tell us a little bit about that?

10 A. It is a forty-hour classroom training that
11 you attend, then that is followed by a clinical
12 component in which there is nurse examine
13 training. You observe and experience a SANE doing
14 exams, then you do exams under their guidance.
15 Once you're proficient doing the exams, you're on
16 your own.

17 Q. And you started that after being a registered
18 nurse for eleven years?

19 A. Oh, I've been a nurse for thirty years.

20 Q. How many sexual assault examinations would
21 you say that you have done since you have been a
22 SANE nurse?

23 A. About sixty.

24 SOLICITOR WILLIAMS: Your Honor, at
25 this time the State would offer Nurse Hall as an

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1 expert in nurse (sic) examination.

2 THE COURT: Do you care to examine her
3 as to that qualification?

4 CHAD SHELTON: No.

5 THE COURT: To the extent that there
6 are expert opinions, I will permit her to render
7 opinions in that, provided it is otherwise
8 supported. Thank you.

9 SOLICITOR WILLIAMS: Thank you, Your
10 Honor.

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR WILLIAMS:

13 Q. Were you working at MUSC on January 29th,
14 2012?

15 A. Yes.

16 Q. And at that time did you treat a patient
17 named Rose Lampkin?

18 A. Yes.

19 Q. And do you remember about what time that you
20 did the examination on Ms. Lampkin? Do you have
21 some reports with you that you could refresh your
22 memory with?

23 A. Yes, I do. (Upon review), the time I began
24 was 1:50 in the afternoon.

25 Q. And before you begin an examination, do you

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1 do a medical history on the patient?

2 A. Yes.

3 Q. And, uh, why is that necessary?

4 A. For diagnosis, treatment, I need to know what
5 her medical history is so that I know what to look
6 for.

7 Q. Is it important to know where she says she
8 was sexually assaulted and what circumstances
9 occurred during the sexual assault?

10 A. Yes.

11 Q. Why is that?

12 A. My exam is guided by the history of the
13 assault.

14 Q. So does that determine whether you do a
15 pregnancy test, or where you swab, and what
16 other medical tests that you need to do?

17 A. Yes.

18 Q. Do you also get information about some of
19 the other injuries that could have been caused
20 besides the sexual exam -- I mean besides the
21 sexual assault?

22 A. Yes.

23 Q. Why is that important?

24 A. So I know where to look, what to look for.

25 Q. Do you also, after you're done with the

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1 sexual assault (exam), make decisions about what
2 other parts of the hospital she would be referred
3 to or whether she was going to be discharged?

4 A. Yes.

5 Q. And did this patient tell you that she was
6 sexually assaulted?

7 A. Yes.

8 Q. Did she tell you where it happened?

9 A. Yes.

10 Q. Where did she say that it happened?

11 A. In her residence.

12 Q. Did she say when?

13 A. The early morning of January 29th.

14 Q. What did she tell you about the circumstances
15 of the sexual assault? Did she tell you where
16 penetration was achieved?

17 A. Yes.

18 Q. Where was that?

19 A. There was oral, vaginal and anal penetration.

20 Q. And did she tell you about any of the other
21 circumstances surrounding the sexual assault?

22 A. Yes.

23 Q. Can you tell us what she told you?

24 A. What -- yes, I can tell you -- what she told
25 me that happened?

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1 Q. As it relates to the injuries that you
2 observed.

3 A. I observed multiple injuries around her face,
4 her lips, her shoulder, her arms, her legs that
5 she related were all related to her being hit,
6 slapped, that she was pushed down stairs where her
7 head hit the wall, where she was cut with -- I
8 don't recall if it was with a knife or box cutter.

9 Q. And did you then complete the sexual assault
10 examination?

11 A. Yes.

12 Q. Tell us a little bit about what is entailed
13 during a sexual assault examination?

14 A. We use a kit that the State provides. It
15 comes with a protocol that we follow depending on
16 what the patient tells us occurred.

17 We do a head to toe assessment of the
18 patient.

19 We do a detailed genital exam.

20 We obtain a history.

21 We obtain a forensic history based on what
22 they tell us happened.

23 The kit comes with swabs that we use to swab
24 any area where we may think that there may be
25 saliva, semen or other DNA.

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1 We collect any fibers, any foreign materials
2 that we may see on the patient's body or on their
3 clothing.

4 Q. And when you swab those areas of the body, is
5 that after you have done the examination, when
6 you're collecting this evidence?

7 A. Yes.

8 Q. And what position is the patient usually in
9 when that occurs?

10 A. We usually do the head to toe examination
11 when they are sitting on the exam table, so they
12 are sitting in a regular position. Then the
13 detailed genital exam, they're in a lithotomy
14 position, so their legs are up and kind of frogged
15 out to the side so that we can have a full view of
16 the entire genital area.

17 SOLICITOR WILLIAMS: I am going to show
18 defense counsel what has previously been marked as
19 State's Exhibit 96.

20 CHAD SHELTON: (Review)

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR WILLIAMS:

23 Q. If you would, look at this item and tell us
24 if that accurately depicts the kit as you used it
25 that day?

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1 A. (Upon review), yes, that is my signature.

2 Q. Okay. And after you take -- explain to the
3 jury what is inside the kit and how you collect
4 the evidence.

5 A. The kit has, as I said, swabs and envelopes
6 that they correspond to. To collect, say the bite
7 mark on the neck, you'd swab the area. Then once
8 we obtain the swabs they are placed in individual
9 holders in a dryer and left out to dry.

10 Q. Then what do you do with them after that?

11 A. They each are returned to their corresponding
12 envelope. The envelope is sealed, we initial it,
13 we fill out the patient's information -- the date,
14 time and our name -- on that envelope. Then all
15 of the envelopes go back into a large envelope
16 which is then sealed, initialed and filled out.
17 All of the evidence, once we collect all the swabs
18 that we collect or if we collect blood or urine
19 samples, goes back into the larger envelope or box
20 and it is sealed with all the labeling
21 information.

22 Q. That is what you were talking about with your
23 initials on that box?

24 A. Yes.

25 Q. And then who do you give it to next?

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1 A. If the law enforcement jurisdiction who has
2 the case, if they are there then they will take
3 the kit from us. If not, we turn it over to our
4 public safety department at MUSC, they sign for it
5 on the chain of custody and they put it in their
6 evidence locker.

7 Q. And these are difficult questions, but when
8 you swab someone who has been sexually assaulted,
9 you're looking for saliva or other kinds of bodily
10 fluids, as you just described. If you swab an
11 area, say -- well, tell us what areas that you
12 would swab typically?

13 A. I would swab wherever -- based on the history
14 of the event as the patient told me, I would swab
15 anywhere that I felt that I might find any
16 material, or anywhere that -- we have ways of
17 looking, we have a blue light, an alternate light
18 source to where I can look and see if I see
19 anything that fluoresces. I might not necessarily
20 know what it is, but I'd collect it and then we'd
21 send it. So anywhere that we see or suspect or
22 based on anywhere that the patient knows what
23 happened -- of if they are incapacitated, that
24 they didn't know what happened, didn't have any
25 recollection of what happened, then we would

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1 collect from multiple sites just because they
2 didn't have a recollection of what happened.

3 Q. So where did you swab in this case?

4 A. In this case, I collected oral swabs and
5 smears - a smear being a line from a swab that you
6 put on a little slide that would be looked at
7 under a microscope. So I collected oral swabs,
8 smears, fingernail swabs, a known DNA swab from
9 the patient, a vaginal swab and smear, rectal swab
10 and smear, a set of perianal swabs and then two
11 sets of external genital swabs.

12 Q. If you collect evidence from, say, a rectal
13 swab or a vaginal swab, does that necessarily mean
14 that that material started from that part of the
15 body?

16 A. If I collect it from inside the vagina, then
17 probably yes. In this case, because it was
18 extremely difficult with her injuries to position
19 her the way that I needed to be able to to see all
20 the areas clearly, yes, it's possible that what I
21 got may not have started out in that area.

22 Q. And because it was -- was it her knee injury
23 that prevented you from being able to get her in
24 the position that you needed ---

25 A. Both knees, yes.

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1 Q. Did that prevent you from doing a full
2 examination of her genital area, as you would do
3 with a patient that could get in that position?

4 A. Yes, it did.

5 Q. So you really couldn't make the same
6 determination about injuries or the appearance of
7 that area as you ordinarily would do, because of
8 her injuries?

9 A. Correct.

10 Q. Now, she told you that she'd had alcohol that
11 evening, did she not?

12 A. She did.

13 Q. Do you remember what she told you that she
14 had had?

15 A. Two small vodka-and-juice.

16 Q. And how -- in your profession, is there a
17 protocol as to how long you will wait after a
18 sexual assault allegedly occurs until when you
19 will collect the evidence? Is there a window of
20 time that SANE nurses operate within?

21 A. We will collect evidence up to five days
22 following a sexual assault.

23 Q. Are there certain things that can get in the
24 way of finding evidence on sexual assault victims?

25 A. Yes.

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1 Q. What kind of things?

2 A. If they've showered; if they've cleansed the
3 area, you know, it would be hard to find ---

4 Q. What about if they urinate?

5 A. Yes, if they've urinated and wiped, cleaning
6 the area it might remove semen.

7 Q. So if someone had urinated four times or also
8 if someone had taken a towel and wiped their
9 vaginal area, would that make it difficult?

10 A. It could, yes.

11 SOLICITOR WILLIAMS: Court's indulgence
12 for just a second.

13 THE COURT: Certainly.

14 SOLICITOR WILLIAMS: Your Honor, at this
15 time the State would offer 96 into evidence.

16 THE COURT: Any objection?

17 CHAD SHELTON: No objection.

18 THE COURT: Without objection, State's
19 Exhibit 96 is admitted.

20 (SO ENTERED AS STATE'S EXHIBIT 96)

21 SOLICITOR WILLIAMS: Thank you, Your
22 Honor. That's all that we have at this time.

23 THE COURT: You may cross examine.

24 CHAD SHELTON: Thank you, Your Honor.

25 CROSS EXAMINATION

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1 BY CHAD SHELTON:

2 Q. Ms. Hall, you indicated that you have
3 testified sixty times.

4 A. I have completed sixty exams.

5 Q. Oh, completed sixty examinations?

6 A. Yes.

7 Q. So how long have you been a SANE nurse? I'm
8 sorry.

9 A. Three years.

10 Q. And you said that this took place about 1:50
11 in the afternoon?

12 A. My portion, yes.

13 Q. Are you given incident reports, statements
14 or anything like that that the victim may have
15 signed, or police write-ups?

16 A. I was not.

17 Q. And the patient, Ms. Lampkin, never said that
18 she was -- did she ever indicate to you that she
19 was under any type of medications?

20 A. She did not.

21 Q. She gave you a rundown of what occurred?

22 A. Yes.

23 Q. And you took pretty detailed notes of what
24 she indicated to you?

25 A. Yes.

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1 Q. At one point in time, she says that the
2 assailant 'jumped in my face, argued about why
3 I wouldn't take him back'.

4 A. Okay.

5 Q. Do you see that part?

6 A. (Upon review), yes.

7 Q. And that 'everything was going wrong in his
8 life.'

9 A. Yes.

10 Q. And that that is when he then pushes her down
11 on the bed and grabs a knife?

12 A. (Upon review), yes.

13 Q. And then he starts to strangle her with --
14 one or two-handed, while also slapping her in the
15 face?

16 A. Yes.

17 Q. And then she tried to fake it and the
18 assailant indicates that he is going to kill
19 himself?

20 A. (Upon review), kill her and himself.

21 Q. And indicates that there was a sexual
22 assault.

23 A. (No response).

24 Q. Then she indicates on the next page of your
25 notes that he was prancing around?

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1 A. (Upon review), okay.

2 Q. After the initial assault, she says that he
3 was prancing around?

4 A. Okay.

5 Q. Then further on down, after she falls down
6 the steps he pulls her back upstairs?

7 A. (Upon review), yes.

8 Q. Now, as a part of your examination you mark
9 what looks -- on what looks like a person, you
10 marked that diagram up.

11 A. Yes.

12 Q. There is a front and a back part to that
13 diagram?

14 A. Yes.

15 Q. And there are no marks on her back area.

16 A. No.

17 Q. In fact, there are no marks on her wrists or
18 her ankles?

19 A. Not on here.

20 Q. And there are no injuries noted to her
21 vagina.

22 A. From the limited visibility that I had, no,
23 there are not.

24 Q. And there are no injuries noted to her anus?

25 A. Again, from my limited visibility there were

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1 not.

2 Q. As part of getting the history there are some
3 questions that you need to ask for later purposes,
4 DNA results and that sort of thing. For example,
5 'Have you had consensual intercourse within the
6 last seven days?' Answer yes or no.

7 A. Correct.

8 Q. And she answered 'no.'

9 A. That's correct.

10 Q. And she was at the -- when the examination
11 was taking place, there was a friend that was with
12 her?

13 A. No. Her sister.

14 Q. Her sister, Chantelle Mazyck?

15 A. Yes.

16 Q. She also indicated that she was -- that she
17 had been drinking a little bit, had two drinks?

18 A. Yes.

19 Q. You didn't -- there are boxes that you can
20 check for toxicology and those were checked 'no.'

21 A. Correct.

22 Q. And then some of the other evidence that you
23 collected, the fingernails were too short to --
24 something.

25 A. Her fingernails were too short to swab. I

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1 mean to cut or to scrape them, so I swabbed them.

2 Q. All right. And pubic hairs are too short to
3 collect?

4 A. Correct.

5 Q. One set of the swabs -- I think your
6 testimony earlier was that you couldn't be sure if
7 there was anything else found in those areas where
8 that actually came from?

9 A. Correct. I don't know if I can ever tell
10 where it came from. When we do the exam, when we
11 do the internal vaginal exam, we insert a speculum
12 and we place the swabs into the vagina through
13 that speculum. So what I get out of the vagina,
14 I know came out of the vagina. What I get
15 externally from the external part of the genitals,
16 from the vagina back to the anus, do I know where
17 it originated, (negative gesture). Did it come
18 out of her anus and come forward or did it come
19 from her vagina and go backwards, that I cannot
20 tell.

21 CHAD SHELTON: No further questions.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 BY SOLICITOR WILLIAMS:

25 Q. Ms. Hall, did you make a note of the victim's

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1 demeanor while you did the exam?

2 A. Yes, ma'am.

3 Q. Could you tell us what that was?

4 A. She was visibly upset, trembled and sobbed
5 intermittently throughout the exam.

6 Q. Mr. Shelton asked you about pieces of your
7 report and what the victim reported to you. I
8 want to show you that narrative of your report
9 and ask you to read the rest of what she said.

10 SOLICITOR WILLIAMS: If we could mark
11 this as State's Exhibit 104. Showing the witness
12 Exhibit 104 to refresh her memory.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR WILLIAMS:

15 Q. Tell us everything that she told you, not
16 just what ...

17 A. (Reading): *"Patient was awakened by the*
18 *sound of breaking glass followed by three thumping*
19 *sounds. Patient got out of bed, ran to the top of*
20 *stairs, yelling "Who's that? Is someone in here?"*
21 *She then saw assailant running up the stairs*
22 *towards her. Patient states assailant jumped in*
23 *my face arguing over breakup of relationship.*
24 *Assailant grabbed patient, pushed her onto the bed*
25 *and began to strangle her. Assailant pulled a*

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1 knife and stated, "I am going to kill you."
2 Assailant was slapping patient in face. Assailant
3 vaginally and rectally penetrated patient and also
4 forced oral sex by patient. Patient tried to be
5 cooperative, to calm assailant down. Patient
6 tried to get to her cell phone, he saw her. She
7 ran, he caught her on the steps and they
8 struggled. Patient tumbled down steps, head
9 breaking through wall, injuring knee. Assailant
10 came to her, slammed her head and face to the
11 wall, drug patient back upstairs, rectally
12 assaulted her again, bound feet and wrists with
13 towel, bound her ankles together. Took a hanger
14 and wrapped it around her ankles about ten times,
15 then tied her wrists in the same manner. Patient
16 states that assailant then stuffed something into
17 her mouth and wrapped towel around her face
18 several times and then covered that with tape."

19 I have in parentheses "head, mouth
20 covered and wrapped with tape."

21 (Reading): "After asking patient for
22 her car keys and searching for them, the assailant
23 stated, "I am going to get coffee" and left her
24 residence. Before leaving, assailant threw
25 clothes and a comforter on patient (as she said to

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1 me, "like you would to burn"). Patient states was
2 able to get loose from hangers and towel around
3 wrists. Unable to walk, collapsed on the floor ,
4 slid down the stairs on her back to the front
5 door. Opened the door, sat there waiting for
6 someone to come by so that she could, quote, "yell
7 for help." A man walking heard patient and was
8 able to summons another neighbor, who came and
9 called 911."

10 Q. Do you know of anything in your report what
11 she told you about the defendant wiping her
12 vaginal area with towels?

13 A. Yes. She did say that he wiped her "face and
14 genital area was wiped by assailant with a damp
15 cloth."

16 Q. Thank you.

17 SOLICITOR WILLIAMS: Nothing further.

18 THE COURT: Recross?

19 CHAD SHELTON: Yes.

20 RECROSS EXAMINATION

21 BY CHAD SHELTON:

22 Q. Everything that you just read, was one set
23 of notes. Then there is a second set of notes?

24 A. Yes.

25 Q. But all the information that you got was from

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1 Ms. Lampkin.

2 A. Yes, sir.

3 Q. And this is at 1:50?

4 A. Beginning at. Yes.

5 Q. 1:50 p.m.?

6 A. Yes, sir.

7 CHAD SHELTON: Nothing further.

8 THE COURT: Okay, thank you very much,
9 you may step down. Thank you.

10 (WITNESS STEPS DOWN)

11 THE COURT: At this point, ladies and
12 gentlemen, we will take our recess for the
13 evening. Please remember that you are not at
14 liberty, of course, to discuss this case among
15 yourselves. You're not at liberty to talk about
16 it with anyone at home. That includes -- I'm sure
17 when you get home and if there is someone there
18 that the first question will be, 'What are you
19 doing? Tell me about it.' That would be a normal
20 question that would be asked. If you tell them,
21 then you will have commenced your individual
22 deliberations. I know that you are not going to
23 do that, that you are going to honor your
24 commitment. I thank you for that. Tell the
25 person that you can talk about it, maybe tomorrow.

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1 Wednesday for sure. Right now talk about
2 something else.

3 Have a good evening. Do not call the
4 number tonight, that message will not apply to
5 you. Return to your jury room by 9:30 in the
6 morning. We will resume the trial at that time.
7 Have a good evening. Thank you.

8 (JURY OUT @ 5:10 P.M.)

9 THE COURT: Anything from the State
10 before we recess?

11 SOLICITOR WILLIAMS: Nothing from the
12 State, Your Honor.

13 THE COURT: Anything from the Defendant
14 before we recess>

15 CHAD SHELTON: No, Your Honor.

16 THE COURT: 9:30 in the morning,
17 please. Thank you. How many more witnesses,
18 Anne?

19 SOLICITOR WILLIAMS: I'd say five,
20 Your Honor.

21 THE COURT: Okay. At this point, are
22 you anticipating calling any witnesses. And,
23 please understand, that you are not bound by
24 anything. I am just trying to formulate when we
25 might charge, so that I can get myself ready.

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1 CHAD SHELTON: I don't know at this'
2 time, Your Honor.

3 THE COURT: That's fine. Thank you.

4 (COURT IN RECESS)

5 (TRANSCRIPT CONTINUED NEXT PAGE)

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(DEFENDANT PRESENT)

4 THE COURT: Good morning. Let the
5 record reflect that Mr. Morgan is present. Good
6 morning, Mr. Morgan. Are we ready to continue?

7 SOLICITOR WILLIAMS: Yes, sir, if we
8 could wait on Mr. Alfaro. He has the first
9 witness.

10 THE COURT: There he is now.

11 SOLICITOR ALFARO: Sorry, Your Honor.

12 THE COURT: Not a problem. Are you
13 ready, Mr. Shelton?

14 CHAD SHELTON: Yes, Your Honor.

15 THE COURT: Invite the jury to come in.

16 (WITNESS TAKES STAND)

17 THE COURT: Good morning, ladies and
18 gentlemen. I hope that you had a good evening.
19 We are ready now to resume the case. Solicitor,
20 you may call your next witness.

21 SOLICITOR ALFARO: The State calls
22 Leroy Goodyear.

23 (WITNESS TAKES STAND)

24 LEROY GOODYEAR, having been sworn to tell
25 the truth, and nothing but the truth, testified as

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1 follows:

2 DIRECT EXAMINATION

3 BY SOLICITOR ALFARO:

4 Q. Good morning, sir.

5 A. Good morning, sir.

6 Q. Tell the jury where you currently work.

7 A. City of Goose Creek, as a criminal
8 investigator.

9 Q. How long have you been with the City of Goose
10 Creek Police Department?

11 A. This time, since 2008, sir.

12 Q. Did you have any prior law enforcement
13 experience prior to coming to Goose Creek?

14 A. Yes, sir. I've been employed in law
15 enforcement about fifteen years now.

16 Q. Any local jurisdictions or agencies?

17 A. I worked at the Berkeley County Sherriff's
18 Office at one point, sir.

19 Q. And you said that you're a detective now.
20 What is your description? What are your duties
21 and responsibilities?

22 A. I work criminal investigations, which could
23 be any type of crime or case. I also work vice
24 crimes as well.

25 Q. Were you working for the Goose Creek Police

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1 Department on January 29th, 2012?

2 A. Yes, sir, I was.

3 Q. Did you have an opportunity to assist in this
4 investigation involving Defendant Steven Morgan
5 and the victim Rose Lampkin?

6 A. Yes, sir, I was called to the incident
7 location.

8 Q. Were you assigned as the lead detective or
9 case agent in this case?

10 A. Yes, sir.

11 Q. You said that you were called to the scene.
12 Did you actually enter the home?

13 A. We entered the home to make a security sweep
14 prior to crime scene coming in.

15 Q. Was the victim still at the scene when you
16 arrived?

17 A. She was not.

18 Q. She had already been transported to the
19 hospital.

20 A. Yes, sir.

21 Q. You said that you preformed a protective
22 sweep?

23 A. (Affirmative nod).

24 Q. Did you also enter the home during the
25 evidence collection stage?

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1 A. I did not, sir.

2 Q. Do you recall what you observed in the home
3 when you were making your initial sweep?

4 A. Yes, sir. I am going to refer to my report.
5 Captain Salisbury and I actually conducted that
6 security sweep of the interior.

7 During the sweep, I observed the residence to
8 be in complete disarray.

9 I further observed the rear sliding glass
10 door to be shattered and a log in the living room
11 floor, adjacent to the front wall.

12 I observed blood droplets on the all next to
13 the staircase.

14 Q. And did you come -- you said that the victim
15 had already been transported when you came to the
16 scene. Did you come into contact with her
17 sometime during that day?

18 A. I did leave the scene and traveled to the
19 Medical University of South Carolina.

20 Q. Did you have the opportunity to speak with
21 her when you got to the Medical University?

22 A. Yes I did.

23 Q. At the time that you spoke with her, could
24 you describe her physical condition?

25 A. She was, as you could tell, extremely

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1 battered. She was in and out of it, as we say in
2 common terms.

3 Q. In your conversation with her, were you able
4 to obtain her version of what happened?

5 A. Yes, sir, to the best of her ability at that
6 time.

7 Q. Were you able to do that in written statement
8 form. Did you take a written statement from her?

9 A. I did, sir.

10 Q. At the time, you said that she in and out as
11 far as coherence goes. Did you write the
12 statement for her, or did she write it? How did
13 that come about?

14 A. The other individual who was there that was
15 associated with Ms. Lampkin, Chantelle Mazyck,
16 wrote -- actually wrote the statement out as Ms.
17 Lampkin dictated it to me.

18 Q. So it was her story, just written by Ms.
19 Mazyck?

20 A. Yes, whatever Ms. Lampkin said, Ms. Mazyck
21 wrote it down there in my presence.

22 Q. I show you what is in evidence as State's
23 Exhibit 83 and 84. If you could look at those,
24 then I will ask you a couple of questions about
25 them.

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1 A. Yes, sir.

2 Q. Do you recognize what is in that picture?

3 A. Yes, sir, I do.

4 Q. Could you tell the jury what it is?

5 A. That is a Ford pickup truck that according to
6 the Richmond County Sheriff's Office was being
7 operated by the defendant on the day that he was
8 apprehended.

9 Q. Where was he apprehended?

10 A. It was in Richmond County, Georgia.

11 Q. What part of Georgia is that? City?

12 A. It is not tremendously far from Augusta, up
13 in that area.

14 Q. Behind you on the screen is State's Exhibit
15 83. That is the pickup truck?

16 A. Yes, sir.

17 Q. And it looks like it is on some type of
18 flatbed. Is that how you got it back to Goose
19 Creek?

20 A. Yes, sir. Lieutenant Altman (phonetic),
21 who is also employed with the City of Goose Creek,
22 traveled to Richmond County Sheriff's Office, took
23 possession of that vehicle and towed it back to
24 the Goose Creek Police Department, where this
25 photograph was taken.

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1 Q. What date did this occur?

2 A. February 1st.

3 Q. Of what year?

4 A. 2012 or - (pause).

5 Q. When the truck was brought back to the impact
6 lot, was it processed for evidence?

7 A. It was.

8 Q. Who did that?

9 A. CSI Wendy Myers, in my presence as I was
10 executing the search warrant.

11 Q. So you witnessed Myers processing ---

12 A. (Affirmative nod).

13 Q. Did you actually participate in the
14 processing?

15 A. I did not, no.

16 Q. Can you describe for us what you observed as
17 far as the extent of the processing/searching the
18 inside of the truck?

19 A. Photographs were taken of the interior and
20 the exterior. A general overview was taken of the
21 vehicle for any obvious evidence. It was searched
22 by CSI Myers. There was no evidence found. There
23 was no DNA taken at that time because, obviously,
24 we knew that the defendant had been in possession
25 of that vehicle.

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1 Q. Did you -- or did Myers at that time, in your
2 presence, remove any part of the interior of that
3 vehicle?

4 A. No, sir.

5 Q. You said that on February 1st that there was
6 no evidence recovered from the truck, is that
7 correct?

8 A. That is correct, sir.

9 Q And to your knowledge, as the lead
10 investigator, as there some evidence recovered
11 from the subject property?

12 A. Yes, sir.

13 q. Do you recall what that was?

14 A. When I was -- we were contacted by Ms.
15 Lampkin, who stated that she had been contacted by
16 a Mr. Mazyck. That while removing -- while
17 physically removing/unbolting the center console
18 from this vehicle, that he had located her keys as
19 well as a knife that had a black-in-color handle
20 that she identified she believed was used in the
21 commission of this crime that evening.

22 Q. Regarding the knife, did you at some point
23 retain custody of that knife from Mr. Mazyck?

24 A. Yes, sir, on April 3rd.

25 Q. I show you what is in evidence as State's

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1 Exhibits 89 and 90. Starting with State's Exhibit
2 89, if you could look at that and tell us if that
3 is the knife that you were just testifying about?

4 A. (Upon review), yes, sir, it is.

5 Q. And State's Exhibit 90, if you could look at
6 that and tell us if those are the keys that you
7 were testifying about?

8 A. Yes. It is still attached to a leather band
9 with the name "Rose" on it.

10 Q. You said that you obtained the knife from Mr.
11 Mazyck on April 3rd. When did you obtain the car
12 keys?

13 A. The keys, I obtained on April 6th, 2012.
14 They were left at the Goose Creek Police
15 Department. They were actually dropped off by
16 Sean Lampkin.

17 Q. Were the keys turned into Evidence the day
18 that they were dropped off with you?

19 A. Yes, sir.

20 Q. And was the evidence turned into Evidence the
21 day that you got them from Mr. Mazyck?

22 A. Yes.

23 Q. And in addition to meeting with Mr. Mazyck to
24 get custody of the knife, did you have an
25 opportunity to meet with him again?

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1 A. I did.

2 Q. When did that meeting take place?

3 A. On April 27th, I met with Mr. Mazyck and
4 obtained two buccal swabs for elimination samples,
5 because he had in fact touched the knife when he
6 found it.

7 Q. And you said that you met with him to obtain
8 buccal swabs?

9 A. Yes, sir.

10 Q. I show you what has been marked for
11 identification as State's Exhibit 97. Do you
12 recognize State's Exhibit 97?

13 A. This is the evidence as packaged by CSI Myers
14 once it was relinquished from our custody to the
15 Evidence room.

16 Q. Can you describe for us the process that you
17 used to obtain the buccal swabs from Mr. Mazyck?

18 A. A permission to search form or a consent to
19 search form was signed at that time by Mr. Mazyck.
20 At which time two cotton swabs -- cotton swabs
21 with wooden handles -- were used to swab the
22 inside of the cheek on both sides; then stored
23 separately in different boxes.

24 Q. You said that you wanted to get these for
25 elimination purposes?

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1 A. Yes, sir.

2 Q. What was the reason for trying to get these
3 to eliminate them for DNA comparison?

4 A. Mr. Mazyck had stated to me that he had
5 touched this knife, as well as his biological son
6 had. In the event that the -- the DNA would come
7 back, obviously, that he had touched the knife.
8 So the elimination samples were to be able to
9 exclude him, to say 'well, we know who that
10 belongs to.'

11 SOLICITOR ALFARO: Your Honor, at this
12 time we would ask that State's Exhibit 97 be
13 admitted into evidence.

14 CHAD SHELTON: No objection.

15 THE COURT: Without objection, State's
16 Exhibit 97 is admitted.

17 (SO ENTERED AS STATE'S EXHIBIT 97)

18 SOLICITOR ALFARO: Thank you.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR ALFARO:

21 Q. In going back to where the truck was located,
22 as well as the Defendant, the truck was located on
23 February 1st in Augusta. When did you come into
24 contact with the defendant?

25 A. I came in contact with the defendant on

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1 February 3rd, 2012.

2 Q. Between the incident date of January 29th,
3 2012, and February 3rd, 2012, were you actively
4 attempting to locate the defendant?

5 A. There were active attempts underway to locate
6 the defendant.

7 Q. Can you describe for us what those attempts
8 were?

9 A. Obviously the information had been put out to
10 surrounding agencies. There was also an
11 informational release, press release, done at that
12 time. There was an active warrant at that time
13 for the burglary in the first degree.

14 Q. Did you have any contact with him or any
15 communication with him during that period between
16 January 29th and February 3rd?

17 A. No, sir, I did not.

18 SOLICITOR ALFARO: Thank you. Please
19 answer any questions that Mr. Shelton has for you.

20 THE COURT: You may cross exam, Mr.
21 Shelton.

22 CROSS EXAMINATION

23 BY CHAD SHELTON:

24 Q. Investigator Goodyear, when you met with Rose
25 and Chantelle Mazyck, you were told that Chantelle

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1 was her sister?

2 A. Uh, -- yes, at that time that's what I did
3 put in my incident report, that she was identified
4 as her sister.

5 Q. So you wrote down what you were told?

6 A. Yes, sir. I don't recall whether it was Rose
7 or Ms. Mazyck that made that statement, but that's
8 what I indicated.

9 Q. And -- Mr. Morgan was apprehended January
10 30th, in Georgia?

11 A. If you will bear with me just a moment. I
12 want to be sure that I give you the correct
13 information. (Upon review of report), ---

14 Q. Actually January 29th, the late hours of
15 January 29th?

16 A. He was taken into custody on the 29th and Ms.
17 Lampkin was advised that he was in custody on the
18 30th.

19 Q. Okay. Now, you also -- part of the process
20 when you got Mr. Morgan, was to book him into the
21 jail?

22 A. He was booked and processed; yes, sir.

23 Q. And when you do that, you get his information
24 on where he lives?

25 A. That's correct.

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1 Q. And the address on his license is Georgia?

2 A. That is what is indicated on the booking
3 sheet.

4 Q. Sure. And you fill out the booking sheet
5 information?

6 A. (No response).

7 Q. Yours was the booking officer's name?

8 A. If I filled out the booking information
9 sheet, I did in fact book him.

10 Q. Would it help to see a copy of the booking
11 sheet?

12 A. Sure.

13 CHAD SHELTON: (Tenders document to
14 be marked as exhibit).

15 COURT REPORTER: Defendant's Exhibit 2
16 for identification.

17 CROSS EXAMINATION CONTINUED

18 BY CHAD SHELTON:

19 Q. (Tenders).

20 A. (Upon review), yes, sir, that is the booking
21 sheet and I am indicated as the booking officer.

22 Q. And you indicate that his place of birth was
23 also Georgia?

24 A. Yes, sir.

25 Q. And you indicate that his driver's license

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1 was based in Georgia?

2 A. Yes, sir. Dearing, Georgia.

3 Q. You would have had a chance to observe Steven
4 and look to see if there were any injuries on Mr.
5 Morgan?

6 A. Yes, sir, to some degree. Obviously he
7 wasn't disrobed or anything at that point.

8 Q. Did you take pictures of his hands?

9 A. I am going to have to refer to the incident
10 report. (Upon review), I made no notation that
11 day when he was booked about photographs at that
12 time.

13 Q. And you didn't notice any fresh injuries?

14 A. No, sir, or I would have noted them in this
15 report.

16 Q. And your testimony was that the keys and the
17 knife were given to you on April 3rd?

18 A. The knife -- Mr. Mazyck first advised Ms.
19 Lampkin that he had these items. He had traveled
20 to Columbia to speak with her. He left the keys
21 with Ms. Lampkin, however he brought the knife
22 back to Charleston.

23 Q. You said that the knife came that day, on
24 April 3rd and that the keys came on April 6th.

25 A. Yes.

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1 Q. All you know about the knife and the keys is
2 what you have been told?

3 A. Yes.

4 Q. The truck was searched ---

5 A. (Affirmative nod), the truck was searched.

6 Q. And no evidence was found?

7 A. No evidence was obtained at that time.

8 CHAD SHELTON: Thank you. No further
9 questions.

10 THE COURT: Sure. Redirect?

11 SOLICITOR ALFARO: No, Your Honor.

12 THE COURT: Thank you. You may step
13 down, sir.

14 (WITNESS STEPS DOWN)

15 THE COURT: Call your next witness,
16 Solicitor.

17 SOLICITOR WILLIAMS: Victor Mazyck.

18 (WITNESS TAKES STAND)

19 VICTOR MAZYCK, having been sworn to tell
20 the truth, and nothing but the truth, testified as
21 follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR WILLIAMS:

24 Q. Mr. Mazyck, do you know Chantelle Mazyck?

25 A. Yes, she's my sister-in-law.

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1 Q. And do you know Rose Lampkin?

2 A. Yes, I do.

3 Q. And how long have Rose and Chantelle known
4 each other?

5 A. All their lives, as far as I know.

6 Q. And do they sometimes refer to each other as
7 sisters?

8 A. Yes, they do. All the time.

9 Q. How did you meet Rose?

10 A. Through Chantelle.

11 Q. Where do you presently work?

12 A. I am retired. I am an associate pastor at a
13 church, Southside Christian Fellowship.

14 Q. What did you do before that?

15 A. Electronics tech for the College of
16 Charleston, and before that a solider.

17 Q. At some point in time, did you purchase a
18 truck from Rose Lampkin?

19 A. Yes, I did.

20 Q. Tell us what kind of truck that was?

21 A. It's a Ford truck.

22 Q. I am going to show you a picture back here
23 and I want you to look at it and see if it is the
24 truck that you purchased?

25 A. (Upon review), it's the same truck.

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1 Q. Do you remember about when you purchased it?

2 A. I really can't remember the dates.

3 Q. Do you know if it was in 2012?

4 A. Yes, it was.

5 Q. How long had you had it -- did you find
6 something in the truck?

7 A. Yes, I did.

8 Q. How long had you had it before you ---

9 A. Not even a couple of weeks.

10 Q. Tell us the circumstances around you finding
11 these items?

12 A. Well, I wanted to change the console in the
13 truck, between the seats, because it wasn't big
14 enough for what I use the truck for. I use the
15 truck for things like, you know, going to mow
16 lawns and I would have my papers and everything in
17 it. I'd had a truck like this truck before, so
18 I just decided to change the console out to
19 accommodate what I needed to do. I began to take
20 the bolts out to remove the console, because I
21 wanted to exchange it with a console from an
22 Expedition, which is bigger, same body style.
23 When I lifted -- you have to take the cup holder
24 out of that console to take it out. When I lifted
25 the console, I found a knife, a Schrade block

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1 blade knife and some keys.

2 Q. The whole time before you pulled it and
3 lifted it up, where those visible to you at all,
4 the whole two weeks that you had had it?

5 A. No, you couldn't see it unless you'd take
6 that cup holder out. As a matter of fact, you
7 can't remove the console without taking the cup
8 holder out.

9 Q. Okay. What did you do after you found those
10 items?

11 A. I called Rose. I needed to see her anyway to
12 make payment on the truck. I explained to her
13 that I had found these items in the truck and that
14 I would deliver those to her. At the time, I went
15 to Columbia to visit her, she was at her mother's
16 and her dad's.

17 Q. Tell us about that, when you brought the
18 items to her?

19 A. It was a, you know, pretty -- it was pretty
20 shocking, actually, since that was the first time
21 that I'd seen Rose in such bad condition. I
22 didn't realize the extent of everything that was
23 going on. It really hurt me a lot, because she's
24 a friend of mine -- first of all -- and it just
25 really, -- I was devastated, actually. But when

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1 I went to see her -- she's strong, you know, so
2 her spirits were good. She walked on in but it
3 wasn't the same walk, it wasn't the same -- she
4 was trying to show me her strength. I told her
5 what I had, matter of fact I brought it to her and
6 she said, 'Well, this is exactly ---

7 CHAD SHELTON: Objection.

8 THE COURT: Sustained.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR WILLIAMS:

11 Q. You can't repeat what Ms. Lampkin told you.

12 You can just ---

13 A. Okay.

14 Q. --- kinda described it, if you would. What
15 was her reaction to the item?

16 A. Surprise. Devastation.

17 SOLICITOR WILLIAMS: I am going to
18 show defense counsel, Your Honor, what has been
19 marked as 44, 45 and 46.

20 THE COURT: Very well.

21 CHAD SHELTON: (Review).

22 SOLICITOR WILLIAMS: May I approach the
23 witness?

24 THE COURT: You may.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR WILLIAMS:

2 Q. Mr. Mazyck, if you could just look at these
3 pictures and tell me if they accurately depict the
4 way that those items looked at the time that you
5 found the items that you were just discussing in
6 your testimony, the way that the truck looked?

7 A. (Upon review), same truck.

8 Q. And is that the way that the console looked
9 before you ---

10 A. Yes, ma'am.

11 SOLICITOR WILLIAMS: Your Honor at this
12 time the State would offer 44, 45 and 46 into
13 evidence.

14 THE COURT: Any objection?

15 CHAD SHELTON: No objection.

16 THE COURT: State's Exhibits 44, 45 and
17 46 entered without objection.

18 (SO ENTERED AS STATE'S EXHIBIT 44)

19 (SO ENTERED AS STATE'S EXHIBIT 45)

20 (SO ENTERED AS STATE'S EXHIBIT 46)

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR WILLIAMS:

23 Q. There will be a picture displayed behind you.
24 I am going to hand you this laser point. If you
25 could just push this button and show the jury what

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1 you're talking about. What adjustment that you
2 were trying to make on this truck.

3 A. Here is the console. This console had to be
4 removed. But here, right on top where the cup is
5 -- that is the cup holder -- and that had to be
6 removed before you had take the bolts which are
7 down into the body. The bolts are inside. You
8 can't see them from the outside. You have to lift
9 the cup holder, which is here, to get down in and
10 take the nuts out of the console.

11 Q. Where were the items that you found?

12 A. They were in this area. You can't see it
13 unless you remove the console, but they were down
14 in this area.

15 Q. Thank you.

16 SOLICITOR WILLIAMS: Thank you so much,
17 Mr. Mazyck. Please answer any questions that the
18 defense may have.

19 THE COURT: Cross examine?

20 CROSS EXAMINATION

21 BY CHAD SHELTON:

22 Q. Mr. Mazyck, you gave a statement to the
23 police?

24 A. (No response).

25 Q. You gave a statement to the police?

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1 A. Yes, I did.

2 Q. Would it help you refresh your memory as to
3 when you bought this truck if you could review
4 that statement?

5 A. Yes, of course.

6 CHAD SHELTON: (Tenders document to
7 marked as exhibit).

8 COURT REPORTER: Defendant's Exhibit 3
9 for identification.

10 CROSS EXAMINATION CONTINUED

11 BY CHAD SHELTON:

12 Q. If you would just read that to yourself.

13 A. Okay, (review).

14 Q. Is that your statement?

15 A. Yes, it is.

16 Q. And you see that you bought the truck March
17 28th?

18 A. Yes.

19 Q. Do you know when this incident occurred?

20 A. Maybe about a week, a week and a half or a
21 little afterwards.

22 Q. Do you know when the incident that we are
23 here about today occurred?

24 A. Oh, no, I don't. I don't -- I wasn't privy
25 to that information.

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1 Q. Do you know who had possession of the truck
2 the last two months?

3 A. As far as I know, Rose had possession of the
4 truck.

5 Q. I think that your testimony earlier was that
6 Chantelle and Rose consider themselves -- call
7 themselves sisters?

8 A. Yeah.

9 Q. They are not sisters?

10 A. No.

11 CHAD SHELTON: No further questions.

12 THE COURT: Redirect?

13 SOLICITOR WILLIAMS: No, Your Honor.

14 THE COURT: Mr. Mazyck, you may step
15 down.

16 (WITNESS STEPS DOWN)

17 THE COURT: Next witness.

18 SOLICITOR ALFARO: The State calls
19 Nicholas Powell.

20 (WITNESS TAKES STAND)

21 NICHOLAS POWELL, having been sworn to
22 tell the truth, and nothing but the truth,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR ALFARO:

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1 Q. Tell the jury where you work.

2 A. I work for the Goose Creek Police Department.

3 Q. How long have you been with Goose Creek?

4 A. Approximately six years.

5 Q. What is your current rank and what are your
6 current duties?

7 A. I currently work as an investigator in the
8 criminal investigative division, specifically for
9 vice and narcotic crimes.

10 Q. Did you have the opportunity to participate
11 in the investigation of Steven Morgan?

12 A. Yes, I did.

13 Q. Did you actually response to the crime scene
14 on Crystal Street?

15 A. I did not respond to the crime scene.

16 Q. Did you have the opportunity to come in
17 contact with the defendant during the course of
18 this investigation?

19 A. I did.

20 Q. When did that take place?

21 A. That took place on February 3rd, 2012.

22 Q. Where did you come in contact with him?

23 A. I made contact with him at the Richmond
24 County Detention Center located in Augusta,
25 Georgia.

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1 Q. And can you tell us what the reason or what
2 the purpose of the interactions with the defendant
3 were?

4 A. Myself and Detective Mason were making
5 contact with the defendant in order to transport
6 him -- essentially to extradite him from the
7 detention center there to the Goose Creek Police
8 Department.

9 Q. And when you got the defendant back to the
10 Goose Creek Police Department, did you collect any
11 evidence from him?

12 A. I did. I executed a DNA search warrant on
13 Mr. Morgan. We conducted that in interview room
14 "B", which was recorded at the time. I utilized
15 two cotton swabs to obtain DNA samples from the
16 inner cheek area.

17 Q. After obtaining the DNA sample, what did you
18 do with the swabs?

19 A. I transferred custody of those to CSI Myers.

20 Q. And how many swabs were taken?

21 A. There were two swabs that were taken.

22 Q. Let me show you what has been marked for
23 identification as State's Exhibit 93 and 94. Do
24 you recognize those items?

25 A. (Upon review), yes. These are the swabs that

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1 I took from Mr. Morgan.

2 SOLICITOR ALFARO: Your Honor, at this
3 time the State would ask that State's Exhibits 93
4 and 94 be admitted into evidence.

5 THE COURT: Any objection?

6 CHAD SHELTON: No objection.

7 THE COURT: Without objection, State's
8 Exhibits 93 and 94 are admitted.

9 (SO ENTERED AS STATE'S EXHIBIT 93)

10 (SO ENTERED AS STATE'S EXHIBIT 94)

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR ALFARO:

13 Q. Other than this meeting with the defendant
14 and obtaining those buccal swabs, did you have any
15 further contact with the defendant?

16 A. Not following that. I did not.

17 Q. Did you have any other role in this
18 investigation?

19 A. Other than drafting the initial warrant to
20 place a hold on Mr. Morgan and making contact with
21 two of the neighbors, (negative gesture).

22 SOLICITOR ALFARO: Thank you. Please
23 answer any questions that Mr. Shelton may have.

24 THE COURT: Cross examine?

25 CHAD SHELTON: No questions.

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1 THE COURT: Thank you, you may come
2 down. Do you wish for Mr. Powell to be excused?

3 SOLICITOR ALFARO: Yes, sir.

4 THE COURT: Any objection?

5 CHAD SHELTON: No, sir.

6 (WITNESS STEPS DOWN)

7 THE COURT: You are excused. Call
8 your next witness, please.

9 SOLICITOR ALFARO: The State calls
10 Maggie Carver.

11 (WITNESS TAKES STAND)

12 MAGGIE CARVER, having been sworn to tell
13 the truth, and nothing but the truth, testified as
14 follows:

15 DIRECT EXAMINATION

16 BY SOLICITOR ALFARO:

17 Q. Can you tell us where you work?

18 A. I work at the Goose Creek Police Department.

19 Q. And what do you do for Goose Creek?

20 A. I am an investigator.

21 Q. How long have you been an investigator there?

22 A. Eleven years.

23 Q. Were you working for Goose Creek on January
24 30th, 2012?

25 A. I was.

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1 Q. Did you have an opportunity to respond to the
2 Medical University of South Carolina to meet with
3 the victim in this case, Rose Lampkin, on that
4 day?

5 A. I did.

6 Q. What was the purpose of your -- what did you
7 do when you met with Ms. Lampkin?

8 A. I took a buccal swab from Ms. Lampkin.

9 Q. And can you describe for us the process that
10 you utilized to obtain that swab?

11 A. Yes. I used -- I took two sterile swabs and
12 I asked Ms. Lampkin to open her mouth and I took
13 swabs from inside her cheeks.

14 Q. I show you what has been marked for
15 identification as State's Exhibit 95. Do you
16 recognize that package?

17 A. This was packaged by Investigator Myers.

18 Q. After you took the swabs from Ms. Lampkin,
19 what did you do with the swabs?

20 A. I put it in a carton, then I took them back
21 to the police department, filled out an evidence
22 form and gave them to Investigator Myers.

23 Q. You then packaged them?

24 A. Yes, sir.

25 SOLICITOR ALFARO: Your Honor, at this

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1 time the State would ask that State's Exhibit 95
2 be admitted into evidence.

3 THE COURT: Any objection?

4 CHAD SHELTON: No objection.

5 THE COURT: Without objection, it is
6 admitted.

7 (SO ENTERED AS STATE'S EXHIBIT 95)

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR ALFARO:

10 Q. In addition to taking that swab from Ms.
11 Lampkin at MUSC, did you have an opportunity to
12 pick up any other evidence at the Medical
13 University that day?

14 A. Yes, sir, I did.

15 Q. What was that?

16 A. That was a SLED protocol rape kit that I
17 picked up from the department for, uh, uh, from
18 the police department at MUSC.

19 Q. I show you what is in evidence as State's
20 Exhibit 96. If you could, look at that and tell
21 us if that is the kit that you picked up from the
22 Medical University?

23 A. When I picked up the kit from the department
24 at MUSC, it was in a box. Therefore, I wasn't
25 able to see any of the stuff that was inside.

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1 Q. Did you tamper with the box in any way?

2 A. I did not.

3 Q. And was that turned over to Investigator
4 Myers at Goose Creek as well?

5 A. Yes, sir, it was.

6 SOLICITOR ALFARO: Thank you. Please
7 answer any questions that Mr. Shelton may have.

8 THE COURT: Cross examine?

9 CHAD SHELTON: Thank you for
10 testifying. I have no questions.

11 THE COURT: You may step down and you
12 are also free to leave.

13 (WITNESS STEPS DOWN)

14 THE COURT: Please call your next
15 witness.

16 SOLICITOR ALFARO: The State calls Wendy
17 Myers.

18 (WITNESS TAKES STAND)

19 WENDY MYERS, having been sworn to tell
20 the truth, and nothing but the truth, testified as
21 follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR ALFARO:

24 Q. Ms. Myers, please tell us where you are
25 employed?

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1 A. The Goose Creek Police Department.

2 Q. And how long have you been with Goose Creek?

3 A. A little over eight years.

4 Q. Prior to coming to Goose Creek, did you work
5 at any other law enforcement agency?

6 A. Yes, sir. I was a patrol officer with the
7 North Charleston Police Department for ten years.

8 Q. And what do you do for Goose Creek?

9 A. Crime scene investigator and evidence
10 technician.

11 Q. How long have you been doing that?

12 A. A little over eight years.

13 Q. Can you describe for the jury a little bit
14 of your training in the field of crime scene
15 processing?

16 A. Sure. I have an associates degree in
17 criminal justice with an emphasis in
18 criminalistics, which is basically the old term
19 for forensics.

20 Property evidence room management, which has
21 to do with the preservation of evidence.

22 DNA collection.

23 Crime scene evidence workshop, which is
24 basically: fingerprinting, DNA collection.

25 Photography and video of crime scene.

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1 DNA collection at sexual assault scene.

2 Crime - property crime scene.

3 Child death investigations.

4 Some arson training.

5 Blood spatter pattern analyses.

6 Q. And were you working on January 29th, 2012?

7 A. Yes, sir, I was.

8 Q. On that day, did you have the opportunity to
9 respond to the crime scene at [REDACTED]
10 in Goose Creek?

11 A. Yes, I did.

12 Q. When you got to the scene, had the scene
13 already been secured?

14 A. Yes, sir, it was.

15 Q. How could you tell that it was secured?

16 A. There was crime scene tape roping off the
17 front of the scene and Sergeant Tavelle was in the
18 driveway, securing the front of the residence as
19 well.

20 Q. When we say "secured", does that mean that
21 only authorized personnel were allowed in or out?

22 A. That's correct.

23 Q. And when you respond to a crime scene, is it
24 customary for you to be briefed on the facts and
25 circumstances of the incident that you are there

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1 to investigate?

2 A. Yes, it is.

3 Q. Did that happen in this case?

4 A. It did.

5 Q. And do you recall who gave you the briefing?

6 A. Captain Oliver, which is my direct
7 supervisor.

8 Q. As part of your role in investigating this,
9 at some point you entered the house?

10 A. That's correct.

11 Q. And can you describe for the jury what you
12 observed when you entered the residence?

13 A. I can. Immediately inside the front door of
14 the residence was what appeared to be some type of
15 material, we found out later that it was strips of
16 towel.

17 To the right going inside of the front door
18 is the den area, which extends -- it's an open
19 den all the way to the back. Against the furthest
20 wall was a piece of wood, with glass going from
21 the piece of wood all the way to the sliding glass
22 door. The sliding door, if you were looking at it
23 it would be the door on your left. It was broken
24 out, with glass going from there to where the
25 piece of wood ended up.

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1 To the left of the front door is a formal
2 dining area. There was a cigarette butt there.

3 There was a small hallway to the kitchen.
4 There was a cigarette butt there.

5 There was a wall directly across from the
6 stairwell and there was a hole -- it looked to be
7 fresh. There was still some of the sheetrock and
8 things that came out of the hole on the floor.

9 The house appeared to be in renovation. Some
10 of the floors (sic) were pulled up, wires strewn
11 across different areas of the residence.

12 There were a couple of blood droplets on the
13 foot of the stairwell and leading up the stairs.

14 Q. Did you also proceed to the second floor of
15 the residence?

16 A. I did. The blood droplets continued up the
17 stairwell. There were additional pieces of towel
18 and some wire, pieces of cardboard that appeared
19 to be from a hanger similar to a hanger from the
20 drycleaners, wire with cardboard on the bottom.
21 Those were in front of the closet door directly at
22 the top of the stairs.

23 There was a bedroom to the right at the top
24 of the stairs, which didn't appear to be -- it
25 appeared to be used occasionally.

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1 Then there was the master bedroom. In the
2 master bedroom there were additional pieces of the
3 towel beside the bed and at the foot of the bed,
4 additional pieces of the hanger material and more
5 of the cardboard. The bed had clothing piled on
6 one side. Then there was one side closest to the
7 door that was kind of open.

8 Q. After doing your walk-thorough, did you
9 personally collect evidence from the scene?

10 A. Yes, I did.

11 Q. Those items that were collected, were they
12 photographed before they were collected?

13 A. They were. Photographed and video.

14 Q. I show you what has been entered into
15 evidence as State's Exhibit 86. Do you recognize
16 that item?

17 A. Yes, I do. This is the green corduroy jacket
18 that was located beside the bed in the master
19 bedroom, directly underneath the window.

20 Q. And at some point in the investigation, were
21 you able to perform any tests on that?

22 A. I did. After collecting it at the scene,
23 the following day it was taken to the police
24 department where it is a little more of a
25 controlled environment, to do more processing.

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1 I took photographs. I also did what we -- what is
2 a presumptive blood test. The test that we use
3 can't identify the difference between human blood
4 and animal blood but we are able to say that it is
5 a blood derivative and then we take it to the lab.

6 This did show as presumptive for blood. I also
7 did locate a hole in the neck area, in the collar.

8 Q. And when you say that it tested presumptive,
9 what is the process that you use?

10 A. There is a reagent, it's called the Castle-
11 Meyer reagent. It turns -- if it locates
12 hemoglobin in the sample that we have put in the
13 test, it will turn bright pink, almost hot pink,
14 that will indicate the presence of hemoglobin.

15 Q. So you apply the reagent to ----

16 A. The swab, the stain itself. We put that into
17 the kit, crack the ampules, then shake it and it
18 will turn the hot pink color.

19 Q. I will also show you what is in evidence as
20 State's exhibit 87. Can you tell and show the jury
21 what those items are and where they were located?

22 A. Yes, these were the cardboard tubes that
23 appeared to be part of the drycleaner type
24 hangers. They were located in the landing at the
25 top of the stairs, as well as in the master

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1 bedroom. There were wires, mixed in with the
2 cardboard and towels, had been twisted into loops.

3 SOLICITOR ALFARO: We would ask that
4 these be marked for identification as State's
5 Exhibits 39 and 40.

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR ALFARO:

8 Q. If you could, look at those and then I will
9 ask you a couple of questions about them.

10 A. (Review).

11 Q. Do you recognize what is depicted in those
12 two exhibits?

13 A. I do.

14 Q. Does those photographs fairly and accurate
15 depict the part of the scene as you saw it that
16 day?

17 A. It does.

18 SOLICITOR ALFARO: Your Honor, at
19 this time the State would ask that State's
20 Exhibits 39 and 40 be admitted into evidence.

21 THE COURT: Any objection?

22 CHAD SHELTON: No, sir.

23 THE COURT: Without objection, State's
24 Exhibits 39 and 40 are admitted, each being a
25 photograph.

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1 (SO ENTERED AS STATE'S EXHIBIT 39)

2 (SO ENTERED AS STATE'S EXHIBIT 40)

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR ALFARO:

5 Q. We are going to put on the screen State's
6 Exhibit 39. It's a little tough to see in the
7 picture. Can you tell us, using this laser
8 pointer, what's in that picture?

9 A. This is the side of the bed.

10 This is a shoe.

11 This is a piece of the floor where the carpet
12 has been removed.

13 That is one of those pieces of cardboard that
14 we just showed you and then the circular twisted
15 piece of the hanger.

16 Q. State's Exhibit 40?

17 A. That is a close-up shot of the same piece.

18 This is the wire, going into the cardboard.

19 This looks like the bottom of a shoe.

20 Q. Showing you what has been entered into
21 evidence as State's Exhibit 88.

22 A. These are the strips of towel that were
23 located inside the residence, some at the front
24 door and at the top of the landing as well as
25 inside the bedroom, tied to the pieces of hanger

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1 and cardboard.

2 Q. The condition in which they are, tied and
3 torn, that is the condition which you found them
4 in that day?

5 A. This is the condition that they were in on
6 being returned from testing. Part of them were
7 tied into the hangers and the wires, correct.

8 Q. Let me show you what has been marked for
9 identification as State's Exhibit 99. If you
10 could, look at that item and tell us what that is.

11 A. (Upon review), this is a roll of packing tape
12 that was located at the foot of the bed in the
13 master bedroom.

14 SOLICITOR ALFARO: Your Honor, the State
15 would ask that State's Exhibit 99 be admitted into
16 evidence.

17 THE COURT: Any objection?

18 CHAD SHELTON: No objection.

19 THE COURT: State's Exhibit 99 is
20 admitted, without objection.

21 (SO ENTERED AS STATE'S EXHIBIT 99)

22 SOLICITOR ALFARO: Thank you.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR ALFARO:

25 Q. State's Exhibit 98, do you recognize this

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1 item?

2 A. I do. This was the piece of cut wood that
3 was against the den window, closest to the front
4 door.

5 Q. Inside the home?

6 A. Correct.

7 Q. Did you have the opportunity to also look in
8 the backyard of the residence?

9 A. I did. There was a pile of similar cut wood
10 directly against the sliding glass door in the
11 back yard.

12 Q. Any other items recovered from the back porch
13 area?

14 A. There was a pole with a type of rubber sleeve
15 on it. It seems to be from maybe a mop or a
16 broom, some type of cleaning implement that was
17 unscrewed from that. It was laying against that
18 pile of cut wood.

19 SOLICITOR ALFARO: May we have this
20 marked for identification.

21 COURT REPORTER: State's Exhibit 105
22 for identification.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR ALFARO:

25 Q. I show you what has been marked for

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1 identification as State's Exhibit 105. Is this
2 the pole that you have been referencing?

3 A. Yes, it is.

4 Q. What was the purpose in collecting this?

5 A. Initially I wasn't sure if it was possibly
6 used to force entry into the residence, as well.
7 So I took it in an abundance of caution, just to
8 make sure that we had everything that we needed.

9 Q. Let me show you what has been marked for
10 identification as State's Exhibit 92. If you
11 can, take a look at that and tell us what that is,
12 if you recognize it.

13 A. These are the two swabs that I collected from
14 the blood droplet and the blood smear that were at
15 the foot of the stairwell and on the first step
16 leading up to the second floor.

17 Q. And can you briefly describe to the jury what
18 the process is that you used to collect those?

19 A. We have sealed sterile swabs. With dried
20 blood we would use sterile water to moist the swab
21 and collect it. Then they are put into either --
22 they are called a capture swab, which is an open
23 plastic tube which is open at the top, which
24 allows it to air dry, and also protects it from
25 cross contamination. In this case, I used two of

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1 those capture swabs. So I moistened the tip of
2 swab with sterile water, swabbed it, capped it
3 closed and then secured them in an envelope for
4 further processing at the lab.

5 Q. Let me show you two photographs that have
6 been marked for identification, State's Exhibits
7 23 and 24. If you could look at these exhibits
8 and tell us if you recognize what is depicted in
9 them.

10 A. (Upon review), I do. This is the foot of the
11 stairwell where the blood droplets were, leading
12 up. That is a closer image of the same shot, with
13 the blood droplets.

14 Q. Were these areas where the blood swabs that
15 you just testified about taken from?

16 A. Yes, they were.

17 SOLICITOR ALFARO: Your Honor, at this
18 time the State would ask that State's Exhibits 23
19 and 24 be admitted.

20 THE COURT: Any objection?

21 CHAD SHELTON: No objection, Your Honor.

22 THE COURT: State's Exhibits 23 and
23 24 be admitted without objection, each being a
24 photograph.

25 (SO ENTERED AS STATE'S EXHIBIT 23)

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1 (SO ENTERED AS STATE'S EXHIBIT 24)

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR ALFARO:

4 Q. Regarding State's Exhibit 92, which I had
5 showed you previously ---

6 SOLICITOR ALFARO: Your Honor, we would
7 ask that that be admitted into evidence.

8 THE COURT: Number what?

9 SOLICITOR ALFARO: Number 92.

10 CHAD SHELTON: No objection.

11 THE COURT: Without objection, State's
12 Exhibit 92 is admitted.

13 (SO ENTERED AS STATE'S EXHIBIT 92)

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR ALFARO:

16 Q. In addition to the evidence that you've
17 testified about that was collected that day, did
18 you have an opportunity to come into contact with
19 any other evidence in this case?

20 A. There were four Newport cigarette butts that
21 were located in the residence; one in the dining
22 room, one in the hallway on the first floor, and
23 then two on the floor of the master bedroom beside
24 the bed.

25 Q. I show you what has been submitted into

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1 evidence as State's Exhibit 96.

2 A. This is the sexual assault evidence
3 collection kit that was submitted by Investigator
4 Carver.

5 Q. When did you come into possession of that?

6 A. That was on January 30th, 2012.

7 Q. When you got it, was it packaged in the box
8 like ---

9 A. It was, (affirmative nod). The integrity
10 seals would have been in place at that time.

11 Q. And when you got that, was it secured in your
12 evidence facility?

13 A. It was.

14 Q. Let me show you what is in evidence as
15 State's Exhibits 93 and 94. Do you know what
16 those items are?

17 A. These are swabs that were submitted together
18 from Steven Morgan by Investigator Powell. Those
19 were submitted on February 3rd, 2012.

20 Q. When those were submitted to you, were those
21 then secured into Evidence?

22 A. They were.

23 Q. And when those were submitted into evidence,
24 did you tamper with the package at all?

25 A. I did not.

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1 Q. Regarding State's Exhibit 96 that you just
2 testified about, was that item -- which was the
3 sexual assault kit, uh, did you have an
4 opportunity to transport that to another facility
5 for testing?

6 A. I did. That was transported to the South
7 Carolina Law Enforcement Division's forensic
8 laboratory. That was transported on February 17th
9 of 2012, along with one of the swabs from Steven
10 Morgan.

11 Q. Of the two Steven Morgan swabs that you just
12 identified, which of the two was taken to SLED.

13 A. It would be this one.

14 Q. That is State's Exhibit 93; is that correct?

15 A. Yes, that's correct.

16 Q. Other than taking State's Exhibits 93 and 96
17 to SLED, was the other evidence taken, that's
18 you've testified to, taken to any other place for
19 further forensic testing?

20 A. Yes, it was. It was taken to the Intelli-
21 genetics Laboratory, and that was done of February
22 10th of 2012

23 Q. So you recall which of the items that you've
24 testified about were transported to Intelli-
25 genetics on that date for further testing?

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1 A. I do. It was the Newport cigarette butts,
2 the two swabs that were taken from the residence,
3 the corduroy jacket, the piece of cut wood, the
4 towels, and portions of the hangers as well as one
5 of the swabs from Ms. Lampkin and one of the swabs
6 from Mr. Morgan.

7 Q. Could you tell me again when those were
8 transported to Intelligentics?

9 A. February the 10th, 2012.

10 Q. And on that day when you were -- where is
11 Intelligentics?

12 A. It's in Hilton Head, South Carolina.

13 Q. And during your trip from Goose Creek to
14 Hilton Head, did you tamper with the packaging of
15 any of those items in any way?

16 A. I did not.

17 Q. I show you what is in evidence as State's
18 Exhibit 89. If you could, take a look at that.

19 A. This is a Schrade block knife that was
20 submitted by Investigator Goodyear.

21 Q. Was that item also transported to Intelli-
22 gentics for further testing?

23 A. Yes, it was.

24 Q. When was that transported?

25 A. It was submitted on April 3rd, 2012 and it

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1 was transported to Intelligentics on April 20th,
2 2012.

3 Q. And did you transport that item as well?

4 A. I did.

5 Q. Did you tamper with the packaging in any way?

6 A. I did not.

7 SOLICITOR ALFARO: Your Honor, I think
8 that I neglected to ask that Exhibit 105 be
9 admitted into evidence.

10 THE COURT: Any objection?

11 CHAD SHELTON: No objection.

12 THE COURT: Without objection, it is
13 admitted.

14 (SO ENTERED AS STATE'S EXHIBIT 105)

15 SOLICITOR ALFARO: No further questions.
16 Please answer anything that Mr. Shelton has.

17 THE COURT: Cross examination?

18 CHAD SHELTON: Yes, Your Honor.

19 CROSS EXAMINATION

20 BY CHAD SHELTON:

21 Q. Ms. Myers, you have a list of everything
22 that you have submitted to Intelligentics but you
23 didn't mention a beige sheet.

24 A. I did.

25 Q. You sent Intelligenetics a beige sheet?

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1 A. Yes, I did, on February 10th of 2012.

2 Q. That was also processed prior to you sending
3 that to Intelligenetics?

4 A. That's correct.

5 Q. And what was found on the beige sheet?

6 A. There was -- after looking at it with an
7 alternate light source, which will luminesce,
8 anything with a, uh, petroleum base, semen or
9 other bodily fluid will glow under that light
10 source. It was examined with that light source.
11 Similar to the presumptive blood swabs, we would
12 do a presumptive semen swab which looks for acid
13 phosphates, which is a compound located in semen
14 as well as other things. I got a presumptive for
15 acid phosphates from the sheet, so that sheet was
16 also sent to Intelligenetics.

17 Q. It was presumptive for semen?

18 A. For the presence of acid phosphates.

19 Q. So when you first came into the home, there
20 was a towel -- was it the bigger towel or the
21 smaller towel that was right in front of you?

22 A. I believe that it was smaller. Let me check
23 my photographs. (Upon review), it actually looks
24 like it is the large section of the towel or two
25 smaller ones.

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1 Q. And the other sheet was found upstairs?

2 A. That's correct.

3 Q. That was the bigger?

4 A. In these thumbnail photos it appears to be,
5 yes.

6 CHAD SHELTON: (Tenders item to be
7 marked as exhibit).

8 COURT REPORTER: Defendant's Exhibit 4
9 for identification.

10 CROSS EXAMINATION CONTINUED

11 BY CHAD SHELTON:

12 Q. Would it be helpful to see pictures?

13 A. Yes, (review).

14 Q. Does that help refresh your memory as to what
15 was found upstairs?

16 A. (Upon review), it does appear to be the
17 larger towel.

18 Q. And there were only two towels that were
19 taken into evidence?

20 A. There were strips of the same towel -- or I
21 believe that it was one whole towel when it was
22 put together.

23 Q. Okay. But there were two separate towels
24 that were collected?

25 A. Strips of the same towel and portions of them

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1 were tied together. I would not have untied them,
2 for fear of losing evidence.

3 Q. You didn't do a presumptive test for blood on
4 any of the towels?

5 A. I did not.

6 Q. The outside of the broken glass -- there was
7 some glass on the outside?

8 A. Correct.

9 Q. You mentioned that you also found two
10 cigarette butts downstairs.

11 A. One cigarette butt downstairs. Well, one in
12 the hallway and then one in the dining room.

13 Q. But there is a doorway that was open or that
14 could be opened between the dining room and the
15 kitchen?

16 A. Yes, it is an open walkway.

17 Q. And you said that you saw some blood at the
18 bottom of the stair?

19 A. Correct.

20 Q. And you are characterizing that as a smear?

21 A. One was a smear and an additional one I
22 swabbed as a droplet.

23 Q. Not a whole lot of blood.

24 A. Correct.

25 Q. And the smear, was there -- were there any

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1 hairs?

2 A. Not that I recall any hairs in the blood.

3 Q. You would have collected hairs if there were
4 hairs at this scene?

5 A. Correct.

6 Q. Are you qualified to take fingerprints?

7 A. I am.

8 Q. And you didn't see any fingerprints, shoe
9 prints or any other types of prints in the smears
10 or blood evidence?

11 A. Correct.

12 Q. You weren't able to get any fingerprints from
13 the pole or the wood?

14 A. Correct. The wood would be not a surface
15 that would be fingerprintable. That's more for
16 DNA collection.

17 Q. And I think you described the -- there are
18 two bedrooms in the home.

19 A. Correct.

20 Q. One bedroom wasn't used as much.

21 A. Correct.

22 Q. Then the master bedroom?

23 A. Correct.

24 Q. And you took some photos in the master
25 bedroom?

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1 A. Correct.

2 Q. You took photos of what you collected in the
3 master bedroom?

4 A. Correct.

5 Q. There were two cigarette butts in the master
6 bedroom?

7 A. Correct.

8 Q. There are no other pictures, no other
9 collection of no other wire?

10 A. Any of the wire?

11 Q. Other than what we have here today?

12 A. That's correct

13 Q. There are no pictures and no collection of
14 used tape?

15 A. Correct.

16 Q. Going back downstairs, did you notice
17 anything -- granite countertops having any marks
18 from a knife or what could have been a knife on
19 it?

20 A. Not that I saw.

21 Q. You did note that the window shades were half
22 open in the master bedroom?

23 A. Let me review my report. (Upon review),
24 that's correct. The second window on the west
25 wall, blinds were pulled up approximately halfway.

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1 Q. Okay. Also on that windowsill -- and you may
2 have to refer to your pictures to refresh your
3 memory -- there was also a Mountain Dew bottle?

4 A. (Upon review), I see a green bottle.

5 Q. A green bottle?

6 A, (Affirmative nod).

7 Q. Do you know what is on the windowsill right
8 next to the green bottle?

9 A. I can't see anything in that.

10 Q. Would it be helpful to see ---

11 A. --- a larger photograph, (affirmative nod).

12 CHAD SHELTON: (Tenders photograph to
13 be marked as an exhibit).

14 COURT REPORTER: Defendant's Exhibit 5
15 for identification.

16 WITNESS: (Upon review), it looks
17 like some type of papers or cards next to the
18 bottle?

19 CHAD SHELTON: I am not sure. Nothing
20 was collected. That wasn't collected?

21 WITNESS: That was not collected.

22 CROSS EXAMINATION CONTINUED

23 BY CHAD SHELTON:

24 Q. There were also items on the floor next to
25 the bed, do you remember a glass being on the

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1 floor next to the bed, a drinking glass?

2 A. Not that I recall. I can refer to my report
3 and see if I mention it. (Upon review), I don't
4 mention it in my report.

5 CHAD SHELTON: (Tenders item to be
6 marked as identification).

7 COURT REPORTER: Defendant's Exhibit 6
8 for identification.

9 CROSS EXAMINATION CONTINUED

10 BY CHAD SHELTON:

11 Q. Would it be helpful to see a blown up
12 picture?

13 A. Yes.

14 Q. It is kinda of hard to see in that picture
15 but do you see a mug at the corner of the bed?

16 A. I see several items on the floor at the foot
17 of the bed. I don't see a mug on the corner of
18 the bed.

19 Q. (Indicating).

20 A. Okay. Yes, some type of large glass mug at
21 the foot of the bed.

22 Q. That is standing up, it is not disturbed in
23 any way?

24 A. Correct.

25 Q. The jacket that was collected and was

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1 presumptive for blood, that was found upstairs?

2 A. Correct.

3 Q. You also had a chance to search the truck and
4 you didn't find anything in the truck?

5 A. Correct.

6 CHAD SHELTON: (Tenders to be marked
7 as an exhibit).

8 COURT REPORTER: Defendant's Exhibit 7
9 for identification.

10 CROSS EXAMINATION CONTINUED

11 BY CHAD SHELTON:

12 Q. There was an ironing board in the room, did
13 you notice that there was also a cup on the
14 ironing board? Would it be helpful to see a blown
15 up ---

16 A. There appears to be a red cup.

17 Q. A red cup?

18 A. Um-humm.

19 THE COURT: Is that a "yes"?

20 WITNESS: Yes, sir, it is.

21 CHAD SHELTON: No further questions.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 BY SOLICITOR ALFARO:

25 Q. Investigator Meyers, in your direct

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1 examination, you testified that you received a
2 briefing as to what happened in the residence?

3 A. That's correct.

4 Q. When you receive that briefing, does that
5 help you determine what items are going to be
6 collected when you're processing the scene?

7 A. It does.

8 Q. Is it fair to say - you were asked
9 specifically by Mr. Shelton about a Mountain Dew
10 bottle, a mug at the foot of the bed that did not
11 appear to be disturbed, is it fair to say that
12 there are numerous items that you didn't collect
13 in that scene?

14 A. That's correct.

15 Q. Would it be physically -- would it be
16 possible to collect every single item in the
17 house?

18 A. That would be -- there would be nowhere to
19 store every single item in the house.

20 Q. And when you're processing a crime scene, is
21 it your purpose to try to determine what evidence
22 or what items are directly related to what you are
23 investigating?

24 A. That's correct.

25 Q. I show you what Mr. Shelton had marked as

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1 Defendant's Exhibit 7, a photograph. I believe
2 that you testified about a red cup on the ironing
3 board.

4 A. Yes.

5 Q. Are you able to tell what that item next to
6 the red cup is?

7 A. It appears to be a jar of Vaseline.

8 Q. Vaseline?

9 A. (Affirmative nod).

10 Q. And that was located in the master bedroom?

11 A. That's correct.

12 SOLICITOR ALFARO: Your Honor, at this
13 time the State would ask -- it was marked as
14 Defendant's 7 but was previously marked as State's
15 Exhibit 32 for identification. We would ask that
16 State's Exhibit 32 be admitted into evidence.

17 THE COURT: Any objection?

18 CHAD SHELTON: No objection.

19 THE COURT: Without objection, State's
20 Exhibit 32, a photograph, is admitted.

21 (SO ENTERED AS STATE'S EXHIBIT 32)

22 SOLICITOR ALFARO: No further questions.

23 THE COURT: Recross?

24 RECROSS EXAMINATION

25 BY CHAD SHELTON:

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1 Q. It is also fair to say that there were some
2 items that are not collected that are necessary --
3 that turned out to be necessary?

4 A. It's possible.

5 Q. And any information that you obtained to get
6 the items -- collect items -- that information
7 came from Ms. Lampkin?

8 A. They came from my supervisor.

9 Q. You are not sure who that information came
10 from before that?

11 A. I am not.

12 CHAD SHELTON: That's all.

13 THE COURT: You may step down. Thank
14 you. Do you wish for this witness to be excused?

15 SOLICITOR ALFARO: Yes, Your Honor.

16 THE COURT: Any objection?

17 CHAD SHELTON: No, sir.

18 THE COURT: You are free to leave, as
19 well, Ms. Myers. Thank you.

20 (WITNESS STEPS DOWN)

21 THE COURT: At this point, ladies and
22 gentlemen, we will take a recess. Do not begin
23 your deliberations, do not discuss the case among
24 yourselves, we will be with you in about fifteen
25 minutes.

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1 you will, give your attention to the next witness.

2 Solicitor, you may call your next witness, please.

3 SOLICITOR WILLIAMS: The State would
4 call Dr. Daniel DeMiers.

5 (WITNESS TAKES STAND)

6 DANIEL DEMIERS, having been sworn to tell
7 the truth, and nothing but the truth, testified as
8 follows:

9 DIRECT EXAMINATION

10 BY SOLICITOR WILLIAMS:

11 Q. Dr. DeMiers, can you tell us what your
12 occupation is?

13 A. I am currently the director and technical
14 leader at Intelligenetics.

15 Q. What is that located?

16 A. Hilton Head Island, South Carolina.

17 Q. What is that company?

18 A. I'm sorry?'

19 Q. What is that company?

20 A. Intelligenetics is a DNA testing laboratory
21 that specializes in identity testing. We do it
22 for police departments, public defenders,
23 attorneys. Then we also do parenting testing
24 primarily for Homeland Security and the INS
25 office, Immigration and Naturalization Service.

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1 Q. What kind of educational background and
2 experience do you have in DNA testing and forensic
3 testing?

4 A. I have a bachelor's degree in cell biology
5 from Eastern State University, and I have a Ph.D.
6 in molecular biology from the Medical College of
7 Virginia.

8 Q. How long have you worked in the field of DNA
9 testing and forensic science?

10 A. Oh, let's see. About twenty-seven years.

11 Q. You worked at other labs, obviously, before
12 Intelligenetics?

13 A. Yes.

14 Q. Have you testified as an expert in the field
15 of field of forensic science and DNA analyses
16 before?

17 A. Yes, I have.

18 Q. Do you know about how many times?

19 A. Between fifty and sixty times.

20 Q. And have you testified for defense counsels
21 and for the State?

22 A. Yes.

23 SOLICITOR WILLIAMS: Your Honor, at
24 this time the State would move Dr. DeMiers to be
25 qualified as an expert in the field of forensic

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1 science and DNA analysis.

2 THE COURT: Do you wish to examine him
3 as to his qualifications?

4 CHAD SHELTON: No, sir.

5 THE COURT: He will be admitted as an
6 expert to render opinions in those areas.

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR WILLIAMS:

9 Q. In the course of your work as a forensic
10 scientist, did you receive items of evidence in
11 this case?

12 A. Yes, I did.

13 Q. Can you tell us what items of evidence that
14 you received? And if you need to refresh your
15 memory by referring to some notes, ----

16 A. I will refer to my case file if that's okay.

17 Q. That's fine.

18 A. On February 10th, 2012, we received a number
19 of items:

20 A wooden log, like you'd put in the
21 fireplace;

22 a green corduroy jacket;

23 torn strips of towels, some of which were
24 tied into knots;

25 some broken pieces of metal hangers;

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1 a beige fitted bed sheet;
2 a white mattress cover;
3 four Newport cigarette butts;
4 two swabs from a stain on the floor;
5 and then a reference swab from Steven
6 Morgan and a reference swab from Rose Lampkin.

7 Then there were other items received
8 subsequent to that.

9 Q. Okay.

10 A. Would you like those items at this time?

11 Q. Please.

12 A. On April 12th, 2012, we received a knife.

13 On May 4th, 2012, we received a reference
14 sample from Victor Mazyck.

15 That would be all the evidence that we
16 received.

17 Q. Let's talk about -- did you prepare reports
18 with the results of this testing?

19 A. Yes.

20 Q. Let's talk first about autosomal DNA testing.
21 What is that?

22 A. Autosomal DNA testing is -- it's a testing
23 that everybody kind of thinks about when they talk
24 about DNA testing for parentage or DNA testing.
25 We all inherit DNA from our mom and from our dad.

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1 Half comes from mom and half comes from dad. They
2 are packaged, those are packaged - the DNA is
3 packaged in structures called chromosomes, so half
4 comes from mom. We have forty-six chromosomes,
5 total, twenty-three pairs. So we get twenty-three
6 chromosomes from mom and twenty-three chromosomes
7 from dad. Those come together as an egg and a
8 sperm. You now have a complete complement of DNA.
9 From that an embryo starts to develop.

10 The twenty-three pairs of chromosomes are
11 divided into - twenty-two of which are classified
12 as what they call autosomes. Those primarily code
13 for all the things that make us who we are -- you
14 know, how tall we are, the color of our skin, the
15 color of our eyes, how wide our nose is, all these
16 various characteristics, including genetic
17 disorders that we sometimes inherit or develop
18 afterwards.

19 The other pair - so that's twenty-two of
20 the twenty-three. The other pair is the X and Y
21 chromosome, what they refer to as the sex
22 chromosome. That is what determines our gender.
23 There are also some other characteristics on those
24 chromosomes but primarily they are thought of as
25 determining our gender; so, will we be female or

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1 will we be male?

2 So in the standard DNA case, which most
3 commonly is what is done. If it is a parentage
4 case, it will be done using autosomal DNA testing.
5 If it forensic case, it will most of the time be
6 done using autosomal DNA testing.

7 Y chromosome testing is a separate test
8 that zeros in on the Y chromosome. So the Y
9 chromosome is what makes a male a male. So women
10 inherit an X - remember that we get half from mom
11 and half from dad. Women/girls inherit an X
12 chromosome from mom and an X chromosome from dad.
13 Boys inherit an X chromosome from mom and a Y
14 chromosome from dad. So women, girls are XX and
15 boys are XY. So this Y chromosome test, it's done
16 in the same way as an autosomal DNA test except
17 that the reagents zero in on the Y chromosome and
18 they basically ignore all the other DNA there, so
19 it gives you a Y-specific DNA profile, just the
20 male DNA.

21 Q. So hypothetically if you took a sample of DNA
22 from a piece of evidence and then you had blood
23 from a defendant and you compared them, would you
24 be comparing the DNA markers to see how much - how
25 many of the markers from the DNA of the defendant

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1 would make the specimen that you took from the
2 piece of evidence?

3 A. That is correct. We do it the same way on a
4 Y chromosome test as well.

5 Q. Okay. So Y chromosome tests are sometimes
6 necessary on a test of evidence that you have
7 already tested for autosomal.

8 A. It can be useful for a number of reasons.
9 One can be if there is a lot of female DNA and
10 just a really small amount of male DNA, uh, the
11 system -- the autosomal test basically gets
12 swamped by the female DNA that is present and --
13 so, although you're picking up the male DNA, it's
14 just kinda of below the radar screen. It's just
15 too low to actually detect. So in that particular
16 case, a Y chromosome test can be useful.

17 As an example, in a sexual assault case
18 where the man has been vasectomized or just has a
19 naturally low sperm count, there are not enough
20 sperm cells there to pick up an autosomal profile
21 if it is mixed with female DNA. So - but even
22 though a man has been vasectomized, he still
23 produces semen. In his semen are cells. Within
24 his cells are his Y chromosomes. So a Y
25 chromosome test can be useful in that situation.

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1 The other time that it can be useful is -
2 it is a more sensitive test, at least at the time.
3 Now, we actually have a new type or set of
4 reagents that have increased sensitivity, but at
5 the time that this test was done we didn't have
6 those. So the Y chromosome test could be useful
7 in situations where you have a problem with
8 sensitivity, that there is just so little DNA
9 there that the regular autosomal reagents do not
10 pick it up but the chromosomal test does. So it
11 is a combination of mixtures, sorting out mixtures
12 and sensitivity issue, I'd say.

13 Q. Just one more hypothetical. If you had a
14 sexual assault kit and several samples were taken
15 but -- say from the vaginal swabs you had an
16 overwhelming amount of female DNA, of you just did
17 the autosomal testing would it be possible that it
18 would just pick up the semen but not enough to
19 identify the male?

20 A. It really depends on the circumstances. If
21 you had a vaginal swab postcoital or after a rape
22 has taken place and if the man ejaculated, then
23 his semen would potentially be picked up and we
24 could potentially pick up his DNA profile.
25 Depending on the circumstances, depending on how

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1 much material is there, we might be able to do
2 what is called a differential extraction. That is
3 -- basically if you have a mixture of female DNA
4 and male DNA, the sperm cells can be separated out
5 from the female DNA and we're able to develop a
6 male-specific profile and a female-specific
7 profile. But if you are unable to do that, you
8 can use a Y chromosome test. But if there is very
9 little sperm present, for example if he has been
10 vasectomized, then we could use the Y chromosome
11 test.

12 Q. Right. Okay. So if you didn't move on to
13 the Y, it is possible that you would know that
14 there was semen there but it would be an un-
15 identified male because there just wasn't enough
16 semen there?

17 A. Correct.

18 Q. Okay, let's look at the evidence that you
19 tested. First, let's go to the sheets. Now, you
20 picked up -- first, on the sheets, tell us if any
21 semen was found on the sheets.

22 A. We tested a number of items for the presence
23 of semen. The two areas that I tested from the
24 bed sheet were positive for semen.

25 Q. Okay. But that did not belong to the

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1 defendant, Steven Morgan; is that correct?

2 A. (Affirmative nod), Steven Morgan was excluded
3 as a contributor of that DNA.

4 Q. And Rose Lampkin - her DNA was present,
5 right?

6 A. Yes, her DNA was clearly present.

7 Q. And if it were Rose Lampkin's sheets and
8 someone else deposited semen on it, would that
9 explain why her DNA was present on it as well?

10 A. Uh, -- yes. Clearly her DNA was all over the
11 sheet. There was no trouble picking her up on the
12 sheet.

13 Q. Had those sheets been freshly laundered, as
14 far as you could tell?

15 A. They actually looking quite soiled at the
16 time that I analyzed them.

17 Q. And did you do further testing on the sheets,
18 on that stain on the sheets? As far as genetic
19 testing for maternity?

20 A. No.

21 Q. Did you do a report yesterday on some genetic
22 testing?

23 A. Oh, yes. I'm sorry. I did do actual
24 additional DNA processing but -- I did generate a
25 parentage report that compared the DNA profile we

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1 obtained from the sheet that was clearly Rose
2 Lampkin, then the male DNA that we recovered from
3 the bed sheet. I compared them for parentage.
4 Found with a 99.99 probability that the male DNA
5 on the bed sheet came from a child of Rose
6 Lampkin.

7 Q. Okay.

8 A. I was just going to add that, having said
9 that, we would get a similar result if we were to
10 compare semen from Rose Lampkin's father because
11 he also is a first order relative. So Rose
12 Lampkin shares half of her DNA with her mother,
13 half of her DNA with her father and she also
14 shares half of her DNA with any children that she
15 would have.

16 Q. So you didn't retest the evidence, you just
17 reanalyzed it using the ---

18 A. Correct.

19 Q. So if Rose Lampkin were at work and her son
20 used her bed for purposes where at some point
21 semen was deposited ---

22 CHAD SHELTON: Objection.

23 THE COURT: It's speculative. Let me
24 hear the question finish, please.

25 SOLICITOR WILLIAMS: I just want to

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1 pose it as a hypothetical.

2 THE COURT: Go ahead and pose your
3 question.

4 DIRECT EXAMINATION CONTINUED
5 BY SOLICITOR WILLIAMS:

6 Q. Hypothetically, if Rose Lampkin were not in
7 the home, those were her sheets, and her son were
8 to do something in the bed where her (sic) semen
9 was deposited on the sheets, would that be an
10 explanation for that stain? Would that be a
11 reasonable explanation based on scientific data?

12 A. Yes, that would explain it.

13 THE COURT: Overrule the objection to
14 that question based on the way that he responded.

15 SOLICITOR WILLIAMS: Thank you.

16 DIRECT EXAMINATION CONTINUED
17 BY SOLICITOR WILLIAMS:

18 Q. Did you also test the swabs from the stains
19 on the floor?

20 A. Yes.

21 Q. And you have a report where these items are
22 identified, is that correct?

23 A. Yes, I do.

24 Q. I am looking at Item 201200188.2 and 00191.
25 What - did you do a presumptive test for blood on

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1 those things?

2 A. The stain on the floor, that I have as 191.

3 Q. Yeah.

4 A. The stain on the floor, that we identified as
5 our item 2012001191 was positive for blood, human
6 blood.

7 Q. And did you compare that blood to the DNA
8 standard for Rose Lampkin?

9 A. Yes. The blood from the floor matched the
10 DNA profile of Rose Lampkin.

11 Q. Did you also test the green jacket that you
12 took into evidence, the green corduroy jacket that
13 had blood on it?

14 A. I did not do a test for blood on the green
15 jacket.

16 Q. What testing did you do?

17 A I swabbed the green jacket, I swabbed the
18 lapel of the jacket - it was a zip-up jacket, I
19 swabbed the zipper. I also swabbed this area
20 here, the arms.

21 SOLICITOR WILLIAMS: I am going to show
22 defense counsel what is marked as State's Exhibit
23 86.

24 CHAD SHELTON: (Review).

25 SOLICITOR WILLIAMS: May I approach?

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1 THE COURT: You may.

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR WILLIAMS:

4 Q. Tell us if this is the item that you
5 examined.

6 A. Yes, that's the item.

7 Q. This is State's Exhibit 86, the corduroy
8 jacket. Sorry. Continue.

9 A. Just to repeat, I swabbed the lapel of the
10 jacket, the zipper and I swabbed this region of
11 the arms.

12 Q. And would that be referred to as touch DNA?
13 Were you looking for touch DNA?

14 A. Yes, I was looking -- I knew that I would
15 find her DNA. It was her jacket. Based on the
16 police report, I was looking for evidence of a
17 perpetrator, going on the assumption that she was
18 manhandled. Generally when that happens, people
19 are grabbed by the lapel and they're grabbed by
20 the arms. So I thought that might be the most
21 likely place to find touch DNA from some
22 perpetrator. So I swabbed cotton swabs to extract
23 the DNA and processed that DNA.

24 Q. What were the results of that testing?

25 A. That yielded, not surprisingly, a mixture of

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1 profiles, two people. The major contributor,
2 again not surprisedly, was Rose Lampkin, because
3 it was her jacket and most of the DNA was hers.
4 Steve Morgan could not be excluded as a minor
5 contributor to that DNA mixture.

6 Q. Is that one of the items that you did Y
7 chromosome testing on also?

8 A. I also -- again because there was so much
9 female DNA, I proceeded to do a Y chromosome test,
10 which just zeros in on the male DNA. I was able
11 to get a unique male-specific profile, which was a
12 match to Steven Morgan.

13 Q. Can you talk about probability in terms of a
14 match on the green jacket to Steven Morgan, after
15 the Y chromosome testing?

16 A. On a Y chromosome profile - and also on a
17 unique chromosomal profile, we look at the
18 frequency of that profile in the general
19 population. In the case of the Y chromosome DNA
20 profile, it was observed that profile, composite
21 profile, was observed two times in an African
22 American database of 1,932 people. So it is a
23 frequency of about one in a thousand.

24 Q. And did you do testing on the white pieces of
25 torn towel?

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1 A. Yes, we did DNA testing on that, and it was
2 positive for semen. So we did a differential
3 extraction and developed a male profile and a
4 female profile.

5 Q. Who did those profiles match?

6 A. The male fraction of the -- the male DNA
7 profile obtained from the towel matched Steven
8 Morgan. And the female DNA profile obtained from
9 the towel -- so we did a differential extraction
10 and we were able to separate the male-bearing
11 sperm cells from the female-bearing epithelia
12 cells to develop a male-specific profile and a
13 female-specific profile. The male-specific
14 profile matched Steven Morgan and the female-
15 specific profile matched Rose Lampkin.

16 Q. So you did not have to do Y testing on that?

17 A. No, I did not.

18 Q. And what is the frequency of the probability
19 of that matching somebody besides Steve Morgan,
20 the sperm that was found on the towel?

21 A. The frequency of this is one in -- it's less
22 than one in nine hundred and ninety-nine trillion.
23 So it's basically considered a unique profile
24 statistically. We have a world of seven billion
25 people, more or less, and statistically if you

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1 went and sampled every person that you'd never
2 find another person on the world (sic) with that
3 DNA profile.

4 Q. So it was a match?

5 A. It's a match.

6 Q. Hypothetically, if Steven Morgan had sexually
7 assaulted Rose Lampkin, deposited semen in her
8 vagina, and then wiped her vagina with that towel,
9 would that be an explanation for why those
10 mixtures would be on the towel?

11 A. That could explain it.

12 Q. And did you also test some brown wire hanger
13 pieces?

14 A. Yes. The brown hanger pieces were labeled as
15 item 187.1

16 Q. Tell us what the result were from those wire
17 hanger pieces?

18 A. The brown wire hangers yielded a mixture of
19 DNA profile of two people. So this was a
20 composite of the two. So we could not exclude
21 Rose Lampkin from this mixture profile. We could
22 not exclude Steven Morgan from this mixture
23 profile.

24 Q. And how would - what kind of DNA is on there?
25 Like what part of his body? What would be the

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1 explanation? Is it touch DNA or ---

2 A. Well, he -- I was looking for touch DNA
3 because the wires, the coat hangers were bent up
4 and twisted together. They looked like they have
5 been used for binding somebody's hands or feet.
6 So the wires were broken into pieces and then
7 those were wrapped around and then they were
8 twisted. Anyone that has done any -- if you're
9 kind of a handy person that works around the house
10 or on your car and you've ever used a coat hanger
11 to twist together, that coat hanger really digs
12 into your fingers. So if that was used in that
13 manner, we are certainly going to pick up Rose
14 Lampkin because it was around -- if it were around
15 her arms, hands or feet, we could pick up her DNA.
16 If somebody did use it in that manner, twisted
17 these wires together, it's a pretty good source of
18 DNA. You leave a log of DNA because wires really
19 dig into your fingers. So that's what we were
20 looking for. That's what appears we found.

21 Q. Did you test the white hanger pieces?

22 A. I also tested the white hanger. That was
23 identified as 187.2 and ---

24 Q. And what were the results of that?

25 A. On the white hanger, I obtained a - also, I

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1 should point out, going back to the brown hanger,
2 that I also ran a Y chromosome test and that
3 produced a male-specific profile that matched
4 Steven Morgan.

5 Q. Okay. Thank you.

6 A. On the white hanger, identified as 187.2,
7 again it was a mixture of two contributors. Rose
8 Lampkin matched the major contributor, so she --
9 most of the DNA off of the white hanger was her
10 DNA.

11 There was a minor profile that we describe as
12 being consistent -- it was a very minor, low level
13 profile -- and it was consistent with Steven
14 Morgan being the contributor. Now, I have to
15 point out that because it was minor, at a very low
16 level, that we didn't pick up every single loci
17 within that DNA mixture. Some of them, you can
18 see below threshold. But what we have is that it
19 is consistent with being from Steven Morgan. The
20 probability of exclusion is still 99.99 percent or
21 greater than 99.99 percent.

22 Q. So not as strong as the brown hanger?

23 A. Not as strong as the brown. But I also did Y
24 chromosome testing on the white hanger and had
25 enough male-specific DNA to pick up a unique

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1 profile that matched Steven Morgan.

2 Q. Did you test the cigarette butt from the
3 bedroom? 109.3?

4 A. Yes. I believe -- give me one second, please,
5 (reviewing report). Yes, that was tested as well.

6 Q. What were the results of that?

7 A. That matched Steven Morgan.

8 Q. What about the cigarette butt from the
9 hallway? 190.2?

10 A. That was a mixture of two people. Steven
11 Morgan matched the major contributor. So that
12 was a mixture, with most of the DNA from one
13 person. That one person matched Steven Morgan.
14 The minor contributor -- somebody else handled it
15 but it just wasn't enough to do a comparison on.

16 Q. Okay. And the cigarette butt from the
17 dinning room?

18 A. The dining room was 190.1?

19 Q. Yes.

20 A. Also a mixture of two individuals. Rose
21 Lampkin matched the major contributor. Again,
22 the minor contributor was not sufficient for
23 comparison.

24 Q. And, lastly, did you test -- tell us what
25 tests that you ran on the knife.

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1 A. (No response).

2 Q. Did you do a presumptive test on that?

3 A. The knife came in at a later date, so it was
4 reported on a separate report. We did do a test
5 to look for the presence of blood on the knife
6 blade. That was positive.

7 Q. Did you test that blood against Rose Lampkin?

8 A. Yes, I did.

9 Q. And what was the results of that?

10 A. The knife blade was a mixture of three
11 people: Rose Lampkin cannot be excluded as being
12 one of the contributors to that DNA mixture;
13 Steven Morgan was excluded from the knife blade.

14 Q. From the knife blade?

15 A. (Affirmative nod), so there was blood. Rose
16 Lampkin matched that mixture profile, Steven
17 Morgan did not matched that profile.

18 Q. And the fact that there are two other
19 contributors that were found on the knife blade,
20 does that necessarily mean that there were three
21 people's blood -- or just three people's DNA?

22 A. I can only say with certainty that there were
23 three people - three people handled or were in
24 contact with that blade at some point.

25 Q. At some point?

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1 A. At some point, (affirmative nod).

2 Q. And hypothetically of someone had handled
3 that blade and then it was used to put to her
4 throat and she bled on it, would that be an
5 explanation for why there is more than her DNA on
6 the knife?

7 A. Yes, that would explain it.

8 Q. Did you test the handle of the knife?

9 A. I tested the handle of the knife separately.
10 It is fairly routine when we get knives in/
11 submitted in these kinds of crimes that we are
12 looking for DNA from the victim and DNA from the
13 perpetrator. So we tested the knife handle. Again
14 we obtained a mixture of at least three people.
15 Rose Lampkin could not be excluded as one of the
16 contributors. Steven Morgan could also not be
17 excluded as one of the contributors. The third
18 person was unknown.

19 Q. Did you test Victor Mazyck's profile against
20 that handle?

21 A. Yes. Afterwards -- (searching through
22 papers). Again, the reference sample from Victor
23 Mazyck came in at a later date, in May, and
24 generated another report. He was excluded as a
25 contributor of the DNA mixture found on the knife

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1 blade and on the knife handle.

2 Q. Okay. Why would -- if someone touches a
3 knife, if two or three people touch a knife, why
4 would some people's DNA be on it and other's not?
5 If sweating or some other circumstances relevant
6 to why if three people touch it that maybe only
7 one person's DNA would be on it and another
8 person's would not. Can you explain why that
9 might be the case?

10 A. Yeah, it's -- when you're talking about
11 transfer DNA onto an object, like a knife or a gun
12 or anything else for that matter, it's quite
13 variable as to how much DNA transfers to any item.

14 You know, putting my hand here on this
15 countertop, I am transferring my DNA to this
16 countertop. But probably not very much because
17 it's -- I'm just casually touching it.

18 I am not classified as what you'd call a
19 shedder. In forensics we classify people as
20 shedders and nonshedders. Some people shed cells.
21 You know, they may be prone to having dandruff on
22 their jacket or shirt. But they just are more
23 likely to leave DNA behind. So it would depend
24 on what we refer to as their shedder status, how
25 likely are they to do that.

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1 Then it also depends greatly on the surface.
2 You know, this is not a smooth surface, so it is
3 not pulling my cells off. If you were grab
4 something with a textured surface, like the handle
5 of a knife, -- I commonly get knives and guns as
6 evidence in cases and the textured surface of the
7 gun or knife is a very good surface for pulling
8 DNA off of a hand of an individual holding the
9 item.

10 Another circumstance is that, too, in the
11 case of a crime people's adrenaline is up, their
12 heart rates are up and they're - they commonly are
13 perspiring and that is a great source of DNA. So
14 if somebody has something in their hand, they're
15 nervous and they are perspiring, they are leaving
16 tons of DNA on that item.

17 So it's -- it's really variable. You know,
18 if somebody just casually touches something, there
19 is not going to be enough there for us to pick up.
20 If they leave more material, then we do pick it
21 up.

22 SOLICITOR WILLIAMS: Court's
23 indulgence.

24 THE COURT: Certainly.

25 SOLICITOR WILLIAMS: Thank you, Dr.

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1 DeMiers. Please answer any questions that the
2 defense may have.

3 THE COURT: You may proceed.

4 CROSS EXAMINATION

5 BY CHAD SHELTON:

6 Q. Dr. DeMiers, in a forensic situation you're
7 only testing fifteen genes?

8 A. Well, they're not technically genes but there
9 are fifteen - well, including gender, sixteen.
10 Sixteen regions of chromosomes.

11 Q. And that represents of maybe a total of one
12 percent of DNA?

13 A. Actually less than that.

14 Q. Less than one percent of the total cells DNA?

15 A. Less than one percent of the total DNA.

16 Q. So you are not testing every single part of
17 the DNA?

18 A. No, that would be highly impractical in a
19 forensics situation, due to the time that it would
20 take. It would also be highly uninformative.

21 That's because most of our DNA, between all of us
22 regardless of who we are, is the same. It's genes
23 and DNA that codes for our skin, our blood cells,
24 our tissues and all these things that we all have
25 in common. It is actually a very, very small

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1 amount of DNA that makes us different from
2 individual to individual.

3 Q. And you did give some percentages, but you
4 could never be a hundred percent sure unless you
5 tested everything in the DNA?

6 A. Well, I would -- would not agree with you
7 exactly on that. Statistically it's pretty well,
8 quite well established that -- in fact, when the
9 FBI has a match, they just call it identity.
10 When you have a DNA profile with a frequency that
11 is less than one in nine hundred ninety-nine
12 trillion, and the actual number is much smaller
13 than that, we just cap it off at nine hundred
14 ninety-nine -- after you get into trillions it
15 becomes, you know, almost meaningless to keep
16 adding nines onto the end of the number or zeros
17 onto the end of the number.

18 Q. That is not a real number of the actual
19 population in the United States, the world?

20 A. It's not meant to be. It's meant to give
21 you an idea of its relative frequency. If you
22 consider that we have about seven billion people
23 in the whole world and, of course, obviously most
24 of those people would not reasonably be considered
25 perpetrators of a crime in this region, uh, -- if

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1 you consider that we have seven billion people and
2 you have a DNA profile that is expected to only
3 occur less than once in nine hundred ninety-nine
4 trillion, that's why the FBI considers it a unique
5 profile/identity. You are not likely to find
6 another person in the world that has that same
7 profile.

8 Q. There are two parts to your analysis. First
9 is the molecular genetics and the second part
10 would be like a population genetics, comparing --
11 it's comparing to the population of, in this
12 situation, blacks and white, Hispanics. So that
13 would be the population genetics of you analysis?

14 A. Yes. That's a good explanation.

15 Q. And the molecular genetics part of your
16 analysis is the lab work leading up to the DNA
17 profile?

18 A. Yes.

19 Q. But unless you analyze a hundred percent of
20 the DNA, you can never be a hundred percent
21 certain that a particular individual matches
22 evidence received?

23 A. Again, I'm sorry, I would have to disagree
24 with you on that.

25 Q. The technology that is used is called a pcr?

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1 A. That is one of the technologies that we use,
2 yes.

3 Q. Was that used in this?

4 A. Yes.

5 Q. What does pcr stand for?

6 A. Pcr stands for the polymerase chain reaction,
7 which is why we call it "pcr".

8 Q. And this is some pretty sensitive technology?

9 A. Yes, it is.

10 Q. That allows you to test a few cells?

11 A. Yes, a relatively small number of cells.

12 Q. So you wear gloves and take proper
13 precautions?

14 A. Exactly.

15 Q. Because you don't want to transfer any of
16 your cells or any other cells?

17 A. Yes, sir.

18 Q. And, uh, you change your gloves often?

19 A. Yes.

20 Q. Because you don't want to transfer from one
21 sample to another sample?

22 A. That's correct.

23 Q. This is very sensitive technology?

24 A. It is.

25 Q. And unless you are very careful you could

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1 come across some cross contamination?

2 A. It's possible. There is no evidence of that
3 in this case but it is possible.

4 Q. When you get samples, you also have an
5 incident report that comes with it so that you
6 kind of know what is being alleged?

7 A. I don't generally get an incident report. I
8 get a chain of custody report, commonly. I do not
9 know if I have an incident report on this case
10 because I don't really use them in my file notes
11 where -- so I can't say if I got one in this case
12 or not.

13 Q. All right. You testified that touch DNA on
14 the hangers and the twisting of hangers -- was
15 that based on your observations or was that based
16 on an incident report?

17 A. You mean my reasoning for analyzing what I
18 analyzed?

19 Q. (Affirmative nod), your reasoning.

20 A. It was based partly on what I saw. I know
21 from experience when I have a case like this and I
22 have coat hangers that are bound together, that
23 they are used for restraining. But it was also
24 based on what was verbally provided to me by the
25 Goose Creek Police Department.

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1 Q. So you had some verbal contact with the
2 police department ---

3 A. Yes.

4 Q. --- who told you kind of what the allegations
5 were?

6 A. Yes.

7 Q. Do you have any like general guidelines that
8 your office has like changing gloves, that -
9 within a certain amount of time?

10 A. Yes, it's part of our standard operating
11 procedures. It's also what -- we are accredited
12 by ASCLD labs, the same as the State lab, SLED.
13 You know, they have their requirements that we
14 conduct ourselves in a certain way. So we are
15 accredited and inspected by them.

16 Q. Now, the DNA results, they don't indicate a
17 race of the donor?

18 A. I did not look for race. I was not requested
19 for that information, so I did not.

20 Q. And the results that you received in the lab,
21 they don't indicate age?

22 A. No, we don't get that information from our
23 testing. The age of the person is what you are
24 referring to?

25 Q. Right.

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1 A. No. We don't get that information.

2 Q. And part of the population genetics that you
3 have to rely on is who your suspect is and what
4 they tell you is a person's race and that sort of
5 thing.

6 A. I don't always have it. In forensics cases,
7 we don't always know what it is. But I actually
8 generate -- in this case, I did have it, so
9 generated race-specific data. However, I can tell
10 you that, unequivocally, that the number would not
11 be any different. We would still be less than one
12 in nine hundred ninety-nine trillion, because the
13 one in nine hundred and ninety-nine trillion that
14 I use is a cap. The number goes into quad-
15 rillions. Quite honestly, if I weren't a
16 scientist, I wouldn't know what a quadrillion was
17 myself, so I think the numbers become so
18 meaningless at a point that -- so -- given that
19 our national deficit is now at a point in the
20 trillions, it is a number that people tend to know
21 a little bit more. I cap it off at 999 trillion.
22 But if I were to run the same number for
23 Caucasian, Hispanic or Asian, it would be - it
24 would still be one in nine hundred ninety-nine
25 trillion.

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1 Q. And that was just on the beige towel?

2 A. That would be -- let me go back to the
3 report. That would be on anything where we had
4 what we call a single source contributor.

5 Q. Now, your results indicate how DNA got on
6 something else, on a sample.

7 A. No. I don't -- in the lab, we receive items,
8 we test them and we report what we find. How it
9 got there is not, you know, what we do. That's
10 for the police and the investigators.

11 Q. So you have no idea how ---

12 A. You'd have to give a specific hypothetical.

13 Q. Do -- now, -- the results that you gave on
14 March 8th, you gave those results to law
15 enforcement.

16 A. (Affirmative nod).

17 Q. Did you give it to the Solicitor's office?
18 Do you know?

19 A. No, I did not.

20 Q. If you were requested to, would you have been
21 able to give it to SLED?

22 A. If I was requested by the Goose Creek police
23 department or the Solicitor's office, I would have
24 complied.

25 Q. Whoever was paying for it?

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1 A. Well, no, it doesn't have anything to do with
2 who is paying the bill. It has to do with the
3 guidelines that I work under.

4 Q. Okay.

5 A. So, you know, I basically report to whoever
6 brings us the case. In this case it was a police
7 department. It could be a public defender's
8 office, because I do work for public defenders as
9 well. I report to whoever has brought the case to
10 me, and then it's up to them to distribute it
11 wherever they feel appropriate.

12 Q. So on March 8th, you would have given that
13 information to SLED

14 A. On March 8th?

15 Q. Yes.

16 A I could have but I didn't because no one
17 asked me to do that.

18 Q. And you can only analyze what you're given?

19 A. Yes. Of course.

20 Q. You can -- your analysis is basically a
21 comparison of known samples?

22 A. A comparison of the known to what we know as
23 the unknown, which is the evidence; yeah.

24 Q. And in this instance, the known samples came
25 from law enforcement?

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1 A. In this case the reference samples from Rose
2 Lampkin and Steven Morgan were delivered to me by
3 the Goose Creek Police Department.

4 Q. The only definite that you have is this sperm
5 fraction from the fitted sheet -- or, excuse me,
6 the sperm fraction from the towel, that compares
7 to Steven Morgan?

8 A. What do you mean by definite.

9 Q. Definite -- the only definite match with
10 Steven Morgan is the towel? Sperm fraction from
11 the towel?

12 A. Well, not exactly. We have, first of all, a
13 unique male Y chromosome specific male profile off
14 of the jacket, the brown hanger, the white hanger,
15 which also match Steven Morgan. Then on the
16 corduroy jacket and the towel, as well as the
17 hangers, we also have mixture profiles which do
18 not exclude Steven Morgan.

19 Q. The stains on the floor, there is no -
20 you didn't find any mixture in the stains on the
21 floor.

22 A. I only tested one stain from the floor, which
23 was blood. That matched the victim, Rose Lampkin.

24 Q. You testified about green jacket and that
25 there was a mixture that could not exclude Steven

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1 Morgan.

2 A. Yes. If I could back up for just one second.

3 We did two types of testing on the corduroy

4 jacket. We did the autosomal testing, which was a

5 mixture. If you look at it, you can see that it

6 was a composite of Steven Morgan and Rose Lampkin.

7 Then we did Y chromosome testing which gave a

8 unique male profile which only Steven -- you know,

9 the Y chromosome zeros in on the DNA and that was

10 a unique profile matching Steven Morgan.

11 Q. But you have no ideal how Steven Morgan's DNA

12 could have gotten on the jacket?

13 A. No.

14 Q. Touch DNA. It could have been a hug.

15 A. No, it would have taken more. In my opinion,

16 you know, when you hug somebody -- at least I

17 don't -- generally you don't grab them by the

18 label or grab them by the arms. You embrace. But

19 even in that situation, I think -- excuse me. We

20 actually obtained a good amount of DNA from the

21 jacket and I don't think a casual contact would

22 account for the amount of DNA that we found on the

23 jacket.

24 Q. You can't tell where -- you said that you

25 swabbed three different places: the lapel, the

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1 zipper and the arms.

2 A. Yes.

3 Q. You can't tell where Steven Morgan's DNA is
4 on any -- which one that is on?

5 A. That's correct. I did them together. So
6 they could have been off of the lapel only, could
7 have been off the arms only or could have been of
8 the zipper only.

9 Q. So you can't testify as to where that was
10 found?

11 A. I can testify that it was found in one or all
12 of those places.

13 Q. And I think that you said that if somebody
14 was a shedder that they would give more DNA?

15 A. There is a tendency, yes.

16 Q. And you don't know anything about Steven
17 Morgan?

18 A. No.

19 Q. You don't know if he could be a shedder?

20 A. Shedder status is -- you know, quite honestly
21 it was a fairly large amount of DNA that I
22 recovered. In my opinion it's just not going to
23 happen in a casual contact situation.

24 Q. But you don't know how it got there?

25 A. No, sir.

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1 Q. Touch DNA could also - if somebody hadn't
2 lived in the home, their DNA could still be in the
3 home and could be transferred that way?

4 A. Potentially if somebody had lived in the
5 home, it could be obtained that way. It would
6 depend on quite a number of factors.

7 Q. If someone had a relationship with that
8 person, consensual relationship with that person,
9 -- so there's a lot of different ways that DNA
10 could be on the jacket?

11 A. Yes. I don't -- as I said, I test the items
12 and generate data, then compare that data, but I
13 can't comment as to how it got there. Only in
14 general terms, as I said, from my experience you
15 don't leave that much DNA on a hanger or a jacket
16 through casual contact. It takes a fairly good
17 amount of contact to leave that amount of DNA.

18 Q. On the hanger -- you -- you -- if he was
19 living in the home, using the hanger, his DNA
20 could still be on that hanger.

21 A. I don't think so. I don't -- again, in my
22 experience you -- a smooth surfaced metal hanger,
23 the casual use of picking up that hanger and
24 putting your clothes on it and putting it back is
25 not likely to transfer the sufficient DNA to get

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1 the DNA profiles that we got. It requires
2 different circumstances. That's my opinion. I
3 can't say that with a hundred percent certainty,
4 but that's based on my almost thirty years of
5 experience.

6 Q. So you have no idea how it got there?

7 A. No. In reality, I do not know how it got
8 there. I can only tell you that it was.

9 Q. Now, -- sorry. I am going to back up real
10 quick. There is a cigarette butt from the bedroom
11 that matches Steven.

12 A. Correct.

13 Q. And there is a cigarette butt from the
14 hallway that matches Steven Morgan as a minor
15 contributor?

16 A. Yes. The cigarette butt from the dining room
17 had more of his DNA -- excuse me, from the
18 hallway. You're correct.

19 Q. The cigarette butt from the dining room was
20 Rose's?

21 A. Mostly. There was also another contributor
22 there.

23 Q. But it couldn't have been a male contributor
24 because there was only an X.

25 A. There is only an X recorded. I would have to

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1 look at the actual data to tell you if there's a Y
2 down below. You know, things that are below
3 threshold we do not put on the report, but that
4 doesn't mean that it is not there.

5 Q. And there was one cigarette butt from the
6 bedroom that was not tested?

7 A. Correct.

8 Q. Did -- you have just generated a report
9 yesterday?

10 A. I did, yes.

11 Q. And that was at the direction of the
12 Solicitor's office?

13 A. No, she didn't direct me to do it. We
14 discussed it and -- as I mentioned to you in our
15 conference earlier, I am kind of obligated to put
16 that into writing. So after the conversation, I
17 did generate a report and gave it to her this
18 morning.

19 Q. And that was you compared the stain -- the
20 semen stain found on the bed sheet?

21 A. Yes, I compared the male DNA from the semen-
22 positive area of the bed sheet to the victim's DNA
23 profile.

24 Q. And you did something similar to what you did
25 to the towel, that you did to the bed sheet. You

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1 differentiated the extraction?

2 A. Yes.

3 Q. There was semen that you -- you do an
4 extraction and you separate the semen from the
5 epithelia?

6 A. Yes.

7 Q. So you separated -- you did that on the white
8 sheet or the white towel?

9 A. Correct.

10 Q. And the epithelia extraction from the towel
11 matched Rose?

12 A. (Affirmative nod).

13 Q. The sperm extraction matched Steven, from the
14 towel.

15 A. (Upon review), yes. That's correct.

16 Q. And based off of the report that you did
17 yesterday, you did a differentiated extraction
18 of the bed sheet, the beige bed sheet. The
19 epithelial fracture was Rose.

20 A. The epithelia fraction -- well, there were
21 two areas of the sheet, actually, that were
22 examined. They are distinguished as 188.1 and
23 188.2

24 Q. Right. 188.1 is the semen?

25 A. The 88.1.M, "M" for male, is the sperm

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1 fraction. The 88.1.F is the epithelial fraction.

2 Q. The female matched Rose?

3 A. Yes. On the 188.1, the female fraction
4 matched Rose.

5 Q. And the male fraction excluded Steven?

6 A. Correct.

7 Q. So Steven's DNA is not on the bed sheet?

8 A. No, I wouldn't go that far. It is only not
9 on the little area that I tested.

10 Q. But you can't say that it is on the bed
11 sheet?

12 A. I can't say that it is on the bed sheet, but
13 I can't say that it is not on the bed sheet.

14 Q. Based off the report that you did yesterday,
15 the male section of that is now a child or a
16 father?

17 A. Through my analyses, I found that the male
18 DNA profile from the bed sheet -- I don't have the
19 report anymore because I gave my copy to Ms.
20 Williams. I don't have a copy. If you could ---

21 SOLICITOR WILLIAMS: Do you want my
22 copy?

23 CHAD SHELTON: Please.

24 WITNESS: Sorry. I should have made a
25 copy.

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1 CHAD SHELTON: (Tenders to be marked
2 as exhibit).

3 COURT REPORTER: Defendant's Exhibit 8
4 for identification.

5 CROSS EXMAINATION CONTINUED

6 BY CHAD SHELTON:

7 Q. (Tenders).

8 A. (Upon review), so to answer your question, I
9 used the 188.1 area of the sheet.

10 Q. That is sperm fraction?

11 A. Yes.

12 Q. And did you -- you used the 188.2?

13 A. No. In fact, I didn't -- if you see the
14 report, you'll see that I didn't get a DNA profile
15 from that particular fraction.

16 Q. And that's a 99.9 percent maternity?

17 A. Right. So I -- I compared the male DNA from
18 the bed sheet with the DNA from Rose Lampkin to
19 look to see if it was possible that she could be
20 the mother of the person who left that DNA. The
21 analysis indicates that it is likely, 99.99
22 percent probability that she is in fact the mother
23 of that contributor.

24 Q. And if I -- there is a maternity index number
25 for each of the loci.

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1 A. Right.

2 Q. So each of the sections tested there's a
3 maternity index, and that's a probability.

4 A. Yes. Not a probability, the index is an
5 odds. The odds in favor about -- you know, if you
6 buy a lottery ticket, you think about one in so
7 many odds chance of winning. You know, the one in
8 four million chance of winning, those are 'odds.'
9 If you watch the weather report -- well, I guess
10 it would be a probability if you're looking at the
11 weather report. This is the odds in favor of a
12 relationship as compared to against it.

13 Q. So what you did to get to in your maternity
14 index is one in 7,790?

15 A. Correct.

16 Q. Of black U.S. women?

17 A. Correct.

18 Q. And what you did was take every single loci
19 and multiple it?

20 A. Correct, to get the index.

21 Q. So on this index 1.16 times 6.6 times 1.21
22 times and so forth -- so on down the ---

23 A. Yes, sir. That gives you that number at the
24 top, that 7,790.

25 Q. And that number, the maternity index of 1.16

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1 times 6.6, that 1.16, that comes from the U.S.
2 black population?

3 A. Yes. Correct.

4 Q. That's not -- that would be a different
5 number if it was Caucasian or Hispanic, if you
6 compared it to that?

7 A. Potentially. But not substantially, I
8 wouldn't say.

9 Q. But potentially. The multiplications could
10 change that ---

11 A. Each number would change that. Some would be
12 a little higher, some would be a little lower.

13 Q. You were also given Mr. Mazyck's profile?

14 A. Just a swab and we generated the profile
15 ourselves.

16 Q. Was that compared to anything else other than
17 the knife?

18 A. I did compare it to everything in the case,
19 which is kind of a standard practice.

20 Q. And his DNA was excluded from the knife?

21 A. Yes.

22 Q. Mr. Morgan's DNA was excluded from the knife
23 blade?

24 A. I believe that's correct, but let me just
25 check the report here. (Upon review), yes, Mr.

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1 Morgan was excluded from the knife blade.

2 Q. Were -- did you give any -- were you given
3 any pictures or anything of the knife?

4 A. Well, I was actually provided with the knife,
5 which I photographed myself.

6 Q. So you are aware that it is a flip open
7 knife?

8 A. Yes.

9 Q. So you have to touch the blade to open it?

10 A. Yes. I received it in the open position.

11 Q. But Mr. Morgan's DNA was excluded from the
12 knife blade?

13 A. From the blade, correct.

14 Q. And he could not be excluded from the handle?

15 A. Correct.

16 Q. So -- and Rose could not be excluded from the
17 handle?

18 A. Also correct.

19 Q. And there were three contributors or at least
20 contributors ---

21 A. At least three contributors on both the blade
22 and the handle.

23 Q. So there could -- there is at least the
24 possibility of at least one more contributor to
25 the handle?

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1 A. Yes.

2 Q. And did you do a maternity comparison on
3 that?

4 A. No, I did not.

5 Q. The only contributor to the knife blade is
6 Rose, so there's at least two other contributors
7 to the knife blade?

8 A. Correct.

9 Q. Did you do a maternity comparison on that?

10 A. I can't really do a maternity comparison
11 because it is a mixture. So that makes it hard.
12 I mean, I could make some estimates and back out
13 what we know is Rose Lampkin but then it starts
14 getting kind of unclear, I think.

15 Q. Because half of her DNA and half of his?

16 A. Right. Also, you know, the other people in
17 some cases will share things, just by chance
18 alone.

19 Q. Right. Are you aware of where the knife came
20 from?

21 A. My recollection is that it came from a
22 vehicle. I don't know anything about that
23 vehicle..

24 Q. And if that vehicle was owned by Mr. Morgan,
25 that would explain how his DNA was on the handle?

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1 A. No, that wouldn't be sufficient. It would
2 have to put that thing in his hand. He would have
3 to put this DNA on it, usually through handling
4 it. Just tossing it into a vehicle wouldn't
5 transfer it to ---

6 Q. Well, his DNA is going to be in the vehicle?

7 A. That's correct, but it's not just going to
8 jump on the knife. It is not that sensitive, to
9 pick up that. If it did occur, it's just not
10 enough for us to pick up. It has to be somebody
11 that handles it.

12 Q. But there is transfer?

13 A. Not from just dropping it on the -- in the
14 vehicle, whether it be on the seat or in the glove
15 box, wherever it was found. You're not going to
16 get -- you get transfer from people to objects but
17 not generally object to object.

18 Q. I mean, the jacket, you said was Rose's. So
19 you expected that to be on it. Then her DNA, I
20 guess, jumped -- transferred to the jacket?

21 A. Correct.

22 Q. So could his DNA not transfer from things
23 that he owns?

24 A. Can you give me an example?

25 Q. I mean, if he was sweating, if he had sweated

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1 in the vehicle and the knife blade is on the
2 sweat?

3 A. If the sweat was fresh, still wet -- you
4 know, if you had a puddle of sweat and you put the
5 knife into that sweat, you'd transfer some DNA to
6 it. But aside from that -- if a person bleeds on
7 it or handles it, they are going to put their DNA
8 on the object. But just putting a dry object on
9 another dry object is not going to transfer the
10 DNA, there's not going to be sufficient transfer
11 that I can pick it up in a DNA test.

12 Q. But there was no DNA and you'd have to handle
13 the blade for his DNA to be on the blade, or for
14 any DNA to be on the blade.

15 A. Well, you'd have to handle it, bleed on it or
16 perspire on it or something like that.

17 Q. And his DNA was not on the blade?

18 A. We did not find his DNA on the blade.

19 CHAD SHELTON: No further questions.

20 THE COURT: Redirect?

21 SOLICITOR WILLIAMS: Just one.

22 THE COURT: Sure.

23 REDIRECT EXAMINATION

24 BY SOLICITOR WILLIAMS:

25 Q. Doctor, as far as the stain on the sheet

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1 which you were asked a lot of questions about,
2 there is no way to age that? We don't know when
3 that happened, do we?

4 A. No. I can't give you an age. I'm sorry.

5 SOLICITOR WILLIAMS: Thank you.

6 THE COURT: Recross?

7 CHAD SHELTON: No, sir.

8 THE COURT: Thank you. You may come
9 down, sir.

10 (WITNESS STEPS DOWN)

11 THE COURT: Do you wish for the witness
12 to be excused?

13 SOLICITOR WILLIAMS: Please, Your
14 Honor.

15 THE COURT: Any objection?

16 CHAD SHELTON: No, sir, no objection.

17 THE COURT: You may also be excused,
18 Doctor.

19 THE COURT: Ladies and gentlemen, at
20 this point we will take our recess for lunch.
21 Please remember that you are not at liberty to
22 discuss this case among yourselves or with anyone
23 outside of the courthouse. Don't allow anybody to
24 talk about the case in your presence.

25 I'd ask you to return to your jury room,

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1 We are now ready to continue with the trial.

2 Solicitor, you may call your next witness.

3 SOLICITOR WILLIAMS: Thank you, Your
4 Honor, the State calls Amanda Webb.

5 (WITNESS TAKES STAND)

6 AMANDA WEBB, having been sworn to tell
7 the truth, and nothing but the truth, testified as
8 follows:

9 DIRECT EXAMINATION

10 BY SOLICITOR WILLIAMS:

11 Q. Ms. Webb, with whom are you employed?

12 A. I am employed with South Carolina Law
13 Enforcement Division, in Forensics, as a DNA
14 case worker.

15 Q. How long have you worked there?

16 A. A little over five years.

17 Q. What is your background, your educational and
18 work background for this position?

19 A. I have a bachelors in science and forensic
20 chemistry and I have a masters in science,
21 forensic science. Upon completing of my degrees,
22 I was hired on at SLED and have been working in
23 the DNA case worker department for the whole five
24 years.

25 Q. As a forensic analyst, before you can

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1 actually take on a case at SLED, tell us a little
2 bit about the training, classes, any other kind of
3 vocational things that you have to do in order to
4 be able to start working cases.

5 A. Well, you have to have a science degree with
6 core biology courses, which I have. Upon hiring,
7 I was trained under another competent DNA analyst
8 for approximately a year and a half before I was
9 able to take on my own case work. And also, in
10 order to be able to do that, there were multiple
11 tests that I had to pass: oral tests, written
12 tests. Also every - twice a year, an outside
13 company sends the DNA case work department,
14 everyone, every analyst in the department gets a
15 test and they have to pass the pass, to get the
16 answers correct in order to maintain, to keep
17 doing case work.

18 Q. Can you estimate roughly how many cases that
19 you've worked on as a SLED forensic analyst?

20 A. I would say about five hundred cases.

21 Q. And how many cases have you supervised other
22 people that were training as a DNA analyst?

23 A. I am currently training an employee in the
24 DNA department. I've probably supervised about
25 forty cases.

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1 Q. , Do they have a peer review process there at
2 SLED?

3 A. Yes, they do. Each case that is written,
4 every report, is reviewed by two other analysts
5 other than the author of the review. The first
6 report is a technical review. The second report
7 is an administrative review.

8 Q. Do you regularly participate in peer review
9 of other people's reports?

10 A. Yes, I do. It's a rotational basis, so I
11 also frequently get other DNA analysts reports to
12 review as well.

13 Q. How many times do you think that you've done
14 that?

15 A. Probably approximately five hundred cases.

16 Q. Did you review this case as part of your
17 duties?

18 A. Yes, I did.

19 Q. Is this one of the case that you did a peer
20 review on?

21 A. Yes, this was a case that I did for peer
22 review.

23 Q. Did you also review materials and notes and
24 specimens in preparation for your testimony?

25 A. Yes, I did. I reviewed the whole case file

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1 before any testimony today.

2 Q. Have you testified as an expert in the field
3 of forensic science, DNA analyses, before?

4 A. Yes, I have.

5 Q. How many times have you been qualified as an
6 expert?

7 A. About fifteen.

8 Q. Is that in General Sessions?

9 A. Yes, it is.

10 SOLICITOR WILLIAMS: Your Honor, at
11 this time the State would move for Ms. Webb to be
12 qualified as an expert in the field of forensic
13 science, DNA analyses.

14 THE COURT: Do you care to examine her
15 as to her qualifications?

16 CHAD SHELTON: No, sir.

17 THE COURT: Very well, she will be
18 permitted to render her opinions in forensic
19 scientific analyses.

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR WILLIAMS:

22 Q. What did you review -- I think that you gave
23 us a brief synopsis but what did you review for
24 this case specifically?

25 A. What I reviewed was a tech review. I

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1 reviewed all of the case report, which contains a
2 list of all the items that were submitted to SLED
3 for this case for analysis. I also receive an
4 incident report so that I can read the incident
5 and crime scene information. I also receive and
6 review any medical notes. In this case the sexual
7 assault examiner's notes, I reviewed those as
8 well. I also reviewed what the analyst who
9 performed the analysis -- I reviewed all of her
10 work, all of her lab bench notes, all of the data
11 and the scientific data that she used to make her
12 conclusions and form her opinions for the report.
13 I check all of that for accuracy and scientific
14 validity, to make sure that it is correct.

15 Q. And you reviewed the evidence that was
16 received by the analyst in this case?

17 A. Yes, I did.

18 Q. And based on your review of the records, what
19 evidence -- what items of evidence were received
20 by the analyst?

21 A. If I may refer to the notes?

22 Q. If it will refresh your memory, please do.

23 A. (Upon review), a sexual assault kit from the
24 victim, Rose Lampkin, was received. Then also an
25 oral swab from the suspect, Steven Morgan, was

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1 received.

2 Q. Is that recorded somewhere? If an analyst
3 receives items of evidence, where would she record
4 -- where would she record what she received and
5 what condition that it was in?

6 A. That is recorded in a computer software
7 program. When evidence comes into the lab, it
8 gets its own lab number and it gets a bar code.
9 We have scanners on our computer and that's
10 scanned into the computer system. So it's all
11 tracked electronically. Anytime evidence is
12 shifted from maybe one location, maybe an analyst
13 to another analyst, it's all tracked
14 electronically. I can pull up that information
15 any time in the computer system.

16 Q. Is there a SLED protocol regarding whether or
17 not you test an item and what condition it has to
18 be in if you test it?

19 A. Yes, correct. The protocol is that the
20 evidence has to be sealed in the heat-sealed
21 pouch. The bag needs to be sealed, initialed and
22 dated by the person who last opened the bag. Or
23 if nobody in the lab has opened the bag, it needs
24 to be sealed and signed by the agency that was
25 submitting the evidence.

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1 Also we check to make sure that what the item
2 is described as when it is submitted to the lab,
3 described by the agency submitting the evidence,
4 we make sure that matches the description once we
5 open the pouch, to make sure that everything that
6 it is said to contain that it does contain.

7 Q. And if an item is not properly sealed, what
8 is the protocol? What are you supposed to do?

9 A. The protocol is to not move forward with any
10 analysis. You don't do any of the work. What you
11 do is, you do your own investigation. We will
12 oftentimes call the investigator and see if we can
13 track down why something might have been labeled
14 different, described differently or maybe wasn't
15 sealed properly.

16 Q. Based on your review of the records of this
17 case, does the analyst indicate that anything was
18 compromised?

19 A. No, nothing was noted that there was anything
20 out of the ordinary or compromised. I can tell
21 that by -- I also reviewed her laboratory evidence
22 worksheet and we make notes any time that there is
23 anything out of the ordinary. No notes were made
24 here, so everything was in compliance, a normal
25 situation.

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1 Q. Now, you said that you received a sexual
2 assault kit. Is that -- is that -- what is in
3 that kit? And what in that kit was actually
4 tested by SLED?

5 A. In this kit in particular, what it is is
6 swabs from the victim's body in order to try to
7 find the assailant. In this case, there were
8 buccal swabs taken from the victim. Buccal swabs
9 are taken from the inside of the cheek. That way
10 we know that the DNA is from her and if we develop
11 something from the evidence, we can compare it to
12 that buccal swab, DNA, that was taken from her.
13 That way we can say that it matches her, does not
14 match her.

15 Also there were some smears taken. These are
16 microscopic slides. These were taken from the
17 vaginal, oral and rectal areas. We look at the
18 slides to look for any spermatozoa. Also there
19 were vaginal swabs, oral swabs, rectal swabs,
20 fingernail swabbings, external genitalia swabs,
21 another set of vaginal swabs, perianal swabs,
22 perineum swabs. That was all evidence in the kit.

23 Q. Turning first to the preliminary testing that
24 was done, did you review the records of all the
25 preliminary testing to test for the presence of

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1 sperm of semen on these slides?

2 A. Yes, I did. I reviewed the case notes for
3 that.

4 Q. Did you form an expert opinion as to what was
5 identified on these slides in the preliminary
6 testing?

7 A. Yes, I did.

8 Q. Can you tell us what that expert opinion is?

9 A. Sure. Semen was indicated on the vaginal
10 swabs. No semen was identified on the oral swabs.
11 Semen was identified on the rectal swabs. Semen
12 was indicated on all of the following:

13 External genitalia swabs.

14 Another set of vaginal swabs.

15 Perianal swabs.

16 Perineum swabs.

17 Q. And what is the difference in the opinion of
18 something being -- those are all indicated?

19 A. Indicated, yes.

20 Q. Is there a difference, in your opinion, in
21 something being identified and something being
22 indicated?

23 A. Yes, there is.

24 Q. The test that we do for semen is a presump-
25 tive test. That means that it's not absolutely

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1 positive that semen is present. So all of those
2 tested positive or that we say semen indicated.

3 However there is a difference in the result
4 for the rectal swabs. It says semen identified.
5 That is because - our protocol states that if our
6 test for semen is positive and we also develop a
7 male DNA profiled, then we can combine those
8 results and say that yes, it is - that semen was
9 identified. Because the test was semen was
10 positive and there was a male profile, which
11 indicates semen. So that is where "identified"
12 comes in versus "indicated."

13 Q. So the preliminary test if the same on all of
14 them and then in the second test you go back and
15 say how they were identified?

16 A. Yes, with the DNA profile in addition to.

17 Q. Okay. So what was found on the vaginal swabs?
18 Well, first of all, let me ask you a preliminary
19 question. I'm sorry. Withdrawn. Do you test
20 every single swab?

21 A. Not necessarily. That is dependent on case
22 scenarios, analyst experience and just what is
23 available. For example, in this case there was
24 only one suspect mentioned in the incident report.
25 So not all the swabs were tested. Most of the

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1 swabs in this case are from the same area of the
2 body, from the genital parts of the body. So a
3 connection was made and so, therefore, not all
4 swabs were tested.

5 Q. Okay. So which swabs were actually tested?
6 After you reviewed the records in this case did
7 you figure out which ones were actually tested?

8 Q. The ones that were tested for DNA analyses
9 was the first set of vaginal swabs, the rectal
10 swabs and the fingernail swabbings.

11 Q. And what is your expert opinion as to what
12 was determined from the vaginal swabs?

13 A. The only found on the vaginal swabs was a DNA
14 profile from the victim, Rose Lampkin.

15 Q. Was there a male profile developed?

16 A. No, not from the vaginal swabs.

17 Q. And if there was semen in the vaginal swabs
18 and there wasn't a male profile developed, what
19 are some of the reasons why that would happen?

20 A. For DNA purposes there are really two
21 components that we are concerned with. The first
22 part is the seminal fluid. The second part is the
23 sperm. That's what we all think of as the little
24 tadpole, mobile things. And, uh, so the seminal
25 fluid is what the test that we use for --

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1 indicates semen, is what is tested. It will give
2 a positive result for seminal fluid. However, we
3 obtain DNA from the sperm. It is possible to have
4 seminal fluid present but not have sperm present.
5 So a scenario could be that possibly seminal fluid
6 was there but it just didn't have any sperm in
7 that spot and therefore we were unable to develop
8 a DNA profile.

9 Q. If there were less semen in one area of the
10 body than another, would that be an explanation?

11 A. Yes, that could be an explanation.

12 Q. If semen was wiped away or someone urinated
13 and there was less semen there, would that be a
14 reason why you might not develop a profile?

15 A. Yes. Frequent urination or wiping during
16 elimination can physically remove some of the
17 semen or sperm. In fact, it is so important to
18 use that that is one of the questions that we have
19 the nurses ask, is about wiping or frequent
20 urination.

21 Q. Is -- did you review all the records
22 regarding the rectal swabs?

23 A. Yes, I did.

24 Q. And did you form an expert opinion as to a
25 male profile on the semen that was found on the

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1 rectal swabs?

2 A. Yes, that's true.

3 Q. And what is that opinion?

4 A. The DNA profile developed from the semen on
5 the rectal swabs matches the semen profile of
6 Seven Morgan.

7 Q. What is the percentage of that match?

8 A. The percentage is one in thirty quadrillion.

9 Q. That's a pretty strong match?

10 A. (Affirmative nod), pretty strong. Yes.

11 SOLICITOR WILLIAMS: Would you please
12 answer any questions that Mr. Shelton may have?

13 THE COURT: You may cross-examine.

14 CROSS EXAMINATION

15 BY CHAD SHELTON:

16 Q. Ms. Webb, good afternoon.

17 A. Good afternoon.

18 Q. You were not present when the items were
19 first run through the machines and first analyzed?

20 A. That's correct. I was not with the analyst
21 when she was doing the laboratory work. I just
22 reviewed all of her notes, worksheets and data.

23 Q. And the analyst was a Ms. Boehm (phonetic)?

24 A. Yes. Correct.

25 Q. So you're relying completely on Ms. Boehm?

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1 A. Yes, all of her work and the data that she
2 produced is what I base my opinion and conclusions
3 on as well.

4 Q. And you have to assume that Ms. Boehm did
5 everything right?

6 A. Yes. Correct.

7 Q. There are certain policies and procedures
8 that SLED has in analyzing DNA?

9 A. Yes. That's correct.

10 Q. And there are certain guidelines -- general
11 submission information that you need?

12 A. Yes. That is often helpful.

13 Q. As you said, you require an incident report
14 for these type cases?

15 A. It is extremely helpful. The information can
16 help us to determine what types of tests to
17 conduct.

18 Q. And there is some testing that SLED cannot
19 do?

20 A. That's correct.

21 Q. Can they do a Y chromosome testing?

22 A. Yes. We've been doing that for about the
23 past year and a half.

24 Q. They can't do maternal or paternal testing.

25 A. We can do the paternal but not the maternal

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1 testing.

2 Q. And the equipment that is used is very
3 sensitive?

4 A. Yes.

5 Q. So it's really important that a lot of the
6 procedures are followed so that there is not cross
7 contamination or any type of transfer of DNA or
8 cells?

9 A. Yes, that's correct.

10 Q. So in the guidelines that SLED has is that
11 personal protective equipment must be worn at all
12 times?

13 A. Yes, we wear gloves, lab coats, and masks are
14 available and goggles, safety goggles.

15 Q. Gloves, you change gloves between samples and
16 ---

17 A. Yes, we frequently change gloves. Sometimes
18 not necessarily between samples. For example,
19 with swabs you can hold onto the stick end and cut
20 the cotton tip without touching the cotton tip, so
21 you don't really get anything on your gloves. But
22 definitely it is mandatory that you change between
23 cases and in between evidence such as buccal
24 swabs, the standards that come from the actual
25 people.

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1 Q. In this case there were some other samples
2 that were used in, I guess, the machines. Put
3 some other samples in those machines?

4 A. Yes, that's correct.

5 Q. And you'd want to change gloves between those
6 samples, anything have to do with that?

7 A. Yes, that's right.

8 Q. You want to change instruments, tweezers and
9 that sort of thing, if you're using those types of
10 items?

11 A. We will reuse scissors. We use scissors to
12 cut the cotton swabs. The thing is that we
13 decontaminate them between each cut, between each
14 item. We have different solutions that we use.
15 Most frequently is a bleach and water solution,
16 followed by an ethanol and alcohol wipe. That
17 eliminates changing scissors between each item.

18 Q. And the analyst wants to make sure not to
19 sneeze, cough or touch their face, things like
20 that, when they are analyzing these materials?

21 A. Yes, that's right. We are very cognizant of
22 what we are doing, our exposed skin, our body
23 fluids as well as no talking over the evidence.

24 Q. And, so, you did not analyze these materials.
25 So you had to rely on Ms. Boehm doing everything;

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1 is that correct?

2 A. Yes, that's right.

3 Q. SLED's guidelines also say that in these
4 types of cases that you typically analyze one of
5 five things.

6 A. That's correct. Originally with sexual
7 assault kits, sexual assault cases, essentially
8 what we request be submitted first is the sexual
9 assault kit. Those are the items most likely to
10 develop DNA profile evidence because it's the
11 swabs from the victim's body. Additional items
12 can be submitted if we do not find anything in the
13 sexual assault kit. Additional items are usually
14 clothing, bedding or things like that when it
15 comes to sexual assault kits.

16 Q. Would you accept results from other labs to
17 compare?

18 A. We do not adopt other labs results.

19 Q. Because these items, they were submitted in
20 February of 2012. That's the computer-generated
21 date.

22 A. Yes, that's right.

23 Q. They are submitted in February. They were
24 there at SLED until analyzed in December of 2012.

25 A. Yes, that's correct.

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1 Q. Are you -- in the notes and everything that
2 you received, did you receive information that
3 there was another DNA lab involved in the case?

4 A. No. I had no knowledge of that until there
5 was a pretrial phone conference with Solicitor
6 Williams and she had indicated to me that another
7 lab had performed some testing.

8 Q. So if you were told other DNA was found on
9 the scene, that might be helpful when you analyzed
10 it or when Mr. Boehm analyzed it?

11 A. It wouldn't change how we analyze or any of
12 the procedures that we used for the items that
13 were submitted to us. Other items don't really
14 affect other items. It's just a scenario of what
15 the tests were. Mainly an incident report helps
16 in a case like this for tests for semen, what to
17 test for semen. What is most likely -- depending
18 on the area of the body that was touched, what
19 swabs are most likely to produce results.

20 Q. I believe that your testimony earlier was
21 that semen was found in the rectal swabs?

22 A. That's correct.

23 Q. There was also semen indicated in the vaginal
24 swabs?

25 A. Yes, that's correct.

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1 Q. The external genital swabs?

2 A. Yes.

3 Q. Another vaginal swabs? Perianal swabs,
4 perineum swabs.

5 A. Yes, that's correct.

6 Q. And semen was indicated in all of those?

7 A. Yes, that's right.

8 Q. But was not compared because there was only
9 one suspect?

10 A. Right. Those other items were not tested for
11 DNA. Only the first set of vaginal and rectal
12 swabs, simply because there was only one suspect
13 named. Then, uh, those swabs produced a match to
14 the suspect. So, therefore, it is just SLED
15 policy that once a connection is made that there
16 is no need to go any further and test any of the
17 other swabs or items that are available, because a
18 connection has been made.

19 Q. But if you were given information that there
20 was other semen found on the scene that excluded
21 Mr. Morgan, would that have changed the analyst's
22 deciding to test the other items or to not test?

23 A. It would depend on where the semen was found.
24 Oftentimes - it's not the case here but if things
25 are collected from bedrooms or hotel rooms, it's

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1 possible to find other semen. It might not
2 actually be related to the incident. So it is
3 mainly the victim's recall of events that we use
4 to make our judgment on items to test.

5 Q. So it is based on what Ms. Lampkin says?

6 A. Yes, that's a big part of it.

7 CHAD SHELTON: No further questions.

8 THE COURT: Redirect examination?

9 REDIRECT EXAMINATION

10 BY SOLICITOR WILLIAMS:

11 Q. In your experience have there been cases
12 where there has been more than one biological -
13 more than one contributor?

14 A. Yes, I've analyzed multiple -- lot of cases
15 where there have been multiple contributors or
16 multiple suspects.

17 Q. And in those cases, like say on a vaginal
18 swab or rectal swab, what would you expect to
19 find?

20 A. What I usually find in those cases is a
21 mixture of DNA. Meaning that I can see that there
22 have been multiple contributors who have left
23 their DNA behind on the swabs or on the body or at
24 the scene.

25 Q. Like one on a rectal swab and one on a

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1 vaginal swab?

2 A. No, I've really only seen that when it was,
3 uh, maybe a vaginal swab or a swab from the neck
4 or breast area, not when they're -- when they are
5 taken from such a close proximity of the body,
6 usually what you find is a mixture.

7 Q. No mixture here?

8 A. No mixture.

9 SOLICITOR WILLIAMS: Nothing further.

10 THE COURT: Recross?

11 CHAD SHELTON: No, Your Honor.

12 THE COURT: Come down. Thank you very
13 much.

14 (WITNESS STEPS DOWN)

15 THE COURT: Do you wish for the
16 witness to be excused?

17 SOLICITOR WILLIAMS: Please, Your
18 Honor.

19 THE COURT: Any objection?

20 CHAD SHELTON: No, Your Honor.

21 THE COURT: Ms. Webb, you are also free
22 to leave. Thank you very much. Call your next
23 witness, Solicitor.

24 SOLICITOR WILLIAMS: Your Honor, at
25 this time the State rests.

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1 THE COURT: Before doing that, though,
2 you've submitted a stipulation -- I think that is
3 by agreement, is that correct?

4 SOLICITOR WILLIAMS: Yes, sir.

5 CHAD SHELTON: That's right.

6 THE COURT: Ladies and gentlemen, a
7 stipulation -- it is not uncommon in presenting a
8 case -- for the purpose of expediting, the parties
9 can agree about certain things; such as what a
10 witness would have said or not said if they had
11 appeared. They've entered a stipulation to that
12 effect which I wish to share with you now. It
13 will be marked as Court's Exhibit 2.

14 (SO ENTERED AS STATE'S EXHIBIT 2)

15 THE COURT: (Reading): *"The State and*
16 *the defense have entered into a stipulation that*
17 *the buccal swabs taken from Defendant, Steven*
18 *Morgan, remain in the same sealed condition that*
19 *they were in after they left Nicholas Powell of*
20 *the Goose Creek Police Department; that each link*
21 *in the chain of evidence was recorded and*
22 *documented and that this evidence was stored*
23 *properly and remained in that condition until it*
24 *reached the analysts, Mary Boehm and analyst*
25 *Daniel DeMiers at Intelligenetics. The evidence*

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1 collected during Rose Lampkin's sexual assault by
2 Nancy Hall and sealed in the sexual assault kit
3 remain in the same sealed condition that it was in
4 after it left Nancy Hall. That each link of the
5 chain was recorded and documented until it reached
6 Analyst Mary Boehm and that this evidence was
7 stored and properly remained in hat condition
8 until it reached Analyst Mary Boehm. That the
9 other evidence tested by Daniel DeMiers went from
10 Wendy Myers of the Goose Creek Police Department
11 to Daniel DeMiers in the same condition that Wendy
12 Meyers maintained it and that it was properly
13 stored, recorded and documented until it reached
14 Dr. Daniel DeMiers."

15 That stipulation is now fact and may be
16 considered with all other factors that you may
17 consider when you begin your deliberation in this
18 case.

19 With that, the States rests. Is that
20 correct?

21 SOLICITOR WILLIAMS: Yes, Your Honor.
22 At this time the State rests.

23 THE COURT: Very well. Ladies and
24 gentlemen, there are some matters of law now that
25 I must take up out of your presence. In order to

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1 accomplish that, I will ask you to retire to your
2 jury room. Do not begin your deliberations, do
3 not discuss the case.

4 (JURY EXITS COURTROOM)

5 THE COURT: Any Motions or matters from
6 the State?

7 SOLICITOR WILLIAMS: No, Your Honor.

8 THE COURT: Be happy to hear from you,
9 Mr. Shelton.

10 CHAD SHELTON: Your Honor, I would
11 move for a directed verdict. Taking the evidence
12 in the light most favorable to the State, we
13 submit that the State has not met its burden of
14 proving all charges.

15 THE COURT: Well, when analyzed in the
16 light most favorable to the State, which I am
17 required to do, -- let's take them one at a time.

18 The attempted murder, of course if the
19 jury believes Mr. Morgan held a knife to Ms.
20 Lampkin's throat and in fact inflicted a wound to
21 her throat, that coupled with being pushed down
22 the stairs -- which would probably justify that,
23 as well -- clearly that would establish. In this
24 case, we don't have -- at least not at this point
25 -- any issue of self-defense. So if the -- if the

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1 inference of malice is drawn from the use of a
2 knife, if the jury believes all that, they could
3 conclude that malice has been established and that
4 he did intentionally intend to kill Ms. Lampkin.
5 Certainly the lesser-included offense of ABHAN, if
6 for some reason they should not determine malice.
7 There is no question that there was great bodily
8 injury here, from the injuries that were
9 inflicted. The jury could easily determine that,
10 assault and battery of a high and aggravated
11 nature. I would respectfully deny your motion as
12 to each of those.

13 The burglary first, should the jury
14 conclude that he was allowed to enter the premises
15 or invited to enter the premises - of course, as
16 we know, if he formed the intent to commit a crime
17 after entering, that would not be burglary. I
18 will charge that. I would agree that is one. .
19 But when you take the evidence in the light most
20 favorable to the State, the throwing of a log
21 through a sliding glass window clearly shows --
22 that coupled with the other testimony of Ms.
23 Lampkins clearly shows that he intended to commit
24 a crime. So the jury could easily conclude that
25 there is no question that it was - and there is no

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1 question that it was in the nighttime. So I --
2 and I think that's the only issue that they are
3 required to prove that would establish burglary,
4 because clearly he entered, according to the
5 testimony, without permission.

6 Criminal sexual conduct in the first
7 degree, there's no question that the holding of
8 a knife, threatening her, taking liberties, that
9 coupled with all other circumstances such as
10 binding her, if the jury believes, with coat
11 hangers. I can't think of anything more
12 indicative of some violent act by a person.
13 Of course, I might add that so far as that is
14 concerned, and the others as well, the jury can
15 conclude that the letter from the defendant -- can
16 conclude that that is a confession that he did it.
17 He attributes it to something about the devil
18 making him do it, but that doesn't remove it being
19 criminal at all. So clearly that's established
20 without any question, if the jury chooses to
21 believe that.

22 Maybe you could argue some consensual sex
23 but at some point when a person is pushed down
24 stairs, brutalized and then brought back upstairs
25 and -- the various acts clearly establish that.

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1 The kidnaping, if the jury believe that
2 he held her, in the jury believes that he held a
3 knife to her, if the jury believes that he put the
4 coat hangers on her, where by the way his DNA
5 happens to be, clearly that is kidnaping. There
6 is no question about that, that in and of itself.
7 Just the putting of the coat hangers on her was
8 kidnaping. Over. Done. That's history. They
9 don't have to prove anything else. So clearly
10 that's established without any question, if the
11 jury believes all of that.

12 Possession of a knife during a violent
13 crime. There is no question that there was
14 testimony about him having a knife.

15 No question of attempted murder, ABHAN,
16 Burg 1st, -- I haven't looked - I was looking to
17 see if kidnaping is. I don't see it listed but I
18 don't see why it isn't a violent crime.

19 SOLICITOR WILLIAMS: It is.

20 THE COURT: It is. All right, so
21 kidnaping is clearly a violent crime. Of course
22 I will instruct them that they would have to find
23 him guilty of one of those crimes. But clearly if
24 they prove that and prove that he had the knife,
25 there's no question that the other aspects of that

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1 statement is proof beyond a reasonable doubt
2 that the weapon further advanced or helped in
3 the commission of the crime(s). There is an
4 abundance of testimony to that effect.

5 For those reasons, I would respectfully
6 deny your Motions.

7 CHAD SHELTON: Thank you, Your Honor.

8 THE COURT: Have you talked with your
9 client about his right to testify or to not
10 testify?

11 CHAD SHELTON: Yes, I have.

12 THE COURT: Has he had time to reflect
13 on that? I am going to ask him that, but do you
14 believe that he has?

15 CHAD SHELTON: I do. Yes, sir.

16 THE COURT: Has he indicated to you his
17 decision?

18 CHAD SHELTON: Yes, Your Honor.

19 THE COURT: And what is that?

20 CHAD SHELTON: He is not going to
21 testify.

22 THE COURT: Mr. Morgan, you may remain
23 seated. You've had a discussions with your
24 lawyers about your right to testify or to not
25 testify, is that right, sir?

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1 DEFENDANT: Yes, sir.

2 THE COURT: And you've made a conscious
3 decision for yourself in that regard?

4 DEFENDANT: Yes, sir.

5 THE COURT: Have you had sufficient
6 time to reflect on that decision?

7 DEFENDANT: Yes, sir.

8 THE COURT: And it is your decision not
9 to testify?

10 DEFENDANT: It is.

11 THE COURT: Do you understand that I
12 will instruct the jury that they, of course,
13 cannot use that against you. As I have already
14 indicated, when we started, that they may not look
15 to you to prove or disprove anything or present
16 any evidence. I would further instruct them that
17 are not permitted to even talk about that in the
18 jury room. Do you understand that?

19 DEFENDANT: Yes, sir.

20 THE COURT: But you also understand
21 that it would be your right to testify if you
22 chose to testify?

23 DEFENDANT: Yes, sir.

24 THE COURT: Of course if you do, you'd
25 be subject to cross examination just as every

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1 witness that has been presented in this case. Do
2 you realize that?

3 DEFENDANT: Yes, sir.

4 THE COURT: Are you under the influence
5 of any alcohol or any medication here today, sir?

6 DEFENDANT: No, sir.

7 THE COURT: Do you know of anything
8 that is affecting your ability to make this type
9 of decision?

10 DEFENDANT: No, sir.

11 THE COURT: Are you satisfied with the
12 manner in which your attorneys have advised you
13 concerning this?

14 DEFENDANT: Yes, sir.

15 THE COURT: All right. I find that Mr.
16 Morgan has had the benefit of very competent
17 counsel. He has indicated that he's satisfied
18 with their advice concerning this particular
19 issue. He has also demonstrated by his responses
20 in a very calm and methodical manner that he has
21 made a conscious decision for himself not to
22 testify. I find that decision to be one that
23 he makes freely, voluntarily, knowingly and
24 intelligently.

25 Mr. Morgan, if at any point between now

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1 and when your attorney tells me that the defense
2 rests you change your mind and you want to
3 testify, make that known to your attorney. I
4 will excuse the jury and we will resume this
5 conversation. But if I don't hear from you, I
6 am going to assume that you stand by that
7 decision. Once he tells me that the defense
8 rests, then that will conclude your right to
9 testify in this matter. Do you understand that?

10 DEFENDANT: Yes, sir.

11 THE COURT: Does Mr. Morgan wish to
12 present any witnesses, any additional witnesses
13 for the jury to consider?

14 CHAD SHELTON: No, Your Honor..

15 THE COURT: Very well. So when we
16 bring the jury back, I am going to ask you if you
17 wish to present any additional testimony for the
18 jury's consideration, you're going to tell me no
19 and that the defense rests. Is that right?

20 CHAD SHELTON: Yes, Your Honor.

21 THE COURT: Just for the sake of -- I
22 know that you would want to make Motions again on
23 formal resting. Let's assume that that has been
24 accomplished when you rest. Of course, should you
25 choose not to, then we will revisit this at that

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1 time.

2 CHAD SHELTON: Yes, sir.

3 THE COURT: But assuming that you do
4 rest, then your Motion would be again for directed
5 verdict; is that right?

6 CHAD SHELTON: Yes, Your Honor, and
7 to renew all objections made during the trial.

8 THE COURT: Sure. And the Motions in
9 *limine* that we heard pretrial, the Motions in
10 *limine* concerning the rationale -- although, I
11 don't think that there were any questions
12 concerning, really, -- I believe that you agreed
13 that you would not ask Ms. Lampkin about her prior
14 or any other sexual conduct. Clearly you were
15 allowed to explore the stain on the bed sheet.
16 I think that it is consistent with what we ruled
17 on. Certainly all your objections are noted and
18 preserved for the record. My rulings would be as
19 I have previously announced, with the rationale
20 for those rulings. Thank you.

21 All right. Let's talk for a minute about
22 the charge. I am going to charge, certainly,
23 attempted murder and ABHAN under the new statute.
24 Any reason to charge assault and battery in the
25 first degree in this case?

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1 CHAD SHELTON: Your Honor, my
2 argument would be that if the jury believes that
3 she was not pushed down the stairs then --
4 obviously if they believe that she was pushed
5 down the stairs, then assault and battery ---

6 THE COURT: How about the puncture
7 wound to her neck?

8 CHAD SHELTON: Yes, Your Honor, the
9 puncture wound to her neck. That would be, Your
10 Honor.

11 THE COURT: I've looked at it. Do you
12 think that he is entitled to a first degree?

13 CHAD SHELTON: Based on the injury
14 to the neck, uh, it was to the skin. Just the
15 differentiation of great bodily injury and bodily
16 injury, Your Honor, it was merely to the skin.
17 If it was with a dangerous weapon, Your Honor, I
18 would say but -- Your Honor, that's my argument.
19 The legislature has not helped us.

20 THE COURT: No, they haven't. They
21 should have left in that all they had to prove was
22 an aggravating circumstance. That would be all
23 that is needed. The other stuff was just, again,
24 poorly -- poorly drafted legislation, in my
25 opinion.

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1 CHAD SHELTON: Yes, sir.

2 THE COURT: Specific intent to kill is
3 included in the charge here by the State. I am not
4 sure that is necessary. Because I think that you
5 have to prove that he intended to kill with malice
6 aforethought.

7 SOLICITOR WILLIAMS: Right.

8 THE COURT: That is wasn't
9 accomplished. So I am not going to charge that.
10 ABHAN - excuse me, ABWIK says that specific intent
11 was not an element, but I think that it is with
12 intent to murder.

13 SOLICITOR WILLIAMS: Yes, Your Honor.

14 THE COURT: Do you agree with
15 that?

16 SOLICITOR WILLIAMS: I do, either
17 express or implied.

18 THE COURT: I agree. I am going to
19 charge use of a weapon as being -- as a
20 circumstance from which they can infer malice, but
21 I am not going to charge that. I think that's a
22 mistake to include it in the general charge.

23 I see that Mr. Alfaro is looking
24 perplexed.

25 SOLICITOR WILLIAMS: Yeah, Your Honor,

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1 there was a case. It was before they changed the
2 assault and battery statute. Where you're not
3 supposed to charge that a weapon can be considered
4 express malice but that we can argue it.

5 THE COURT: You can do it unless
6 there's -- that's where it because unlawful use
7 of. That's a case where -- when self-defense is an
8 element, I think that you can't charge it. I
9 think when it is not that it goes back to fair
10 game. Certainly not bound by it. But I will
11 review that case again. I've got the cite here
12 and will look at it. But, uh, I -- I'm fairly
13 comfortable with that.

14 SOLICITOR WILLIAMS: I think, either
15 way, that they say that the State can argue that
16 the knife was, you know, malice.

17 THE COURT: All right. I will charge
18 general assault and general battery. I think that
19 we have to define that.

20 What about the second part, this is the
21 one -- "that the act is accomplished by means
22 likely to produce death or great bodily injury."
23 Putting a -- I mean, that's the part of ABHAN that
24 I think -- somebody sticks a knife to somebody in
25 that setting, that's likely to produce great

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1 bodily - I just don't think - I - (pause).

2 Great bodily injury means bodily injury
3 which causes a substantial risk of death or which
4 causes serious permanent disfigurement or
5 protracted loss or impairment of function of a
6 body member. She was in the hospital for a week.
7 What is "protracted"? I don't think that it is
8 defined but I think that, in and of itself, is
9 sufficient.

10 What is the State's position on assault
11 and battery first?

12 SOLICITOR WILLIAMS: We do not think
13 that it applies, Your Honor, for all the reasons
14 that you've just stated. I think that there is
15 evidence of not just great bodily injury but she
16 says that she still isn't the same, as far as
17 being able to walk. Also, in addition to putting
18 the knife to her throat, which could have caused
19 great bodily injury, did cause great bodily
20 injury, there was also the strangulation. When he
21 said, "I am going to kill you", charge up the
22 stairs and strangles her. So we would think it
23 is consistent with the lesser, ABHAN, but not with
24 assault and battery first.

25 THE COURT: After Cottrell, I swore

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1 that I'd charge anything that they asked. When I
2 didn't charge involuntary manslaughter because the
3 man turned and shoots the policeman in the face
4 with a .44; which I was supposed to charge because
5 he'd stopped him to ask him a question? If
6 that's manslaughter (sic), I don't know what is.
7 But they reversed me on that issue.

8 I will look at it. Let me look at it
9 during this break. How long do y'all need to be
10 ready to go?

11 SOLICITOR WILLIAMS: State's ready,
12 Your Honor.

13 THE COURT: Ten minutes or so?

14 CHAD SHELTON: Could I ask for a
15 little bit longer?

16 THE COURT: Hold up your hand when
17 you're ready. We will be at-ease.

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

20 THE COURT: Let the record reflect that
21 Mr. Morgan is present. Ready, Mr. Shelton?

22 CHAD SHELTON: Yes, sir. Thank you, Your
23 Honor.

24 THE COURT: Is the State ready?

25 SOLICITOR WILLIAMS: Yes, Your Honor.

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1 THE COURT: Invite the jury to return.

2 (JURY ENTERS COURTOOM)

3 THE COURT: You will recall when we
4 started that I told you that the burden of proof
5 was on the State to prove or disprove its case,
6 that the defendant had absolutely nothing to prove
7 or disprove. But still that the defendant if he
8 chose to would have the right to present
9 additional testimony for your consideration. We
10 have reached the point now where the State has
11 rested. Mr. Shelton, does the defense wish to
12 present any witnesses?

13 CHAD SHELTON: No, Your Honor, the
14 defense rests.

15 THE COURT: Normally this would be a
16 time when I would excuse you again to take up
17 Motions, matters of law that I would need to take
18 up on the record, but that has already been done
19 on the record and is protected for the purposes of
20 review.

21 We will now move into the final two
22 portions of this trial, the closing arguments of
23 counsel and my instruction to you on the law.
24 Unlike opening statements, you have now heard all
25 the evidence and it is appropriate for them to

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1 discuss that evidence with you and to suggest
2 reasonable inferences that you may draw from that
3 evidence. I am confident that very shortly when
4 you begin your deliberations that you will find
5 those remarks extremely helpful for analyzing the
6 evidence and applying the law. So please give
7 them your attention, and I know that you will.
8 But please remember that while very important
9 that their remarks are not evidence and should
10 never be considered as evidence by you in your
11 deliberations.

12 Following the closing arguments, I will
13 then give you instruction on the law. Thank you
14 for your attention thus far. Please now give your
15 attention to the attorneys as they give their
16 closing arguments. Ms. Williams?

17 SOLICITOR WILLIAMS: Thank you, Your
18 Honor, may it please the court.

19 THE COURT: Yes, ma'am.

20 SOLICITOR WILLIAMS: Mr. Shelton. I
21 want to begin by thanking you all. Judge Dennis
22 is right when he says that you are the only people
23 who don't get paid for your time, and you have to
24 sit through a lot of stuff, especially in this
25 case.

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1 This has been a difficult, difficult set
2 of facts. I apologize in advance for discussing
3 things that are just very unpleasant. We had to
4 ask questions of Ms. Lampkin and some of the
5 experts about some things that we don't ordinarily
6 talk about. I thank you for your attention.

7 Pieces of the puzzle. Mr. Shelton talked
8 to you about pieces of the puzzle.

9 Let's talk about what pieces of the
10 puzzle that are present. Let's talk about the
11 Defendant's DNA being all over the crime scene.
12 How about his semen in the vaginal swabs and his
13 semen in the rectal swabs? How about her blood on
14 the knife? Her blood all over the floor? How
15 about his DNA on the pieces of hanger.

16 How about his apology letter? Remember
17 the apology letter? He was so sorry. If he is
18 sitting incarcerated, like he says, why doesn't
19 the apology letter say, 'Hey, Rose, why did you
20 lie about me?' I'm sitting here incarcerated.
21 That's not what he said. Or, 'Hey, Rose, I didn't
22 do this. Why am I in jail?' He says, "I am so
23 so sorry. Somebody put something in my drink. I
24 hope your family doesn't hate me."

25 That may be the best evidence that we

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1 have, but there are plenty of other pieces of the
2 puzzle. How about a shattered back door? If this
3 man had permission to be in this house, why is he
4 throwing a log through the sliding glass door?
5 Mr. Alfaro talked to you about shattered, that her
6 life was shattered that night. She was beaten to
7 a pulp.

8 If ever there was a question of whether
9 this woman was beaten and raped, you only have to
10 look at those pictures. They're horrifying.

11 In addition to that, Mr. Shelton brought
12 out that his address was in Georgia. Clearly he
13 no longer lives at that residence, because when he
14 was booked in his driver's license is now in
15 Georgia. It is not [REDACTED]

16 We have the burden in this case. We
17 accept that burden. The judge is going to give
18 you all the instruction on the law. If I say
19 something that is inconsistent with what the judge
20 says, please defer to his instructions. I believe
21 that he will tell you that the State has the
22 burden and that we have to prove all the charges
23 beyond a reasonable doubt. You will hear in that
24 instruction that that is not beyond all doubt.
25 There are very few things in life that we know

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1 beyond all doubt. That is not our burden. It is
2 beyond a reasonable doubt. We accept that burden.

3 Now I would like to go through, very
4 briefly, some of the things that we learned in
5 this trial. You are charged with finding the
6 truth, finding justice in this case. In order to
7 do that, you have to search for the truth through
8 the facts and evidence that you heard. So let's
9 do that that. Let's see what he heard during the
10 course of this trial.

11 First of all, Dan Moates. He was the
12 neighbor that lived next door. When you evaluate
13 the credibility of Rose Lampkin and some of the
14 other witnesses, one of the things that you should
15 look for is corroboration. Dan Moates is
16 interesting because he's just living next door.
17 He is asleep and he hears a crashing sound at
18 about the same time that Rose Lampkin says that
19 she hears it, around 4:00. He says that it is
20 dark, which is very important for one of the
21 charges because the State has to prove that the
22 burglary - that the burglary occurred when it was
23 dark. Unfortunately he can't see over the fence
24 into her yard, which is really very sad because
25 had he been able to see that the sliding glass

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1 door was broken he might have called 911 and he
2 might have saved the day for Rose Lampkin.
3 Unfortunately that didn't happen.

4 Rose. Rose tells you that he broke into
5 the house. Okay? She hears a crash. She assumes
6 that it is a mirror falling off the wall. She
7 comes out of sleep -- and this is a very important
8 part of this case, because what we have to prove
9 in attempted murder is expressed or implied malice
10 aforethought. That he attempted to kill her and
11 that he intended to kill her. He races up the
12 stairs with a knife and he says, "I am going to
13 kill you." Later in the evening he says, "I am
14 going to kill you and I am going to kill myself."

15 During the course of this nightmare that
16 she endured for hours, he vacillates back and
17 forth as to whether he is going to kill her. He
18 puts the knife to her throat, actually punctures
19 her throat. When he gets upstairs, one of the
20 first things that he does is that he strangles her
21 to the point where she has marks all around her
22 neck and bloodshot eyes, hemorrhaging behind her
23 eyes. She could have died from that. He could
24 have slipped and severed her vein in her throat.
25 So many things could have happened. The fact that

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1 he decides later not to kill her during the course
2 of the night does not matter. All he has to do
3 was intend to kill her, attempt to kill her. So
4 think about that when you evaluate the statutes.

5 What else did she tell you? He held a
6 knife to her throat. He beat her. He sexually
7 assaulted her vaginally, orally and rectally.
8 Then she tells you about the apology letter.

9 Now, there was an awful lot of fuss
10 about whether or not Rose Lampkin told a
11 consistent story. I would submit to you, ladies
12 and gentlemen, that what the nurse told you after
13 she was allowed to read everything that Rose
14 Lampkin told her, was very consistent to what she
15 testified to. This happened a year and a half
16 ago. She was questioned by the police when she
17 got to the hospital, probably two hours after she
18 got there. Then she is questioned again by
19 another nurse. Then she is questioned again by
20 another nurse.

21 Did she mess up some of the details as
22 whether, well, he pushed her down the stairs
23 before or after they smoked a cigarette. Or did
24 he rape her rectally before or after he pushed her
25 down the stairs. She might have been slightly

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1 inconsistent but I would submit to you that if you
2 really think about the testimony that she was very
3 consistent in her account. It was a horrible thing
4 to have to tell from this witness stand. I am
5 sure that it was a horrible thing to have to
6 recount right after it happened. You are the sole
7 judges of credibility and I just ask you to
8 evaluate her testimony based on what you saw here
9 in the courtroom.

10 The next witness that you saw was John
11 McCurdy. He is the individual that called 911.
12 You can just tell by the way that he talked about
13 Rose and the way that he described her, that he
14 just wasn't used to seeing her like that. He said
15 that she just didn't look like herself. I think
16 based on the reaction to that photograph that we
17 had to show you that you can see why he had that
18 reaction.

19 Consistent with Rose's story, she hobbled
20 down the stairway and laid in the doorway until
21 some man essentially was walking his dog, see her
22 and tells that man to get his phone. He goes to
23 the neighbor's house to get the phone and comes
24 right back, which is exactly what Rose told you.

25 The next witness that we heard from was

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1 Officer Tisdale. He arrives at 8:48 a.m. That
2 gives you some sense of how long this nightmare
3 went on. If Mr. Morgan breaks in about 4:00 or
4 4:30, she doesn't even get downstairs until 8:00
5 or 8:30 a.m. She endured that for at least two
6 hours, maybe closer to four.

7 When we talk about her - I asked her,
8 'Did you try to run to away from him? Did you try
9 other ways to make the beating and rape stop?'
10 She tried everything. She tried to reason with
11 him, she tried to make nice with him, she tried to
12 run away. In that situation, I don't know what
13 the average person does. I imagine that they just
14 do whatever they can. If they see some way to
15 reason with someone, then that's what you do. If
16 a Bible verse helps, then that's what you do.
17 You're just trying to make sure that he doesn't
18 kill you, because that's what he keeps saying that
19 he is going to do.

20 The next witness was Nurse Brigada. One
21 of the important things that Nurse Brigada tells
22 you, because this is important when you evaluate
23 the scientific evidence. She tells you that she
24 has to give -- and this is terrible to talk about,
25 but I think that she said that she had to give Ms.

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1 Lampkin the bedpan three or four times. Ms.
2 Lampkin also told the next nurse, and I think that
3 she might have told this nurse too, that the
4 defendant had wiped her vaginally. This is
5 important because it may be an explanation as to
6 why, even though they find semen in the vaginal
7 swab, that there is just not enough there to
8 identify a male profile. So that's one thing that
9 you should think about when you think about her
10 testimony, that she urinated at least four times.

11 She talks about the knee injury. I think
12 Rose talked about that she still has trouble from
13 time to time, so that knee has really never been
14 the same.

15 Rose tells you that she was raped. You
16 saw the picture of the bloodshot eyes, which
17 really is not apparent in the earlier pictures,
18 but in that small picture that you passed around
19 you can really see the petechial hemorrhaging.
20 Just solid red.

21 The next witness as we go through was
22 Nancy Hall. She was the one that actually did the
23 rape exam. She was the one that was asked
24 question about real specific parts of Rose
25 Lampkin's statement. But then when she read the

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1 whole thing it was almost like identical to her
2 testimony; down to where she was pushed down the
3 stairs and then dragged back up and rectally
4 raped.

5 She also told you another very important
6 thing, that was very difficult to do this
7 particular exam, that ordinarily a patient doesn't
8 have an injury to their knee to where they can't
9 bend their knee and the nurse is able to obtain
10 some visibility, she is able to see some sexual
11 organs and the rectum and all of those things in
12 things in order to determine if there is an injury
13 there. In this case that just wasn't possible.
14 She also talked about the fact that the victim
15 told her about the assailant wiping her, about her
16 urinating. She also talked about the swabs that
17 she took that eventually wound up at SLED. You
18 heard the testimony from the scientist about what
19 that revealed.

20 She also talks a little bit about Rose's
21 demeanor during that particular exam, how she was
22 trembling and she was upset.

23 We also heard from any analyst named
24 Amanda Webb. Amanda talked to you about the --
25 about vaginal swabs, which we just talked about.

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1 Also that the rectal swab was the DNA of Steven
2 Morgan. What was the chance that it was not
3 Steven Morgan? One in thirty quadrillion. That
4 was Steven Morgan.

5 The other analyst that you heard from was
6 Dr. Daniel DeMiers. He talked about a lot of the
7 other evidence. He talked about hanger pieces, he
8 talked about the towel that was cut into strips
9 and tied, consistent with what Rose tells you. She
10 told you that first he put hanger pieces on her
11 wrists and her ankles and then hog-tied her with
12 the piece of towel.

13 Those pieces of towel still have a knot
14 in them. Can you imagine -- I cannot imagine.
15 I'm sure that when she explained to you the pain
16 that she was in -- having your knee broken and
17 then having it pulled back behind you, being hog-
18 tied. The pain with that kind of injury and being
19 put in that position must have been excruciating.

20 He also talked about the knife. It
21 tested positive for blade on the blade. Rose
22 cannot be excluded from that. He also talked
23 about the handle, that the Defendant cannot be
24 excluded from that.

25 Let's talk a little bit about the

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1 statutes, very briefly. The State has to prove
2 kidnaping. Kidnaping is not what we think of
3 ordinarily, not what we see on TV where you have
4 to take someone and take them away. That is not
5 what is required. All that is required is that he
6 seized, confined, inveigled, decoyed, kidnap,
7 abduct or to carry away any other person by any
8 means. There is an "or" in between those things.
9 So if you confine someone, that is kidnaping.
10 If you just prevent them from leaving, that is
11 kidnaping. When he -- at the very least when he
12 tied her up and prevented her from moving, when he
13 hog-tied her that night, that was kidnaping. In
14 addition to that, just keeping her in that room is
15 also kidnaping. Preventing her from leaving is
16 what is required.

17 Attempted murder. A person who, with
18 the intent to kill, attempts to kill another
19 person with malice aforethought, either express or
20 implied. What is malice aforethought? It's kind
21 of a big word that we throw around in the court-
22 room a lot. Malice is a wicked heart, that's all
23 that it is. It is a wicked heart, it is meanness.

24 Mr. Morgan charged up the stairs with the
25 knife and said, "I am going to kill you." During

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1 the four hours that she endured, she said it over
2 and over again. He said "I am going to kill you",
3 "I am going to kill myself." That is expressed
4 malice. That is him saying that, "I am going to
5 kill you". It doesn't get any clearer than that.
6 He strangled her. She could have died from that.
7 Him putting a knife to her throat, she could have
8 died from that. So that is attempted murder.

9 Let's talk about burglary first. Okay.
10 Actor -- and the actor is Mr. Morgan -- enters a
11 dwelling without consent and with the intent to
12 commit a crime. I would say that if you throw a
13 big giant log through a glass door that you're not
14 supposed to be there. That is without consent.
15 He was put out six weeks before, he did not live
16 in that home. If he did, he wouldn't have had to
17 break in to get in.

18 He is -- armed with a deadly weapon.
19 To cause physical injury to anyone that is not
20 participating in the crime. Used or threatened to
21 use a dangerous object and displayed what appeared
22 to be a knife, pistol, revolver, shotgun, rifle,
23 machine gun or other firearm. Obviously here we
24 have a knife. And that he remained in the
25 dwelling in the nighttime. Several witnesses

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1 testified that it was dark.

2 What is a deadly weapon? It is a knife.
3 In the law we define everything. Everything has to
4 have a definition. In this case a "deadly weapon"
5 is article, instrument or substance which is
6 likely to cause death or great bodily injury. I
7 would submit to you, ladies and gentlemen, that
8 that knife that you saw -- and you will have it
9 back in your jury room to look at it -- is such a
10 deadly weapon.

11 We even go so far in the law to define
12 "nighttime", as if your common sense is not
13 enough. Nighttime is defined as the period
14 between sunset and sunrise during which there is
15 not enough daylight to recognize a person's face
16 except by artificial light or moonlight. It was
17 4:00 in the morning. It was pitch dark. It was
18 nighttime.

19 Now, they say that a picture tells a
20 thousand words. Burglary first, I would submit to
21 you -- and it is very hard to see in there, and I
22 am glad that you're going to have these pictures
23 in the jury room. That is a picture of this
24 woman's house where he broke into the sliding
25 glass door, shattered that door, shattered her

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1 life that night. That right there, that picture,
2 is burglary in the first degree.

3 Now, possession of a weapon during the
4 commission of a violent crime. That is another
5 charge that Mr. Morgan is charged with. He
6 committed or attempted to commit a violent crime.
7 While doing so, he was in possession of or visibly
8 displayed a knife during this crime. You may
9 think that a violent crime is any crime, but it
10 is not. The judge is going to give you
11 definitions of which of these are violent crimes
12 as defined by law. If you find that he committed
13 one of these violent crimes -- burglary first,
14 kidnaping, criminal sexual conduct in the first
15 degree -- and you find that he had the knife, then
16 he is guilty of the possession of a weapon during
17 the commission of a violent crime. They even
18 define "knife."

19 Let's talk a little bit about criminal
20 sexual conduct in the first degree. In order to
21 be guilty of this, this person, Steven Morgan, has
22 to have engaged in a sexual battery with the
23 victim, Rose Lampkin, and the following is proven:

24 That the actor uses aggravated force to
25 accomplish sexual battery. And we're going to

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1 define "aggravated force."

2 Or she submits to sexual battery.

3 Or she is also the victim of -- and you
4 will see there the burglary. In this case clearly
5 she submitted to the rape because of the
6 aggravated force.

7 What is aggravated force? Aggravated
8 force is define as use of physical force or
9 physical violence of a high and aggravated nature
10 to overcome the victim. I would submit to you
11 that that knife and the way that he attacked her
12 with that knife is aggravated force.

13 This also includes the threat of using
14 a deadly weapon. Clearly we have that here.

15 Sexual battery, which is required by the
16 statute, is also defined. "Sexual battery" is
17 sexual intercourse, cunnilingus, fellatio, anal
18 intercourse or any intrusion, however slight, to
19 any part of a person's body or of any object into
20 the genital or any openings of another person's
21 body -- except when a doctor does it. That's
22 basically what that last part says. And I am not
23 going to talk about that subject any more because
24 it's awful. But you have evidence of three kinds
25 of penetration. It's been discussed and it's been

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1 testified to. I think that the State has met its
2 burden of sexual battery.

3 Let's talk a little bit about the letter.
4 I said what it doesn't say. What it does say is
5 that he says that he is sorry, was manipulated by
6 the devil and sin, that his instinct led him to
7 her but that he never intended for such a tragic
8 thing to happen. The devil's helper probably put
9 something in his drink.

10 Ladies and gentlemen, voluntary intoxica-
11 tion is not a defense. You will hear that from
12 the judge. Whether or not some devil put
13 something in his drink does not matter. He's
14 responsible for his behavior. He is criminally
15 responsible for his behavior.

16 Like I said, a picture tells a thousand
17 words. If every there was a doubt in your mind
18 that this person was raped, was beaten, just look
19 at that picture.

20 THE COURT: Mr. Shelton.

21 CHAD SHELTON: Thank you, Your Honor, may
22 it please the court.

23 THE COURT: Yes, sir.

24 CHAD SHELTON: I apologize, I have to
25 have notes (arranging them on podium). I don't

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1 like to have notes during a closing, but I don't
2 want to forget anything.

3 In this case, things just don't make
4 sense. The State has decided not to tell you the
5 whole story. There are certain things that a
6 violent rapist does not do that apparently Mr.
7 Morgan did. He agreed to call 911. He gave her
8 a shirt because it was cold. He cleans up, her
9 face. They drink water together, smoke cigarettes
10 together. As Mr. Lampkin said, they smoked
11 upstairs in the bedroom together. We find from
12 DNA evidence that there were cigarettes. There
13 were also cigarettes downstairs. So two
14 cigarettes. Rapists don't smoke cigarettes
15 together. Taking a tour of the house to see the
16 renovations, that just doesn't make any sense.

17 There are some things that we can't get
18 around, some things that do make sense. Ms.
19 Lampkin had injuries to her face. The window was
20 smashed. The window being smashed, though, the
21 wood going through the window, that's just common
22 physics, not a scientist in any way. But when you
23 get that picture back there, you'll see that --
24 pick up the wood, pick up this wood and see how
25 far that would fly after breaking windows, to get

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1 on the other side of the room without hitting
2 anything. You will see in the picture that there
3 is a glass table (indicating). The wood ends up
4 over here, the glass door right here, so it had to
5 go across the room. There is a glass table right
6 in the way. There is a couch right in the way.
7 That's just physics. I submit that it wasn't the
8 wood. The window is broken and the assumption is
9 that the window was broken as Mr. Morgan was
10 coming in the home. That's an assumption. That
11 is based off what Rose has to say. So the window
12 could have been broken as he was leaving. It
13 doesn't have to have been broken as he was coming
14 in the home. There are no fingerprints, no DNA,
15 no blood. There is glass on the outside, glass on
16 the inside. But the assumption is that the window
17 was broken as he was coming in the home?

18 There are injuries. She was hurt, no
19 doubt. She also admits that she fell down the
20 stairs. Pushed down the stairs? Fell down the
21 stairs? She had alcohol in her system. You will
22 get -- she had been drinking alcohol.

23 You will get the photo of the stairwell
24 where there are CDs, undisturbed. She had a
25 violent fall down the stairs and being violently

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1 drug back up the stairs and these CDs are
2 undisturbed on this stairwell?

3 If you want to find Steven guilty of
4 something, find him guilty of assault, if you
5 believe that he assaulted her. Her injuries could
6 have been sustained in the fall. Find him guilty
7 of assault. The judge is going to give you
8 different levels of assault.

9 The medical evidence, the SANE sexual
10 assault nurse, the DNA evidence, all of that came
11 from Rose. It was their job. Their job is based
12 off of what Rose had to say. They heard her story
13 and built it all around it. The nurse, Ms.
14 Brigada, based it on Rose's account. The
15 hemorrhaging behind the eyes could have happened
16 because of vomiting. She had been drinking. It
17 could have happened as a result of the fall.

18 The sexual assault nurse, with over
19 thirty years of experience, documented the
20 injuries. There were no injuries on her wrist or
21 her ankles. What did Ms. Lampkin say? She said
22 that he wrapped it around at least ten times. I
23 would submit that the hangers wrapped around ten
24 times -- and there were no injuries to her wrists
25 or her ankles?

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1 There is an injury to her knee. She
2 admits that happened when she fell down the
3 stairs.

4 The blood on the ground, no transfer of
5 hair. That part about Mr. Morgan apparently
6 hitting her head on the ground, there is no
7 transfer. There is not a pool of blood. It's a
8 smear, it's drops.

9 Ms. Hall, the sexual assault nurse.
10 No injuries to the vagina or anus, no injuries.
11 This is a repeated violent sexual assault, no
12 injuries.

13 The DNA person, the DNA person at SLED,
14 there was only one place where they found DNA.
15 That was on the rectal swabs and you heard Ms.
16 Hall testify that that could have come from
17 anybody.

18 Without any semen, the DNA was tested and
19 there was only one thing that came from Mr.
20 Morgan, and that was the rectal swab which could
21 have come from anywhere. It doesn't mean that
22 they could not have had consensual sex.

23 You all heard Rose testify yesterday. It
24 is your job to take note of her demeanor. She was
25 calm, she was matter of fact. I am not sure that

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1 is how someone who has been violently attacked
2 would testify. She said that it was hard to
3 remember.

4 You heard the statements from Ms. Hall.
5 She read the statement. That happened an hour and
6 a half after she gave her written statement to
7 Goose Creek. Maybe she was under medication,
8 maybe she was not. But you didn't hear what Ms.
9 Hall said about this tour of the house and the
10 renovations. That didn't come out. In talking
11 about her written statement, the tour of the house
12 didn't come out. After hearing the testimony that
13 the house was in disarray, it was undergoing
14 renovations. If you look at these pictures, it's
15 pretty clean. You've got some things stacked up
16 but the downstairs is pretty clean. Upstairs it's
17 a different story.

18 There's two bedrooms. There some
19 confusion about the DNA that was found on her bed
20 sheets, bed sheets that had not been washed in a
21 while. But there were two bedrooms, one that had
22 not been used for a while because she said that
23 her son was in college. You can look at the
24 picture and see what's up there. Look at the
25 scene. It makes sense what she says happened,

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1 repeated violent rapes.

2 Scratches on the countertops. There was
3 testimony about that.

4 The cell phone. I submit that you can't
5 flush a cell phone down the toilet. That is going
6 to ruin all the piping. You can't flush a cell
7 phone down the toilet. But it is convenient that
8 we don't have it. Now you can't see if there was
9 any communication. She'd been drinking. Invited
10 him over? Got upset? Maybe Steven thinks its
11 going to be a little bit more, turns out that is
12 really not what she wants and gets upset. Decides
13 to give her a little bit more to renovate.

14 Cigarettes. Two cigarettes downstairs,
15 two cigarettes upstairs.

16 What about the tape? Taped her hands up,
17 all around her mouth. No tape. All we had was a
18 roll of tape. No used tape.

19 Ms. Lampkin made it down the stairs.
20 Either she hopped down the stairs, slowly went
21 down the stairs. Waited at the doorstep for the
22 police. They cleared the scene, no one else
23 there. No tape.

24 The keys and the knife, found two months
25 later. Not by the police who had search warrants

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1 and who'd searched the car but found by Mr. Mazyck
2 who was doing some changes to the truck. Two
3 months later. It was in Rose's property for two
4 months. That also didn't have any of Mr. Morgan's
5 DNA on the blade. You will see that the knife is
6 one that you had to open.

7 Ms. Lampkin testified that while they
8 were dating that she never called the police.
9 Once they broke up, apparently the son calls the
10 police. No injuries on scene. No injuries. No
11 evidence whatsoever of anything injuries on the
12 scene.

13 Taking a tour of the house to see the
14 renovations does not make sense. Putting on a
15 tee shirt because you're cold just does not make
16 sense.

17 There was something else going on.
18 That's not the whole story. The State has decided
19 not to tell you the whole story.

20 Everybody does it, you grab some milk and
21 you see that the expiration date is today. What
22 do you do? You smell it to see if it is bad. You
23 know that it doesn't end today, you know that.
24 But what you do, you act. You're a reasonable
25 person and you acted, you smelled the milk.

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1 That's reasonable doubt. If a reasonable person
2 acts, you doubted that that milk had expired.
3 That's reasonable doubt.

4 If there are things that just don't make
5 sense, that's reasonable doubt. We don't know the
6 whole story. Because we don't know the whole
7 story, you must find Steven not guilty. It's the
8 State's burden, it is their responsibility to
9 prove their case. Steven Morgan doesn't have to
10 prove a thing. The State decided not to tell you
11 the whole story. You have to find him not guilty.
12 Thank you.

13 THE COURT: Thank you, Mr. Shelton.
14 Now, ladies and gentlemen, if I may have your
15 attention, we are ready to move into the final
16 portion of this process, where it is my
17 responsibility as the judge of the law to give you
18 instruction on the law. Of course it is your
19 responsibility to apply that law to the facts as
20 you will determine them to be very shortly when
21 you begin your deliberation.

22 It is your responsibility, your duty to
23 evaluate and establish the truth, the value and
24 the weight of the evidence. When you've done that
25 by assessing the evidence, applying your sense of

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1 logic and reason and apply the law fairly and
2 impartially to those facts, then Mr. Morgan and
3 the State will have received and attained a fair
4 and impartial determination in this proceeding.

5 Please remember during this instruction
6 when I refer to the "defendant" that, as I
7 mentioned to you in my instructions when we first
8 started, is simply the person against whom a claim
9 is made. That's the sole significance of that
10 term, it's just a way of identifying Mr. Morgan.
11 So if you hear the term "defendant" during this
12 instruction, just understand that it is another
13 way of identifying him or making reference to him.
14 That's the only purpose for which it is used.

15 He has been accused in these documents,
16 which I shared with you when we started the
17 selection, of five charges. These charges are
18 brought by a document called an indictment, it's a
19 formal charging paper. To these indictments for
20 attempted murder, burglary first, criminal sexual
21 conduct in the first degree, kidnaping and
22 possession of a knife during the commission of a
23 violent crime, Mr. Morgan has rendered a plea of
24 not guilty. That then, of course, places upon the
25 State the burden of proving his guilt beyond a

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1 reasonable doubt.

2 As I stated, every person -- including
3 Mr. Morgan -- in this state and in this country
4 accused of criminal offense(s) is presumed to be
5 innocent. That is that active presumption that I
6 explained. That is to be maintained throughout a
7 trial. Persons accused or not required to prove
8 anything whatsoever. The State has the burden of
9 establishing the evidence which would convince you
10 beyond a reasonable doubt that he is guilty of one
11 or more of these offenses. That active
12 presumption means that as we sit here right now
13 that still has to be your conclusion, mentally.
14 That can't change until you've evaluated the
15 evidence, assessed it and determined that you
16 believe and then address each element of the
17 crime.

18 Then and only then if you're satisfied
19 beyond a reasonable doubt that he is guilty, then
20 you may -- you would be instructed to return a
21 verdict of guilty. On the other hand if the State
22 fails as to any one of the elements, then you must
23 return a verdict of not guilty.

24 Obviously, ladies and gentlemen, since
25 a person so accused has no burden to prove or

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1 disprove anything whatsoever, that person has the
2 right to not testify and to remain silent. The
3 assertion of that Constitutional right cannot
4 and must not be considered by a jury in its
5 deliberations. Under your oath, you are therefore
6 instructed to reach no inference or draw no
7 conclusion whatsoever from the fact that Mr.
8 Morgan did not testify in this case. The failure
9 of Mr. Morgan to testify should not even be
10 discussed by you in the jury room. If you do,
11 you will have violated the oath that you took.

12 As I have stated throughout, you will
13 assess the evidence and the testimony and decide
14 whether or not the State has convinced you beyond
15 a reasonable doubt whether he is guilty of any of
16 these offenses.

17 What is a reasonable doubt? A reasonable
18 doubt is that doubt which would make a honest,
19 sincere, conscientious juror searching for the
20 truth in a case to hesitate to act. Proven beyond
21 a reasonable doubt is proof that leaves you firmly
22 convinced as to the defendant's guilt as to one or
23 more of these offenses.

24 Now, there are very few things in our
25 life and in this world that we know with absolute

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1 certainty. In cases such as this, in criminal
2 cases, our law does not require the State to offer
3 proof that overcomes every possible doubt. If
4 based upon your consideration of the evidence
5 you're firmly convinced that the defendant is
6 guilty of one or more of these crimes, then you
7 must return a verdict of guilty. If, on the other
8 hand, you think that there is a real possibility
9 that he is not guilty, then you must give him the
10 benefit of that doubt and return a verdict of not
11 guilty.

12 Reasonable doubt, ladies and gentlemen,
13 may arise from the evidence that's in a case or
14 the lack or absence of evidence in a case. It's
15 up to you to determine whether or not a reasonable
16 doubt exists in evaluating this case.

17 I charge you that Mr. Morgan is entitled
18 to every reasonable doubt arising in the whole
19 case. What does that mean? It means simply this,
20 if upon any issue of fact which is essential to a
21 conviction or a verdict of guilty and you should
22 have an issue as to how that should be resolved, I
23 would instruct you that it would be your duty to
24 resolve that in his favor.

25 Now, the evidence that you are to

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1 consider of course consists of the testimony of
2 the witnesses and exhibits offered during the
3 trial, during their testimony. Please remember
4 that during the trial you may have heard
5 objections, as we have talked about those. From
6 time to time we've had sidebars. Those were
7 matters for my determination, were very properly
8 raised. The attorneys, as officers of this court,
9 have to raise those in the record during the
10 trial. You heard me rule sometimes, either I
11 overruled or I sustained an objection. Please
12 understand that you're not to draw any inference
13 or place any weight on my decision. In fact, it
14 has nothing to do with your determination of
15 anything. If you should put any weight on my
16 decision, then you have let me invade your
17 province and that's to be the sole judge of the
18 facts.

19 Likewise, if I overruled the objection,
20 sustained it and excluded the evidence, you
21 Shouldn't speculate on that.

22 If I allowed you to hear the testimony
23 in question, no weight should be given to that
24 either. Frankly that ruling probably demon-
25 strates, I think as clearly as anything, how we

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1 work together in trying this case. When I
2 overruled the objection, I simply said as a matter
3 of law that under our rules of evidence that I am
4 going to permit the question and answer. That's
5 as far as it goes. It shifts now to you. You
6 decide whether you believe it or not and, if so,
7 how strongly you believe it.

8 That's how we do. I will resolve the
9 legal issues and you, in turn, will resolve the
10 factual issues.

11 I will further instruct you that while
12 the attorneys remarks are extremely beneficial,
13 please remember that their statements, their
14 arguments, should never be considered by you as a
15 statement of fact. Nor should they be considered
16 by you if it differs from any of the law that I
17 may give to you because, ladies and gentlemen, for
18 purposes of this proceeding, you and you alone
19 will decide the facts of this issue based on your
20 evaluation of the evidence.

21 It is my responsibility today to be the
22 sole judge of the law. Therefore, you must
23 disregard any law -- any argument by the attorneys
24 or statement which is contrary to my instructions
25 or contrary to your collective discussion and

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1 resolution of what a witness said or didn't say.

2 In cases such as this, there are two
3 types of evidence which are used to present a
4 case, one is called direct evidence and the other
5 indirect evidence. The more popular or common
6 name for indirect evidence is circumstantial
7 evidence.

8 Direct evidence is when someone comes in
9 and testifies, generally to a sensory perception.
10 'I saw something, I heard something, I felt
11 something' or the like. If you are firmly
12 convinced as to the truthfulness of that
13 testimony, they that would establish that
14 particular fact or circumstance.

15 Circumstantial evidence is when one
16 comes in and testifies to a number of facts or
17 circumstances. If you are firmly convinced as to
18 each of them and you link them, either through
19 inductive or deductive reason, and reach a logical
20 conclusion, then that is circumstantial evidence.
21 If the logical conclusion -- if you are firmly
22 convinced of the truthfulness or the reliability
23 of that, that again would be established by the
24 evidence and you may rely on it.

25 Now, I will tell you that either method can

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1 be used to present a case. Quite often you have
2 both in a case such as this.

3 Our law makes absolutely no distinction
4 between the weight and the value to be given or
5 circumstantial evidence, nor is there any greater
6 degree of certainty required for direct evidence
7 or circumstantial evidence than the other. You
8 should weight all of the evidence of this case and
9 decide what you find to be the true facts of this
10 particular dispute.

11 I further instruct you, however, in that
12 regard that the mere fact that circumstances
13 brought out in a case are strongly suspicious of
14 guilt or that the circumstances are such that a
15 defendant's guilt is probable, that would not be
16 enough to sustain or establish a verdict of guilty
17 because in order for that to be established it has
18 to be proof offered by the State of more than
19 establishing that a person is suspected of
20 committing a crime or most probably committed a
21 crime. It has to be proof that satisfied you
22 beyond a reasonable doubt that Mr. Morgan did in
23 fact commit one or more of these offenses.

24 Now, how do you decide these facts? You
25 decide them by applying your common sense, your

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1 sense of logic and reason. As I told you, you
2 brought everything that you need to establish
3 this. You have that tool with you because that is
4 what you use every day of your life. You will use
5 it when you begin your deliberations.

6 You have the right to -- you have great
7 latitude in deciding the circumstances. By that, I
8 mean simply this. You may consider several
9 witnesses against one, one witness against
10 several. You may consider all of a witness'
11 testimony, part of a witness' testimony or none
12 of a witness' testimony.

13 When I say "consider", I mean simply
14 this. You have the right to believe all of a
15 witness' testimony, parts of a witness' testimony
16 or none of a witness' testimony.

17 Now, you don't make those types of
18 decisions arbitrarily but if you reach that
19 conclusion, you have that prerogative because your
20 objective throughout this entire proceeding is to
21 determine the truth regardless of the source of
22 the evidence.

23 Generally I would tell you that in
24 evaluating witnesses that we have two types of
25 witnesses that from time to time may appear.

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1 Typically our rules of evidence do not permit a
2 witness to render an opinion except in very
3 limited areas. But certain witnesses, who we call
4 expert witnesses, those witnesses who by education
5 and experience have been expert in some art,
6 science, profession or calling, they are permitted
7 to state opinions as to relevant material in which
8 a witness claims some expertise, and may state the
9 reasons for that opinion. I would instruct you to
10 consider any expert opinion received in evidence
11 in this case like any other evidence that has been
12 received. That means, give it the weight that you
13 think that it deserves.

14 If you decide that an expert's opinion is
15 not based on sufficient evidence and experience or
16 if you conclude that the reasons given in support
17 of the opinion are not sound or that the opinion
18 is outweighed by other evidence in the case, you
19 may disregard the opinion in its entirety.

20 An expert witness' testimony is to be
21 given no greater weight than any other witness
22 simply because the witness professes some
23 expertise. Further, you are not required to
24 accept the expert's opinion even though it is not
25 contradicted.

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1 Now, in assessing credibility and
2 believability, there are many factors that we may
3 consider. I am going to discuss some of them with
4 you now. But if I don't mention a method or
5 factor that you've used in your life, that
6 assisted you, that you've found to be reliable in
7 telling you whether somebody is telling the truth
8 or not, please use it when you begin to assess and
9 evaluate this evidence.

10 Some of the factors that you may want to
11 consider would be:

12 The demeanor of the witness. How did
13 they appear to you, straightforward or hesitant in
14 answering questions?

15 Was the testimony of a witness consistent
16 or was it inconsistent?

17 Was it strengthened or weakened by other
18 evidence in the case?

19 How did the witness come to know the
20 facts that he or she come to testify to, and what
21 was the witness' ability to know those particular
22 facts or circumstances?

23 Was the witness - did the witness have
24 some reason to give testimony that would be
25 beneficial or detrimental to one side or the

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1 other? In other words, was the witness biased or
2 prejudiced in any fashion?

3 These are some of the methods. But, here
4 again, if I didn't mention one that you've used,
5 please apply it. Again, you're simply to
6 determine, as you have done every day of your
7 life, what you find to be most convincing.

8 I respect your right to differ with the
9 law -- in fact, one of the reasons that I make a
10 comment about it, and it's truly how I feel, you
11 will recall that when I was qualifying you and
12 asked you whether you had a driver's license, a
13 highway department identification card or voter's
14 registration, I knew that you had one because you
15 were here. I made a comment about that law, that
16 I don't understand that. But you know what? I've
17 been asking that question since 1994. If the Lord
18 blesses me and lets me continue another nineteen
19 years, I will ask it again every time I qualify a
20 jury. Why? Because I took the same oath that you
21 took. That means that I apply that law notwith-
22 standing my personal opinion. You will have to do
23 the same thing. You will take this law as I give
24 it to you and apply that law fairly and
25 impartially.

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1 Please understand that it is my
2 responsibility to give you instruction on certain
3 aspects of the law. Don't put any greater weight
4 or emphasis on any one part of the instruction but
5 consider the charge as a whole. But also remember
6 that because I give you instruction on certain
7 areas that that shouldn't be considered by you as
8 a suggestion of how you are to resolve a factual
9 issue, because I have nothing to do with that.
10 Nothing that I say throughout this charge and
11 nothing that I have said or done during this trial
12 should be considered by you as a suggestion of how
13 you are to resolve the factual issue(s), because
14 that is your job. Yours alone.

15 Let's look at the charges now. I want to
16 discuss those with you as the latter portion of
17 this instruction.

18 As I mentioned to you, in one indictment
19 the defendant is charged with the offense of
20 attempted murder. In order to prove this crime,
21 the State must prove that the defendant attempted
22 to kill another person with malice aforethought,
23 either express or implied.

24 "Malice", ladies and gentlemen, is
25 hatred, ill will, hostility towards another

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1 person. It is the intentional doing of a wrongful
2 act without just cause or excuse and with the
3 intent to inflict an injury under circumstances
4 that the law would infer as an evil intent.
5 Malice aforethought does not require that the
6 malice exist for any particular time before the
7 act is committed, but the malice must exist in the
8 mind of the defendant just before and at the time
9 that the act is committed. Therefore, there must
10 be a combination of the previous evil intent and
11 the act itself.

12 Malice aforethought may be expressed or
13 inferred. Now these terms, "expressed" or
14 "inferred" do not mean different kinds of malice,
15 but merely the manner in which malice may be shown
16 to exist. That is either by direct evidence or by
17 inference from facts and circumstances which are
18 proved.

19 Express malice is shown when a person
20 speaks words which express hatred or ill will for
21 another, or when the person prepared beforehand to
22 do the act which was later accomplished.

23 Malice may be inferred from conduct
24 showing a total disregard for human life.

25 Now, if the facts established by the

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1 State are insufficient to raise the inference of
2 malice -- excuse me. If the facts established by
3 the State are sufficient to raise an inference of
4 malice to your satisfaction, this inference would
5 be simply an evidentiary fact to be considered by
6 you with all other facts and evidence in this
7 case. You may give it the weight that you feel
8 that it is entitled.

9 If you find in your analysis of attempted
10 murder that the State has failed to prove one or
11 more elements of attempted murder, you must then
12 decide if the State has proved what we call a
13 lesser-included offense than the charge of
14 attempted murder. A lesser-included offense --
15 and in this case there are two. One would be an
16 assault of a high and aggravated nature.

17 An assault occurs, ladies and gentlemen,
18 when a person unlawfully attempts to commit a
19 violent injury upon another person and has the
20 present ability to complete the attempted injury.
21 An "assault" is the intentional creation of a
22 reasonable fear of immediate bodily harm. It
23 is not necessary that the attempted injury or
24 actual harm actually take place.

25 A "battery" is the unlawful touching of

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1 another person by a person who has committed the
2 assault. An unlawful touching can be caused by a
3 part of the accused's body or by any object that
4 the accused puts in motion. A battery is the
5 completion of the assault by using or applying
6 force to another person, however slight, in a
7 rude, anger or illegal manner without justifica-
8 tion for doing so.

9 A person commits the offense of assault
10 and battery of a high and aggravated nature if the
11 person unlawfully injures another person and great
12 bodily injury to another person results and/or the
13 act is accomplished by means likely to produce
14 death or great bodily injury.

15 Great bodily injury, ladies and gentle-
16 men, means injury which causes a substantial risk
17 of death or which causes serious permanent
18 disfigurement or protracted loss or impairment or
19 the function of a body member of organ.

20 Now, if in evaluating the evidence you
21 are not convinced that the State has met its
22 burden of proof as to attempted murder or assault
23 and battery of a high and aggravated nature, you
24 may also consider as another lesser-included
25 offense assault and battery of the first degree.

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1 A person commits the offense of assault
2 and battery of the first degree if that person
3 unlawfully injures another person and the act
4 either involves a nonconsensual touching of the
5 private parts of an adult, either under or above
6 clothing, with a lewd, lascivious intent or
7 occurred during the commission of a burglary or a
8 kidnaping.

9 " Private parts" means the genital area,
10 buttocks, or the breast of a female.

11 A person may also commit the offense of
12 assault and battery of the first degree if a
13 person unlawfully offers or attempts to injure
14 another person, with the present ability to do so,
15 and the act is accomplished by means likely to
16 produce death or great bodily injury, or occurred
17 during the commission of a burglary or a
18 kidnaping.

19 Now let's look at the - the next matter
20 that I want to discuss with you is the indictment
21 that charges burglary in the first degree. The
22 State must prove beyond a reasonable doubt, in
23 order to obtain a conviction of burglary in the
24 first degree, that the defendant entered a
25 dwelling without consent but the State does not

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1 have to prove that force was used to gain entry.
2 It may prove it, but it is not required to prove
3 that force was used to gain entry.

4 A "dwelling" is a building or any portion
5 of a building in which a person ordinarily sleeps.

6 Next, the State must prove beyond a
7 reasonable doubt that the defendant intended to
8 commit a crime, either a felony or a misdemeanor,
9 at the time of an entry. For, you see, the mere
10 entry into a dwelling without consent and without
11 the intent to commit a crime is not burglary. If
12 the intent to commit a crime is formed after the
13 entry, it still would not be burglary.

14 On the other hand, if the defendant
15 intended to commit a crime at the time of the
16 entry, it is a burglary even if the intent was
17 abandoned after entry. It does not matter that
18 the intended crime was not committed.

19 Finally, the State must prove beyond a
20 reasonable doubt at least one of the following:

21 One, when entering, while in the
22 dwelling or when fleeing that the defendant was
23 armed with a deadly weapon. A "deadly weapon" is
24 any article or substance which is likely to cause
25 death or great bodily harm. Whether an instrument

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1 has been used as a deadly weapon of course depends
2 on the facts and circumstances in each case. I
3 would instruct you, ladies and gentlemen, that a
4 knife is a deadly weapon.

5 Two, or when entering - that is an "or" -
6 or that when entering the dwelling or when fleeing
7 that the defendant caused physical injury to
8 anyone not participating in the crime. Or when
9 entering, while in the dwelling or when fleeing,
10 the defendant used or threatened to use a
11 dangerous object. Or when entering, while in the
12 dwelling or when fleeing that the defendant
13 displayed what was or appeared to be a knife. Or
14 that the defendant entered or remained in the
15 dwelling in the nighttime.

16 "Nighttime" is the period between sunset
17 and sunrise, during which there is not enough
18 daylight to recognize a person's face except by
19 artificial light or by moonlight.

20 Now let's look at the offense of criminal
21 sexual conduct in the first degree. The first
22 element that the State must prove is that the
23 defendant engaged in a sexual battery with the
24 victim. A sexual battery, ladies and gentlemen,
25 is defined as sexual intercourse or any intrusion,

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1 however slight, of any part of a person's body
2 into the genital openings of another person's
3 body except when the intrusion is accomplished for
4 medically recognized treatment or diagnostic
5 purposes.

6 If you find that the State has not proven
7 beyond a reasonable doubt that a sexual battery
8 occurred, you deliberate no further.

9 If you find that a sexual battery did
10 occur, you must then decide if the State has
11 established beyond a reasonable doubt any of the
12 following: :

13 One, that the defendant used
14 aggravated force to accomplish the sexual battery.
15 "Aggravated force" means the use of physical force
16 or physical violence of a high and aggravated
17 nature. This includes the threat of the use of a
18 deadly weapon. Or the victim submitted to sexual
19 battery while the victim was also the victim of a
20 forcible confinement, kidnaping or any similar act
21 or offense.

22 Now lets look at the offense of kid-
23 naping. Kidnaping - in order to prove kidnaping,
24 the State has to prove beyond a reasonable doubt
25 that the defendant knowingly and unlawfully

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1 seized, confined and kidnapped another person
2 without authority of law.

3 To do a thing "unlawfully" is to do it
4 willfully against the law.

5 "Knowingly" means with knowledge,
6 consciously, not accidentally.

7 To "seize" means to take hold suddenly or
8 forcibly.

9 "Confine" means to limit, restrict or
10 enclose within the bounds, imprison, shut or keep
11 in.

12 "Kidnap" is to remove a person against
13 his/her will by unlawful force or by fraud.

14 Now, the State does not have to prove
15 that the defendant did all of these things.
16 Instead, if you find beyond a reasonable doubt
17 that the defendant did any of these things, you
18 may return a verdict of guilty on the charge of
19 kidnaping.

20 I would instruct you that something done
21 "without authority of law" is something that the
22 law does not sanction, permit, allow, condone or
23 provide justification for.

24 The kidnaping does not have to be for any
25 personal or monetary gain, or for any illegal

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1 purpose, but may be for any reason whatsoever.

2 The gravamen of the essence of the
3 offense of kidnaping is some sort of compulsion,
4 but the law says that the requisite force or
5 compulsion need not consist of the use of actual
6 physical force or violence or of expressed
7 threats.

8 The offense of kidnaping, ladies and
9 gentlemen, commences when one is wrongfully and
10 unlawfully deprived of his or her freedom and
11 continues until that freedom is restored.

12 Now, the last charge is the possession
13 of a commission (sic) -- the possession of (sic)
14 while attempting to commit a violent crime. The
15 State, in order to obtain a conviction for this
16 offense, must prove beyond a reasonable doubt that
17 the defendant visibly displayed a knife during the
18 commission of a violent crime.

19 "A knife" means an instrument or tool
20 with a sharp cutting blade, whether or not
21 fastened to a handle, which can be used to
22 inflict, cut, slash or wound.

23 In order to find the defendant guilty of
24 the possession of a weapon during the commission
25 of a violent crime, you must first find the

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1 defendant guilty of committing a violent crime, or
2 attempting to commit a violent crime. I would
3 instruct you that in this regard that attempted
4 murder, assault and battery of a high and
5 aggravated nature, burglary first, kidnaping or
6 criminal sexual conduct in the first degree are
7 all considered violent crimes.

8 The State must prove also, beyond a
9 reasonable doubt, that the weapon further advanced
10 or helped in the commission of the crime.

11 Now, the one common thread that runs
12 through all of these charges is that the State has
13 to prove, in addition to those elements that I
14 have outlined for you, for each of the charges the
15 State must prove criminal intent. Criminal intent
16 is proven by basically your assessment of all the
17 facts and circumstances, because it is always a
18 matter that must be determined by you considering
19 the facts and circumstances surrounding the
20 situation.

21 There is no way to prove intent to a
22 mathematical certainty. Nor is there any way that
23 medical science can dissect a person's brain and
24 determine what the person had in mind. So the law
25 says that criminal intent may be inferred from the

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1 circumstances that have been shown to have
2 existed. This is how a determination is made as
3 to whether the required intent was present.

4 It is not necessary to establish intent
5 by direct and positive evidence but intent may be
6 established by inference as any other fact and by
7 taking into consideration the acts of the parties
8 and all the facts and circumstances surrounding
9 those facts.

10 Criminal intent is a mental state of
11 conscious wrongdoing and it's up to you to
12 determine what the defendant intended to do, based
13 on the circumstances that have been shown to have
14 existed.

15 It includes those acts which one intends
16 or which are likely to follow regardless of one's
17 specific intent.

18 I would instruct you also, ladies and
19 gentlemen, with regard to criminal intent that
20 voluntary intoxication is not a defense to a
21 crime. A person who voluntarily becomes
22 intoxicated is just as responsible for his or her
23 acts committed while intoxicated as a person would
24 be who is not intoxicated.

25 Ladies and gentlemen, throughout this

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1 entire matter you have not been, you are not now,
2 and you will not be when you go to deliberate an
3 advocate or a partisan for either side. You --
4 neither you nor I have had any friends in this
5 process that we should reward, nor do we have any
6 enemies to punish. Rather -- and we also are
7 required to do something which I confess to you as
8 a fellow human being is not always easy to do, but
9 it is something that we have to consciously do to
10 perform our task. That is to set aside all human
11 emotion. If you think about it, it has no place
12 in this process. None whatsoever.

13 You have been challenged and tasked with
14 the responsibility of evaluating the evidence,
15 methodically, applying your sense of logic and
16 reason to decide what you believe to be the true
17 facts. Then once you decide that, you take the
18 law as I have given it to you, apply it fairly
19 and impartially to the facts, and report your
20 decision. When you have done that, you will have
21 honored your commitment.

22 As I stated to you when we began the
23 process, the fact that we might not please someone
24 has nothing to do with this. We have an
25 obligation, you and I, to do what we're charged

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1 to do; me, presiding over the trial and giving
2 you the law; you, applying those facts as you
3 determine.

4 Mr. Presiding Juror, to assist you in
5 reporting the decisions, I've prepared several
6 verdict forms, one for each of the charges.
7 I'd like to discuss them with you now. There are
8 a number of -- one has a number of options. Most
9 of them have two. The order in which they appear
10 means absolutely nothing whatsoever.

11 The first one, that happens to be the
12 charge of attempted murder, -- and you will note
13 that they are captioned. This will be the same
14 for each one. They are captioned, which just
15 simply facilitates the filing. It has no
16 significance for you. In this one the body says,
17 "We, the jury, by unanimous consent..." - what does
18 that mean? Unanimous consent, as the term would
19 imply to you, means that all of you have to agree.
20 Twelve to zero is the required vote. Eleven to
21 one is not sufficient. "We, the jury, by
22 unanimous consent find that Steven Lee Morgan on
23 the charge of murder..." -- and there are four
24 choices:

25 Guilty.

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1 Guilty of the lesser-included offense
2 of assault and battery of a high and aggravated
3 nature.

4 Guilty of the lesser-included offense of
5 assault and battery, first degree.

6 Not Guilty.

7 Then a place for you to sign where it
8 says Presiding Juror and then date it.

9 If the first is your selection, then you
10 will have said that you evaluated the evidence and
11 you all agree that the State has met its burden of
12 proof, proven beyond a reasonable doubt that Mr.
13 Morgan, with malice aforethought, attempted to
14 kill Ms. Lampkin. If that is your decision, then
15 Guilty would be your choice.

16 If you're not convinced of one or more of
17 the elements of that charge, you may then next
18 consider the lesser-included offense of a high and
19 aggravated nature. We talked about what that
20 charge entails.

21 If you find that you are not convinced
22 that the State has established guilt of that, then
23 you may then consider assault and battery of the
24 first degree. We've talked about elements of that
25 particular offense.

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1 If you're not convinced that the State
2 has met its burden as to that offense, then Not
3 Guilty would be your decision. Again, that says
4 that the State has failed to establish beyond a
5 reasonable doubt the elements of any one of those
6 offenses: attempted murder, assault and battery
7 of a high and aggravated nature, or assault and
8 battery of the first degree.

9 The next form as it will be is for
10 kidnaping and the burglary first. I'll save the
11 possession for last. You will note that there are
12 two choices on each of those: guilty or not
13 guilty. It basically says the same, "We, the
14 jury, by unanimous consent find the Defendant,
15 Steven Lee Morgan..." -- guilty or not guilty.
16 One says criminal sexual conduct of the first
17 degree and the other says burglary first degree or
18 kidnaping. It's guilty or not guilty. The "or"
19 means nothing.

20 Guilty would mean that you obviously were
21 convinced on each of those that the State has met
22 its burden of proof and established the elements
23 of that particular crime. Or they've failed to
24 establish one or more. Again, it must be
25 unanimous. All twelve of you must agree.

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1 The last one is the one that is
2 contingent upon your decisions in some of the
3 others. That is the possession of a knife during
4 the commission of a violent crime. Guilty or not
5 guilty.

6 If guilty, you will have said that the
7 State has established its burden of proof that the
8 defendant possessed the knife when he committed
9 one or more of the crimes that I have mentioned to
10 you, that are violent. Those are, again,
11 kidnaping, criminal sexual conduct of the first
12 degree, burglary first, attempted murder or
13 assault and battery of a high and aggravated
14 nature. If you don't have a conviction of any of
15 those, you must return a verdict of not guilty on
16 this charge. Why? Because the State would have
17 failed to establish proof beyond a reasonable
18 doubt that he was guilty of a violent crime.

19 Now, if you find him guilty then you, of
20 course, must address whether he had a knife in his
21 possession during the commission of that offense,
22 that it facilitated the crime itself, for you to
23 be able to return a verdict of guilty.

24 Again, I know you're anxious to get
25 started and you are almost to that point.

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1 Of the first twelve of you selected, do
2 any of you feel that you will be unable to
3 continue? (No response). That being no hands
4 shown, Mr. Wrench, Mr. McPherson, it appears at
5 this point that the first twelve will continue.
6 So when the jury is excused in just a moment, I
7 would ask that you not rejoin them in the jury
8 room. They will take you to another room and I
9 will be in shortly to discuss with you how much
10 longer that you will need to remain.

11 I know that you are anxious to get
12 started with the resolution of this case and
13 you're almost to that point. I told you that the
14 last instruction that I would give to you would be
15 when you may start. It is necessary that I excuse
16 you now and discuss my charge with the attorneys.
17 It might be necessary for me to return you to the
18 courtroom and give you some additional instruction
19 or clarification. If so, we will return all of
20 you to the courtroom to accomplish that. But if
21 there aren't any exceptions or additions that need
22 to be given, then we will gather the exhibits and
23 the verdict forms and deliver them to you.

24 When you receive your exhibits, then you
25 may commence your deliberations, but not before.

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1 Once the deliberations start, the only
2 restriction that I place on the deliberations is
3 that if any juror has to leave the table for any
4 reason, you must stop deliberating until all
5 twelve of you are together. Other than that, you
6 may proceed as you deem fit and proper.

7 Thank you so much for your attention.
8 Please retire to your jury room and await your
9 exhibits before commencing your deliberations.
10 Thank you.

11 (JURY OUT @ 4:10 P.M.)

12 THE COURT: Exceptions or additions
13 from the State?

14 SOLICITOR WILLIAMS: None, Your Honor.

15 THE COURT: Exceptions or additions
16 from the Defendant?

17 CHAD SHELTON: No, sir.

18 THE COURT: Thank you very much.

19 (COUNSEL APPROVAL OF EXHIBITS)

20 (JURY IN DELIBERATION @ 4:12 P.M.)

21 (NOTIFIED OF JURY QUESTION @ 4:50 P.M.)

22 (SO ENTERED AS COURT'S EXHIBIT 3)

23 (DEFENDANT PRESENT)

24 THE COURT: I am informed that we have
25 a question from the jury. They are inquiring as

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1 to the various elements of the charges, whether or
2 not we have a worksheet. Bring them in and I'll
3 inquire. Counsel and Mr. Morgan are present.

4 (JURY IN @ 4:57 P.M.)

5 THE COURT: Thank you. Mr. Fowler, I
6 have what has now been marked as Court's Exhibit
7 3. Your question is, "Can we get the law work-
8 sheets?" I am assuming that you're talking about
9 my charge, the instruction on the law.

10 FOREMAN: Yes, sir.

11 THE COURT: Do you want the entire
12 instruction or just the instructions outlining
13 the various crimes?

14 FOREMAN: Outlining the various
15 crimes.

16 THE COURT: Very well. I will give
17 you the crime portion. If you need additional
18 portions, just let me know. I'll send that back.
19 Hopefully that will address your concerns.

20 FOREMAN: Yes, sir.

21 THE COURT: It will take me just a few
22 moments to print it, but I will get that to you
23 very shortly. You may retire and continue your
24 deliberations.

25 (JURY OUT @ 4:58 P.M.)

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1 THE COURT: Any objection, exceptions
2 or additions from the State?

3 SOLICITOR WILLIAMS: No, Your Honor.

4 THE COURT: Any objections, exceptions
5 or additions from the Defendant?

6 CHAD SHELTON: No, Your Honor.

7 THE COURT: I will give you a copy of
8 what I print. We'll attach it to Court's Exhibit
9 3 as the response.

10 (PRINTED RESPONSE PROVIDED TO JURY @ 5:02 P.M.)

11 (NOTIFIED OF VERDICT @ 5:45 P.M.)

12 (DEFENDANT PRESENT)

13 THE COURT: All right, let the record
14 reflect that Mr. Morgan is present. I am notified
15 that we have a verdict. Is the State prepared to
16 receive the verdict?

17 SOLICITOR WILLIAMS: We are, Your
18 Honor.

19 THE COURT: Is the defense ready to
20 receive the verdict, Mr. Shelton?

21 CHAD SHELTON: Yes, Your Honor.

22 THE COURT: Ladies and gentlemen, I
23 appreciate the proper decorum and courtesies
24 extended during this trial. I can only imagine
25 the anxiety that each of you feel, for various

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1 reasons. I respect that. But one thing that I
2 believe in, as you have heard me say throughout
3 this week, is that I believe in this process, I
4 believe in this country and the method that we
5 have for resolving disputes. These citizens of
6 this community have given up their time for us.
7 I want to continue to respect this process.

8 When I receive the verdicts, I will not
9 permit any reaction, any emotional response or any
10 outburst at all when the verdict is published. I
11 understand that that may be difficult. If you
12 feel that you might have some difficulty
13 controlling yourself, then you need to excuse
14 yourself now. If you don't and there is an
15 outburst, I will have to deal with that. That's
16 contempt of court. I don't like to do that but
17 that is what I will have to do to, again, protect
18 and preserve the sanctity and dignity of this
19 process. Bring the jury in, please.

20 (JURY IN @ 5:54 P.M.)

21 THE COURT: Mr. Fowler, I am informed
22 that the jury has reached a verdict?

23 FOREMAN: Yes, sir.

24 THE COURT: Please provide the verdict
25 form to Mrs. Wiggins (bailiff).

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1 CLERK: (Receives verdict from Foreman
2 and tenders to the Court).

3 THE COURT: (Upon review), okay. The
4 verdict forms each have been properly completed.
5 I would ask the defendant to please rise.

6 DEFENDANT: (Complies).

7 THE COURT: In the State of South
8 Carolina versus Steven Lee Morgan, 12-GS-08-0499,
9 "We, the jury, by unanimous consent find the
10 Defendant, Steven Lee Morgan, on the charge of
11 attempted murder Guilty." Signed by Mr. Fowler
12 as the presiding juror, dated April 23, 2013.

13 Same caption, 12-GS-08-0496, "We, the
14 jury, by unanimous consent find the Defendant,
15 Steven Lee Morgan, on the charge of burglary first
16 Guilty." Signed by Mr. Fowler as the presiding
17 juror, dated April 23rd, 2013.

18 Same caption, 12-GS-08-0498, "We, the
19 jury, by unanimous consent find the Defendant,
20 Steven Lee Morgan, on the charge of kidnaping
21 Guilty." Signed by Mr. Fowler as the presiding
22 juror, dated April 23rd, 2013.

23 Same caption, 12-GS-08-0497, "We, the
24 jury, by unanimous consent find the Defendant,
25 Steven Lee Morgan, on the charge of criminal

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1 sexual conduct in the first degree Guilty."

2 Signed by Mr. Fowler as the presiding juror, dated
3 April 23rd, 2013.

4 Case number 12-GS-08-0500, "We, the jury,
5 by unanimous consent find the Defendant, Steven
6 Lee Morgan, on the charge of possession of a knife
7 during the commission of a violent crime Guilty."

8 Signed by Mr. Fowler as the presiding juror, dated
9 April 23rd, 2013.

10 Ladies and gentlemen, if the court has
11 accurately published your verdicts, please
12 indicate that by raising your right hand - (each
13 juror raised their right hand). Thank you. You
14 may put them down. Let the record reflect that
15 each juror raised his or her right hand in
16 response to the court's inquiries.

17 Anything further from the jury, from Mr.
18 Morgan?

19 CHAD SHELTON: Your Honor, we would
20 ask that the jury be polled.

21 THE COURT: Very well. You may take
22 your seat, Mr. Morgan. Thank you very much.

23 Ladies and gentlemen, what is going to
24 happen now is that the clerk is going to call your
25 name. She is going to ask you if these are your

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1 SOLICITOR WILLIAMS: They are bringing
2 them, Your Honor.

3 THE COURT: All right. Any Motions
4 from the State?

5 SOLICITOR WILLIAMS: None from the
6 State.

7 THE COURT: Any Motions from the
8 Defendant?

9 CHAD SHELTON: I just renew all
10 Motions, the directed verdict Motions, objections,
11 everything that we raised during the trial.

12 THE COURT: Very well. The court has
13 previously ruled specifically on each one of those
14 Motions. I believe that the verdicts are
15 supported overwhelmingly in this case by the
16 evidence. Therefore, I refuse to grant a new
17 trial. We will be at-ease for a few minutes.

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

20 THE COURT: Thank you, ladies and
21 gentlemen. Ms. Williams, are we ready to proceed?

22 SOLICITOR WILLIAMS: Yes, Your Honor.
23 There is one family member that would like to
24 address the Court at the appropriate time.

25 THE COURT: I would be delighted to

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1 hear from them at this time.

2 SOLICITOR WILLIAMS: This is Robert
3 Grantham.

4 THE COURT: Thank you very much. Mr.
5 Grantham, good afternoon, sir.

6 ROBERT GRANTHAM: Good afternoon, Judge.
7 I want to thank you for this opportunity to speak.
8 My name is Robert Grantham. Rose is my niece. I
9 helped raise Rose, in Moncks Corner. I am tired.
10 I am very, very tired. I have a lot of things
11 that I wanted to say but I'm going to keep it very
12 short.

13 Thank God that I live in a country called
14 America. Thank God that justice will be served.
15 I thank God for the God that I serve because he is
16 an awesome God. God has given man every right
17 except over another human being. No human being
18 has a right to put their hands on anyone.

19 I retired from the Darlington County
20 Sheriff's Office. In my time in law enforcement,
21 I saw some of everything. But never would I have
22 expected this to happen in my family. This is
23 something that we see in other people's families.
24 We did not realize that we had a monster coming
25 around our family.

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1 I would like to say to Steven that you
2 have shaken this family but we are not down. We
3 will get back up and you will never bring us down.
4 Never. I want you to know that.

5 I would also like to say that Rose's son,
6 Sean, is going through some things right now. He
7 is wrestling with some things right now. A couple
8 of years ago Sean and his friends were walking
9 and heard some lady yelling for help. Sean and
10 his friend went to assist. When they got there,
11 it was a man beating his wife. They intervened,
12 as any decent human being would do. Instead, this
13 man pulled a gun. They ran, and Sean was shot.
14 When the police officer arrived, the police
15 officer was shot in his face. Sean dealt with the
16 lady, with the officer getting shot and with
17 putting himself in danger. But what he is really
18 dealing with today is that on the night that his
19 mother was viciously and violently attacked, he
20 wasn't there to protect his mother. That is what
21 he is dealing with today.

22 We are a family. We are strong and we're
23 going to get through this. The God that we serve
24 will not let us down.

25 What I am going to ask this Court, the

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1 Ninth Circuit, is that whatever time you want to
2 give to Steven, I am asking -, at least on two of
3 the charges, criminal sexual conduct and the
4 burglary first, I am asking that he be given the
5 maximum and that the sentences be run consecutive.
6 I am asking for twenty-five years each and that
7 they be run consecutive because I don't want to
8 see him out no time soon. If he gets out, I want
9 to see him out as an old man so that he cannot
10 harm anyone anymore. That's what I am asking of
11 this Court. I want you to send a message for
12 every woman in this courtroom, every woman in this
13 county, every woman in the state, every woman in
14 this country that the Ninth Circuit Court will not
15 tolerate a man putting his hands on a woman.
16 Thank you very much.

17 THE COURT: Thank you, Mr. Grantham.
18 I appreciate your words. I appreciate your being
19 here. Anything else?

20 SOLICITOR WILLIAMS: No, sir.

21 THE COURT: Mr. Shelton?

22 CHAD SHELTON: Thank you, Your Honor,
23 may it please the court.

24 THE COURT: Yes, sir.

25 CHAD SHELTON: Steven is thirty-eight

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1 years of age. He does have two children. Steven
2 has decided not to answer Your Honor, for obvious
3 reasons.

4 THE COURT: I understand.

5 CHAD SHELTON: For those same
6 reasons, I don't think that I would be right for
7 me, necessarily, to talk about everything that
8 Steven and I have talked about, to talk about the
9 case.

10 Your Honor, I do -- you've probably seen
11 him in the courtroom, his father sitting right
12 behind us.

13 THE COURT: I have noticed. My heart
14 has gone out to him as well.

15 CHAD SHELTON: He came from Georgia to
16 be here. He was here -- we were on the trial
17 docket a couple of terms ago and he was here then.
18 Steven's mother is also here and his sister, but
19 they are in Goose Creek. They just knew that they
20 wouldn't be able to handle this emotionally, to be
21 here. Your Honor, his father would like for me to
22 let you know that they care about him, they love
23 him.

24 There were some things in evidence, as
25 far as jail tapes, that I was able to listen to,

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1 some of those. I can tell you from that and from
2 talking with his father that they would do
3 anything for him. They -- they are here.

4 Steven knows what the possible punishment
5 is, the max punishment, especially for burglary in
6 the first degree. Your Honor, he's thirty-eight
7 years of age, he does have two children. I would
8 ask Your Honor to have as much mercy as you can in
9 this case. Thank you.

10 THE COURT: Thank you. Anything else?

11 CHAD SHELTON: No, sir.

12 THE COURT: Mr. Morgan, I ask you to
13 rise, please, sir.

14 DEFENDANT: (Complies).

15 THE COURT: The evidence in this case
16 speaks for itself so far as the cruelty, the
17 absolute lack of compassion for a human being.
18 To further it by having her have to go through
19 this entire ordeal -- in my forty years practicing
20 law, I've never seen anyone brutalized to that
21 extent. I can't tell you that I've seen every one
22 but there is nothing in our society that says that
23 that can be tolerated for a second.

24 So I am going to show some mercy because
25 you probably deserve to never leave prison. I

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1 have the power to do that. But I am going to
2 choose not to. Now, you're going to be a senior,
3 very senior, when you get out but I'm going to
4 allow you the opportunity to get out one day.

5 The sentence of the Court on 12-496,
6 which is the burglary charge, and it will be the
7 controller -- as I interpret that statute, it's
8 fifteen years to life. So I'm going to sentence
9 you to forty (40) years. I'll give you credit for
10 the time that you have served. You know, that's
11 an eighty-five percent sentence. You're aware of
12 that?

13 DEFENDANT: (No verbal response).

14 THE COURT: The sentence of the Court
15 on Indictments 12-499, the attempted murder,
16 2012-498, which is the kidnaping, 2012-497, I
17 will impose the maximum sentence on each of those
18 but they are concurrent. I will run those
19 concurrently with the burglary first.

20 The sentence, however, on 2012-500,
21 possession of the knife, -- because the knife,
22 to me, became very, very critical in this. It
23 caused her fear, it injured her, it absolutely
24 -- I think the jury absolutely got it right that
25 it facilitated the crimes, all of them. So the

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1 sentence of the Court -- and you know that that is
2 a day-for-day sentence. The sentence of the
3 Court on the possession of a knife during the
4 commission of a crime is five (5) years. It is
5 consecutive to 2012-08-496. Good luck to you,
6 sir.

7 COURT REPORTER: Judge, what is the
8 maximum on the others?

9 THE COURT: On that one it is five
10 years.

11 COURT REPORTER: On 499, 498, 497?

12 THE COURT: Thirty (30) years. Thank
13 you.

14 CHAD SHELTON: And, Judge, he has been
15 in custody since January 29th. He signed the
16 extradition warrants ---

17 THE COURT: Okay. So January 29th, --
18 what year?

19 CHAD SHELTON: 2012.

20 THE COURT: I will write that in there,
21 January 29th. Credit for time served since January
22 29th, 2012. I will write that on each indictment.
23 Thank you, sir.

24 (TRANSCRIPT CONCLUDED)

25

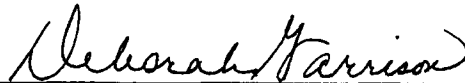
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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF CHARLESTON)

I, the undersigned Deborah Garrison, Circuit Court Reporter for the 9th Judicial Circuit, hereby certify that the foregoing is a complete and accurate transcript of the jury trial held in the within action heard on April 19-23, 2013 before The Honorable R. Markley Dennis, Jr.;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.



Deborah Garrison

Charleston, South Carolina
November 2, 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSSIONS
	)	
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
	)	
	)	STATE'S MOTION <u>IN LIMINE</u>
	)	and Memorandum in Support of
	)	Motion to include Testimony of Expert
	)	Testimony
STATE OF SOUTH CAROLINA	)	Indictment #s: 2012 GS 08 0496
	)	2012 GS 08 0497
	)	2012 GS 08 0498
-versus-	)	2012 GS 08 0499
	)	2012 GS 08 0500
Steven Morgan	)	
Defendant.	)	

HARRY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

13 APR 18 PM 4:33

FILED

Kwm

The State hereby moves this Court for a ruling as to the admissibility of expert testimony from a Forensic Analyst from the South Carolina Law Enforcement Division (SLED).

The State of South Carolina by and through Assistant Solicitor Anne Williams moves for the admission of expert testimony regarding evidence tested by the State Law Enforcement Division (SLED) lab. The State's proposed expert reviewed the results, work sheets, specimens, procedures and protocols used in the original testing and formulated her own expert opinion based on the review. The State is not seeking to move the original expert's report into evidence but rather offer an independent opinion and review by a separate analyst. The State's expert witness regularly performs the same duties as the analyst that performed the testing and works in the same lab.

FACTS

Kwm

Evidence collected during a sexual assault examination of the Victim in the above mentioned case was sent to the SLED lab and was tested by Mary Boehm, a SLED forensic analyst in the DNA Department. As required by Certification guidelines promulgated by the American Association of Crime Laboratory Directors (ASCLD), the results cannot be certified and available for publication until a peer review is completed. A peer review consisting of a complete review of all of the data, notes, worksheets, protocol and procedures utilized is conducted in every SLED/DNA case. SLED Forensic analyst, Amanda Webb, completed a peer review and arrived at her own expert opinion. In addition, Analyst Webb conducted another full review of the case in preparation for her testimony. Analyst Webb works in the same department as analyst Boehm, performs the same duties as analyst Boehm and has been qualified as an expert in the field of Forensic Science/DNA testing fourteen (14) times in General Sessions Court. The State is offering Amanda Webb's testimony as an expert opinion on the information she reviewed and conclusions she reached after reviewing the data.

ANALYSIS

The State relies on Williams v. Illinois, 567 U.S. ___, 132 S.Ct. 2221, 183 L.Ed 2d 89 (2012); Bullcoming v. New Mexico, 131 S.Ct. 2705 (2011), and Rule 703, SCRE, for its motion. Rule 703, SCRE, does not require that an expert rely on facts and data admitted into evidence or that the basis of his/her expert opinion be facts within his/her firsthand knowledge. South Carolina case law has relied on this rule numerous times for this premise. "An expert witness may state an opinion based on facts not within his firsthand knowledge, and may base his opinion on information, whether or not admissible, made available to him before the hearing if the information is of the type reasonably

relied upon in the field Peterson v. National R.R. Passenger Corp., 365 S.C. 391, 618 S.E. 2d 903 (2005); Dawkins v. Fields, 354 S.C. 58, 580 S.E.2d 433 (2003), In re Manigo, 389 S.C. 96, 697 S.E. 2d 629 (Ct. App. 2010).

A recent United States Supreme Court case: Williams v. Illinois, discusses the issue of expert testimony and the confrontation clause at length. In Williams, an expert witness gave her opinion regarding a sexual assault kit that was taken and identified by personnel from a different lab. The expert witness assumed certain facts not in evidence as the basis for her opinion. The Court treated this testimony as expert witness testimony and ruled that it was not in violation of the Confrontation Clause.

In Bullcoming v. New Mexico, the Supreme Court came to a different result but the facts are distinguishable. The Court held that the Defendant had a right to confront an analyst who certified a blood analysis report because the report was testimonial within the meaning of the confrontation clause. 131 S.Ct. 2705 (2011). In that case, the "State called another analyst to introduce the actual report that the original analyst prepared. The witness in court was familiar with the laboratory's testing procedures but did not arrive at her own expert opinion. *Id.* at 2709. In the present case, the State's witness performed her own review of all of the evidence and arrived at her own expert opinion.

Justice Sotomayor's addresses this issue directly in her concurrence in Bullcoming v. New Mexico. In discussing the facts in Bullcoming, she stated that "this is not a case in which an expert witness was asked for his independent opinion about underlying testimonial reports that were not themselves admitted into evidence." Justice Sotomayor also cites Rule 703 in this discussion and states that in this case "aside from

reading a report that was introduced as an exhibit, [the expert] offered no opinion about Petitioner's blood alcohol content. *We would face a different question if asked to determine the constitutionality of allowing an expert witness to discuss others' testimonial statements if the testimonial statements were not themselves admitted into evidence* " Id. at 2722 (emphasis added). Our case presents just that "different" question that Justice Sotomayor articulates and opines that a different result would have been reached.

The Supreme Court in Williams v. Illinois acknowledged that they were addressing precisely that issue noted by Justice Sotomayor. In Williams Justice Alito quotes Justice Sotomayor in Bullcoming as she says we would face a different question if dealing with an expert opinion. He then states "We now confront that question" Williams, at 2233 The Court states.

When an expert testifies for the prosecution in a criminal case, the defendant has the opportunity to cross-examine the expert about any statements that are offered for their truth. Out-of-court statements that are related by the expert solely for the purpose of explaining the assumptions on which that opinion rests are not offered for their truth and thus fall outside the scope of the Confrontation Clause. Applying this rule to the present case, we conclude that the expert's testimony did not violate the Sixth Amendment. Second, the expert testimony was not 'testimonial' under the Sixth Amendment. Williams v. Illinois, 567 U.S. ___, 132 S.Ct. 2221, 183 L.Ed 2d 89 (2012).

The court further stated that if the State did not present evidence about the assumptions or "foundational facts" assumed by the expert then the trier of fact could give the opinion little or no weight. Id.

CONCLUSION

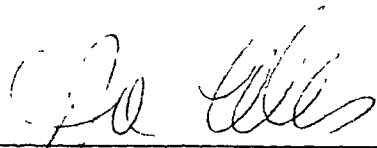
Therefore, introducing Analyst Webb's testimony does not violate the confrontation clause as this case is more analogous to Williams v. Illinois and unlike Bullcoming v. New Mexico. See Id. This testimony is consistent with that allowed through Rule 703, SCRE. The State Respectfully requests that expert testimony be permitted by Amanda Webb offering an expert opinion regarding the Defendant's DNA profile compatibility with evidence collected in a sexual assault kit. This opinion will be based on her review of the data, specimens, reports and worksheets in the case. The original analyst's report will not be offered into evidence.

The State respectfully moves for a ruling on the admissibility of this opinion evidence through the expert as described above in advance of trial. This is necessary for planning purposes regarding the original analyst who is on medical leave.

Respectfully submitted,

Scarlett Wilson
Solicitor, Ninth Judicial Circuit

By

A handwritten signature in cursive script, appearing to read 'Anne Williams', written over a horizontal line.

Anne Williams
Assistant Solicitor

Moncks Corner, South Carolina
April 19, 2013

STATE OF SOUTH CAROLINA

392
COUNTY OF Berkeley
STATE VS
Steven Lee Morgan
AKA
Race BLACK Sex M Age 38
DOB 12-14-1974 SS# 252-25-8627
Address 114 First Street
City, State, Zip Dearing, GA 30808
DL# 054334916 SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO Possession of a Firearm or Knife During Commission of a Violent Crime

in violation of § 16-23-0490 of the S C Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST. Williams, Anne 76463 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____, provided that upon the service of _____ days/months/years and/or payment
of \$ _____, plus costs and assessments as applicable*, the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on 2012 GS-08-0476
☒ The Defendant is to be given credit for time served pursuant to S C Code § 24-13-40 to be calculated and applied
by the State Department of Corrections Jan 29, 2012

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-135

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee \$ _____

Payment Terms _____

☐ Set by SCDPPPS _____

Recipient _____

*Fine	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforcement Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$133.90

Clerk of Court/ Deputy Clerk D. Tucker
Court Reporter Deborah Grimsen
SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2012-GS-08-0500
A/W# K002564
Date of Offense 1/29/2012
S C Code § 16-23-0490
CDR Code # 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc Rehab or Job Corp _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd in equal, consecutive weekly/monthly
pmts of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other _____

☐ Appointed PD or appointed other counsel,
§ 47-12 requires \$500 be paid to Clerk
during probation

Presiding Judge
Judge Code
Sentence Date

2012 GS-08-0476
4/23/13

AMW2012-02-00160

WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2012-0375

ARREST WARRANT NUMBER

K002564

DATE OF ARREST

February 3, 2012

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date 4/11/12

VERDICT

Foreperson of Petit Jury

Date

INDICT

DOCKET NO. 2012-GS-08-0500

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

Vs

STEVEN LEE MORGAN

DOB: 1974-12-14

B/M

Indictment for

**Possession of a Knife During the
Commission of a Violent Crime**

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

12 APR 11 PM 12:34

FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

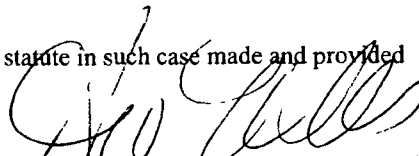
INDICTMENT

At a Court of General Sessions, convened on April 11, 2012 the Grand Jurors of Berkeley County present upon their oath

Possession of a Knife During the Commission of a Violent Crime

That Steven Lee Morgan did in Berkeley County, South Carolina, on or about January 29, 2012, possess a knife or visibly display what appeared to be a knife during the commission, or attempted commission, of attempted murder, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided



ANNE M. WILLIAMS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Berkeley

VS

Steven Lee Morgan

AKA

Race BLACK Sex M Age 38

DOB

Address

City, State, Zip Dearing, GA 30808

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO ~~Murder~~ Attempted Murder

IN THE COURT OF GENERAL SESSIONS

395

INDICTMENT/CASE# 2012-GS-08-0499

A/W# K002563

Date of Offense 1/29/2012

S C Code § 16-03-0029

CDR Code # 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S C Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)The charge is ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST

Williams, Anne

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____, provided that upon the service of _____ days/months/years and/or payment
of \$ _____, plus costs and assessments as applicable*, the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference☒ CONCURRENT or ☐ CONSECUTIVE to sentence on☒ The Defendant is to be given credit for time served pursuant to S C Code § 24-13-40 to be calculated and applied
by the State Department of Corrections Jan 29, 2012☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-135Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee \$ _____

Payment Terms

☐ Set by SCDPPPS

Recipient

*Fine

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 39.00
TOTAL		\$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc Rehab or Job Corp _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd in equal, consecutive weekly/monthly
pmts of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other _____

☐ Appointed PD or appointed other counsel,
§ 47-12 requires \$500 be paid to Clerk
during probation

Clerk of Court Deputy Clerk

Court Reporter

SCCA/217 (03/2011)

Presiding Judge

Judge Code

Sentence Date

[Signature]
2012
4/23/13

JFH

AMW2012-02-00160

WITNESSES

Goose Creek Police Department

[Signature]

AGENCY CASE NUMBER

2012-0375

ARREST WARRANT NUMBER

K002563

DATE OF ARREST

February 3, 2012

ACTION OF GRAND JURY

True Bill

[Signature]
Representative of Grand Jury
Date 4/11/12

VERDICT

Foreperson of Petit Jury

Date

INDICT

396

DOCKET NO. 2012-GS-08-0499

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

Vs

STEVEN LEE MORGAN

DOB: 1 [REDACTED]
B/M

Indictment for

Attempted Murder

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY S.C.

12 APR 11 PM 12:34

FILED

[Signature]

✓

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

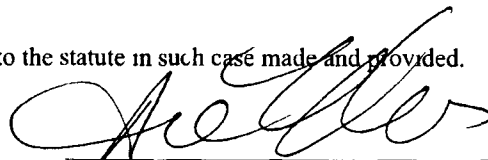
INDICTMENT

At a Court of General Sessions, convened on April 11, 2012 the Grand Jurors of Berkeley County present upon their oath

Attempted Murder

That Steven Lee Morgan did in Berkeley County, South Carolina, on or about January 29, 2012, willfully, feloniously, and intentionally attempt to kill another person, Rose Lampkin, with malice aforethought, either expressed or implied, by means of a knife, in violation of §16-03-0029 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ANNE M. WILLIAMS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF 398 Berkeley
 STATE VS
 Steven Lee Morgan

AKA

Race: BLACK Sex M 38

Address [REDACTED]

City, State, Zip Dearing, GA 30808

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO Kidnapping

in violation of § 16-03-0910 of the S C Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is ☒ As Indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST [Signature] 26463
 Williams, Anne SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____, provided that upon the service of _____ days/months/years and/or payment
 of \$ _____, plus costs and assessments as applicable*, the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on

☒ The Defendant is to be given credit for time served pursuant to S C Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections Jan 24, 2012

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-135

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee \$ _____

Payment Terms _____

☐ Set by SCDPPPS _____

Recipient _____

*Fine. \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 39.00

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk O. Tucker

Court Reporter Deborah Garrison

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2012-GS-08-0498

A/W# K002562

Date of Offense 1/29/2012

S.C Code § : 16-03-0910

CDR Code # 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc Rehab or Job Corp _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd in equal, consecutive weekly/monthly

pmts of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other _____

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation

Presiding Judge [Signature]

Judge Code 2060

Sentence Date 4/23/13

JFH

AMW2012-02-00160

WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2012-0375

ARREST WARRANT NUMBER

K002562

DATE OF ARREST

February 3, 2012

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: 4/11/12

VERDICT

Foreperson of Petit Jury

Date

INDICT

DOCKET NO. 2012-GS-08-0498

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

Vs

STEVEN LEE MORGAN

DOB: 1 [REDACTED]

B/M

Indictment for

Kidnapping

12 APR 11 PM 12:34
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY S.C.

FILED

JOH

✓

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

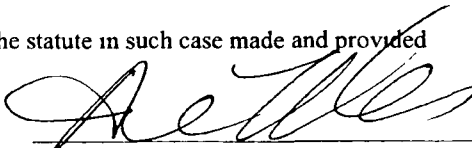
INDICTMENT

At a Court of General Sessions, convened on April 11, 2012 the Grand Jurors of Berkeley County present upon their oath

Kidnapping

That Steven Lee Morgan did in Berkeley County, South Carolina, on or about January 29, 2012, unlawfully seize, confine, inveigle, decoy, kidnap, abductor carry away one Rose Lampkin, without authority of law, in violation of Section 16-03-910 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided


ANNE M. WILLIAMS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Berkeley
STATE VSSteven Lee Morgan

AKA

Race BLACK Sex M Age 38DOB [REDACTED] SS# [REDACTED]Address [REDACTED]
[REDACTED] 30808DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO Criminal Sexual Conduct - 1st Degree

IN THE COURT OF GENERAL SESSIONS

401

INDICTMENT/CASE# 2012-GS-08-0497A/W# K002561Date of Offense 1/29/2012S C Code § 16-03-0652CDR Code # 0160

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0652 of the S C Code of Laws, bearing CDR Code # 0160☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC § 17-25-45
w/minor 1st or Lewd Act)The charge is ☒ As Indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST

Williams, AnneSC Bar# 76463

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____, provided that upon the service of _____ days/months/years and/or payment

of \$ _____, plus costs and assessments as applicable*, the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference☒ CONCURRENT or ☐ CONSECUTIVE to sentence on☒ The Defendant is to be given credit for time served pursuant to S C Code § 24-13-40 to be calculated and applied
by the State Department of Corrections Jan 29, 2012☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S C Code § 17-25-135Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee \$ _____

Payment Terms _____

☐ Set by SCDPPPS _____

Recipient _____

*Fine		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Del/Prob)	\$500	\$
§ 14-1-212 (Law Enforce Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc Rehab or Job Corp _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probationClerk of Court/Deputy Clerk D. SeckerCourt Reporter Deborah Burnson

SCCA/217 (03/2011)

Presiding Judge [Signature]Judge Code 2060Sentence Date 4/23/13JFH

AMW2012-02-00160

WITNESSES

Goose Creek Police Department

MLC

AGENCY CASE NUMBER

2012-0375

ARREST WARRANT NUMBER

K002561

DATE OF ARREST

February 3, 2012

ACTION OF GRAND JURY

True Bill

W. H. Peters

Foreperson of Grand Jury

Date 4/11/12

VERDICT

Foreperson of Petit Jury

Date

INDICT

DOCKET NO. 2012-GS-08-0497

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

Vs

STEVEN LEE MORGAN

DOB: [REDACTED]

B/M

Indictment for

Criminal Sexual Conduct, First Degree

12 APR 11 PM 12:34
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY S.C.

FILED

SLX

402

✓

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

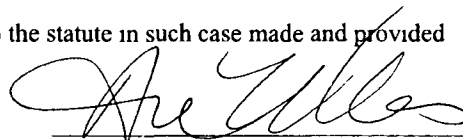
INDICTMENT

At a Court of General Sessions, convened on April 11, 2012 the Grand Jurors of Berkeley County present upon their oath

Criminal Sexual Conduct, First Degree

That Steven Lee Morgan did in Berkeley County, South Carolina, on or about January 29, 2012, commit a sexual battery upon the victim, Rose Lampkin, without consent, and with the use of aggravated force, to wit: penile genital penetration; all in violation of Section 16-3-652, Code of Laws of South Carolina, (1976, as amended)

Against the peace and dignity of the State, and contrary to the statute in such case made and provided



ANNE WILLIAMS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Berkeley

VS

Steven Lee Morgan

AKA

Race BLACK Sex M 38

DOB SS#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO Burglary, 1st degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2012-GS-08-0496

A/W# K002560

Date of Offense 1/29/2012

S C Code § 16-11-0311

CDR Code # 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0311 of the S C Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC § 17-25-45 w/minor 1st or Lewd Act)The charge is ☒ As Indicted, ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST

Williams, Anne

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 40 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$, provided that upon the service of days/months/years and/or payment

of \$, plus costs and assessments as applicable*, the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on.☒ The Defendant is to be given credit for time served pursuant to S C Code § 24-13-40 to be calculated and applied by the State Department of Corrections JAN 29, 2012☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S C Code § 17-25-135

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

Total \$ plus 20% fee \$

Payment Terms

☐ Set by SCDPPPS

Recipient

*Fine	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$1339.00

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc Rehab or Job Corp

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd in equal, consecutive weekly/monthly pmts of \$ beginning

\$ paid to Public Defender Fund

Other

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation

Clerk of Court/Deputy Clerk

Court Reporter

SCCA/217 (03/2011)

Presiding Judge

Judge Code.

Sentence Date.

AMW2012-02-00160

WITNESSES

405
Goose Creek Police Department

AGENCY CASE NUMBER

2012-0375

ARREST WARRANT NUMBER

K002560

DATE OF ARREST

February 3, 2012

ACTION OF GRAND JURY

True Bill

M. Peters
Foreperson of Grand Jury
Date 4/11/12

VERDICT

Foreperson of Petit Jury

Date

INDICT

DOCKET NO. 2012-GS-08-0496

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

Vs

STEVEN LEE MORGAN

DOB: [REDACTED]

B/M

Indictment for

Burglary, First Degree

12 APR 11 PM 12:34
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY S.C.

FILED

MS

✓

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

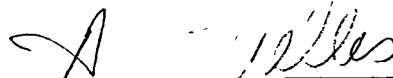
INDICTMENT

At a Court of General Sessions, convened on April 11, 2012 the Grand Jurors of Berkeley County present upon their oath

Burglary, First Degree

That Steven Lee Morgan did in Berkeley County, South Carolina, on or about January 29, 2012, unlawfully enter the dwelling of Rose Lampkin, located at [REDACTED] Goose Creek without consent and with the intent to commit a crime therein, to wit; rape and/or assault and battery; and either. armed himself with a deadly weapon and/or caused physical injury to a person who was not a participant in the crime; and/or displayed what was or appeared to be a knife, and/or the entering or remaining occurred in the nighttime. This is in violation of Section 16-11-311 of the South Carolina Code of Laws (1976) as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided

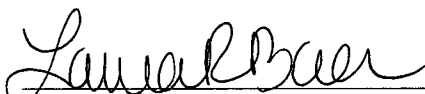


ANNE M. WILLIAMS
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 12th, 2015



Laura R. Baer
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

JAN 12 2015

SC Court of Appeals