

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Greenville County
Eugene C. Griffith, Jr., Circuit Court Judge

RECEIVED

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S.C. Supreme Court

ANTWAN GRAYSON

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000823

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

State of South Carolina,
Plaintiff,

-VS-

Antwan Dominique Grayson,
Defendant.

COURT OF GENERAL SESSIONS.

Case No(s) : 2009GS2304364,
2009GS2304365,
2009GS2304366

TRANSCRIPT OF RECORD

March 28-30, 2011
Greenville, South Carolina

B E F O R E :

HONORABLE ROBIN B. STILWELL, Judge.

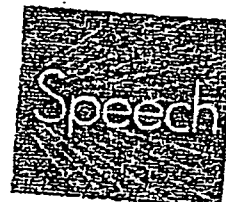
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(No exhibits offered.)

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P R O C E E D I N G S

(WHEREUPON; State's Exhibits 1 through 17 are premarked for identification purposes.)

(WHEREUPON, the proceedings begin on the 28th day of March, 2011 at approximately 11:40 a.m.)

THE COURT: All right. Good morning again. It's good to see you. As I suggested to you downstairs, I have several questions to ask you related to your qualifications and your suitability to sit as jurors in the trial of this specific case. Downstairs, obviously, you took an oath. You took an oath to tell the truth and to understand and appreciate, of course, that that oath remains. You remain under that oath here this morning.

Now, I'm going to ask you these questions. You will do the same thing that you did downstairs and, that is, if the answer to any of the questions that I ask you is in the affirmative, then please stand and state your name and your juror number and then respond to the question.

Now, before I get started, Ladies and Gentlemen, what I'm going to do is read to you the allegations that the State is making

Jury Qualification

9

1 against the defendant, Mr. Grayson. Now, when
2 I read these indictments to you, what I want
3 you to keep in mind is that these are
4 allegations. These are the facts as the State
5 of South Carolina alleges them to be. Please
6 know that just because I am reading them that I
7 am not saying that they are true and they are
8 factual. The State, in each and every criminal
9 proceeding in the United States of America and
10 in the state of South Carolina and in the
11 county of Greenville, has the burden of proving
12 a defendant beyond a reasonable doubt.

13 The State has the burden of proving the
14 defendant guilty beyond a reasonable doubt, uh,
15 in this case. The defendant, on the contrary,
16 does not have any burden of proof and the
17 defendant remains innocent, presumed innocent
18 until the State meets its burden of proving him
19 guilty beyond a reasonable doubt. The reason I
20 tell you all that is because sometimes when I
21 tell you something or I read something, jurors
22 accept that as fact. I want to be very careful
23 that I am not suggesting that this is factual.
24 These are allegations, but I have to read them
25 to you. The reason I need to read them to you

Jury Qualification

10

1 is so you will know at least the allegations so
2 that you can intelligently answer the questions
3 that I have to ask you related to this case.

4 Ladies and Gentlemen, there are three
5 indictments in this case. The first indictment
6 in this case is Indictment number 2009-GS-4365,
7 the State versus Antwan Dominique Grayson
8 indicted for Criminal Sexual Conduct first
9 degree. The State would allege that Antwan
10 Dominique Grayson did in Greenville County on
11 or about March 16, 2009 engage in sexual
12 battery with the victim and use aggravated
13 force to accomplish the sexual battery.

14 Ladies and Gentlemen, the second indictment
15 that I have is Indictment 2009-GS-23-4366, the
16 State versus Antwan Dominique Grayson wherein
17 he is charged with Kidnaping. The State did
18 allege that Mr. Grayson did, in Greenville
19 County on or about 16 March 2009, unlawfully
20 seize, abduct, confine, inveigle, decoy or care
21 away -- carry away the victim without the
22 authority of law.

23 Ladies and Gentlemen, the third indictment
24 is Indictment 2009-GS-23-4364, the State versus
25 Antwan Dominique Grayson indicted for two

Jury Qualification

11

1 counts, one count of Armed Robbery and one
2 count of Possession of a Weapon during the
3 Commission of a Violent Crime. The State would
4 allege in this indictment that the defendant
5 did, in Greenville County on or about 16 March
6 2009, while armed with a deadly weapon or while
7 engaging either by action or words he was
8 armed, while using a representation of a deadly
9 weapon or any object which a person present
10 during the commission of the robbery would
11 reasonably believe to be a deadly weapon, take
12 by means of force or intimidation goods or
13 monies described as a cell phone and U.S.
14 Currency from the victim. I smile because only
15 a lawyer could put it like that.

16 The second count. The State would allege
17 that in Greenville County on or about March 16,
18 2009, possessed and visibly displayed a handgun
19 during the commission or attempted commission
20 of a violent crime.

21 Now Ladies and Gentlemen, the reason I read
22 all of that to you is so you can intelligently
23 answer this question and that is this, is there
24 anyone among you who has formed any opinion or
25 who has any knowledge regarding the alleged

Jury Qualification

12

1 facts and circumstances of this case? (No
2 response.)

3 All right. Let the record reflect no
4 affirmative response.

5 Ladies and Gentlemen, the defendant in this
6 case, as I've already told you is Mr. Antwan
7 Dominique Grayson. I'll ask you is there
8 anyone among you who has a personal,
9 professional or family relationship with the
10 defendant, Mr. Grayson? (No response.)

11 Let the record reflect no affirmative
12 response.

13 Ladies and Gentlemen, Mr. Randy Chambers of
14 the Greenville County Bar represents Mr.
15 Grayson in this matter. Is there anyone among
16 you who has a personal, professional or family
17 relationship with Mr. Chambers? (No response.)

18 All right. The prosecution is represented
19 by Ms. Kris Hodge of the Greenville County
20 Solicitor's Office. Is there anyone among you
21 who has a personal, professional or family
22 relationship with Ms. Hodge or anyone employed
23 in the Greenville County Solicitor's Office?

24 Yes, ma'am.

25 THE JUROR: I have a question.

Jury Qualification

13

1 THE COURT: Sure.

2 THE JUROR: I don't know if this counts.
3 Mr. Chambers has represented me previously in a
4 case, but that's been years ago.

5 THE COURT: Okay. All right. Do you
6 think the fact that he has represented you
7 would affect your ability to be a fair and
8 impartial juror in the trial of this case?

9 THE JUROR: No.

10 THE COURT: Okay. What's your name and
11 juror number?

12 THE JUROR: Kelli Frazier, 225.

13 THE COURT: Okay. Thank you, Ms. Frazier.
14 I appreciate you telling me that.

15 All right. Ladies and Gentlemen, I'm going
16 to read off a list of potential witnesses in
17 this case. This may be an inclusive list and
18 it may not be. However, these are the
19 potential or prospective witnesses that may be
20 called to testify in this case. I'm going to
21 ask you the same question regarding all these
22 witnesses and that is whether you have
23 personal, professional or family relationship
24 with any of them. Those are, as follows:
25 Crystal Byers, Deputy Greg Porter, Deputy

Jury Qualification

14

1 Charlie Cunningham, Master Deputy Shannon
2 McMakin, Deputy J.B. Leathers, Deputy J. Reece,
3 Investigator Mike Fortner, Ronald Mahler, Brian
4 Wilkins, Joyce Callis, Karen Lewis, Joshua
5 Spencer, Tabitha Fricks, Brian Browning, Nikki
6 Perry, Sheree Brown, Amanda Webb, Mary Ann
7 Boehm, Renee Beauford or Beauford, Alvin
8 Gernard Grayson and Twa Grayson. Ladies and
9 Gentlemen, is there anyone among you who has a
10 personal, professional or family relationship
11 with any of those individuals? (No response.)

12 Now, Ladies and Gentlemen, I'll ask you did
13 any of you serve on the Grand Jury during which
14 this indictment was handed down? (No
15 response.)

16 Ladies and Gentlemen, is there anyone among
17 you who is a member of an organization which
18 advocates for victim's rights or for criminal
19 prosecution? By way of example, I mean SADD,
20 Students Against Drunk Driving, MADD, Mothers
21 Against Drunk Driving or any other advocacy
22 group? (No response.)

23 Let the record reflect no affirmative
24 response.

25 Is there anyone among you who has a

Jury Qualification

15

1 relative, a close relative who is employed by
2 law enforcement?

3 Yes, ma'am. If you would, stand up. Name
4 and juror number.

5 **THE JUROR:** Corinne Poage, 150. My
6 brother-in-law is a police officer for Greer.

7 **THE COURT:** For Greer. Okay. And do you
8 think, given that fact, that you could still be
9 a fair and impartial juror in the trial of this
10 case and render a verdict in accordance with
11 the law as I give it to you?

12 **THE JUROR:** Yes.

13 **THE COURT:** Okay. All right. Thank you.
14 I appreciate you telling me that, ma'am.

15 Anyone else? (No response.)

16 All right. Ladies and Gentlemen, is there
17 anyone else among you who for any reason
18 believes that you could not be a fair and
19 impartial juror in the trial of this case? (No
20 response.)

21 All right. Let the record reflect no
22 affirmative response.

23 Any additional questions and voir dire?

24 **MR. CHAMBERS:** No, Your Honor.

25 **MS. HODGE:** None from the State, Your

Jury Selection

16

1 Honor.

2 THE COURT: Okay. All right. Ladies and
3 Gentlemen, we're going to proceed toward jury
4 selection now. We're going to pick 12 jurors
5 and two alternates. The way we're going to do
6 that is a time tested method of doing it and
7 that is your name is going to be sounded by the
8 Clerk of Court. When she sounds your name, if
9 you would please, come forward and stand at the
10 lectern and face the clock kind of like I'm
11 doing. Not a position of attention, just as a
12 casual standing, looking at the clock.

13 What's going to happen is the respective
14 parties are going to have the opportunity to
15 make peremptory challenges or strikes. So
16 what's going to happen is you're going to come
17 up and the attorneys are going to say one of
18 four or five things. Either present or swear
19 the jury or juror -- excuse me. If you hear
20 either "present" or "swear the juror" twice,
21 that means congratulations are in order, you're
22 on the jury. Or you may hear "Please excuse
23 the juror from the trial of this case" or
24 "Please strike the juror from the trial of this
25 case". If you hear that, you are welcome just

Jury Selection

17

1 to sit back down in the pews because you will
2 have been stricken from the trial in this case.

3 Now, attorneys can strike jurors for just
4 about any reason. There are a few exceptions
5 to that, but they can strike jurors for just
6 about any reason. Sometimes, or actually in
7 all instances, you're probably not going to
8 know why you've been stricken from the trial of
9 this case. I'm going to suggest to you that you
10 probably shouldn't try to determine or define
11 why it is that you have been stricken from a
12 trial or stricken from a jury because you don't
13 want to get inside of an attorney's head
14 because then you would be as batty as we are
15 and I wouldn't suggest you try it.

16 So, uh, when you are called, what I'd ask
17 you is bring all of your stuff with you,
18 pocketbook, backpacks, whatever. And if you
19 are sworn and you are asked to be a part of
20 this jury, then have a seat in the jury box.
21 Once we get twelve jurors, we'll go to the
22 alternates. The alternates are there to make
23 sure that if any of the initial 12 jurors, for
24 some reason, has to be relieved during the
25 course of the trial that there is an extra

Jury Selection

18

1 juror to take his or her respective place.

2 THE CLERK: Juror number 228, Kory Kinnear
3 (white/male).

4 What says the State?

5 MS. HODGE: Please present the juror.

6 THE CLERK: What says the Defendant?

7 MR. CHAMBERS: Swear Mr. Kinnear.

8 THE CLERK: Thank you. You may be seated
9 in the jury box.

10 Juror Number 125, Virginia Maxwell
11 (black/female).

12 What says the State?

13 MS. HODGE: Please present the juror.

14 THE CLERK: What says the Defendant?

15 MR. CHAMBERS: Swear Ms. Maxwell please.

16 THE CLERK: Thank you. You may be seated
17 in the jury box.

18 Juror Number 75, Faye Garrett
19 (white/female).

20 What says the State?

21 MS. HODGE: Please present the juror.

22 THE CLERK: What says the Defendant?

23 MR. CHAMBERS: Excuse Ms. Garrett from the
24 trial of this case please.

25 THE CLERK: Thank you. You may be seated.

Jury Selection

19

1 You are excused from the trial of this case.
2 Juror Number 137, Gregg Moss (black/male).
3 What says the State?
4 MS. HODGE: Please present the juror.
5 THE CLERK: What says the Defendant?
6 MR. CHAMBERS: Swear Mr. Moss please.
7 THE CLERK: Thank you. You may be seated
8 in the jury box.
9 Juror Number 223, Thomas Clinton
10 (white/male).
11 What says the State?
12 MS. HODGE: Please present the juror.
13 THE CLERK: What says the Defendant?
14 MR. CHAMBERS: Swear Mr. Clinton please.
15 THE CLERK: Thank you. You may be seated
16 in the jury box.
17 Juror Number 111, Justin Leach
18 (black/male).
19 What says the State?
20 MS. HODGE: Please excuse the juror.
21 THE CLERK: Thank you. You may be seated.
22 You are excused from the trial of this case.
23 Juror Number 224, Raymond Colgrove
24 (white/male).
25 What says the State?

Jury Selection

20

1 MS. HODGE: Please present the juror.
2 THE CLERK: What says the Defendant?
3 MR. CHAMBERS: Excuse the juror from the
4 trial of this case please.
5 THE CLERK: Sir, you may be seated. You
6 are excused from the trial of this case.
7 Juror Number 232, David Sipe (white/male).
8 What says the State?
9 MS. HODGE: Please present the juror.
10 THE CLERK: What says the Defendant?
11 MR. CHAMBERS: Swear Mr. Sipe please.
12 THE CLERK: Thank you. You may be seated
13 in the jury box.
14 Juror Number 152, Travis Pridgeon
15 (white/male).
16 What says the State?
17 MS. HODGE: Please present the juror.
18 THE CLERK: What says the Defendant?
19 MR. CHAMBERS: Excuse Mr. Pridgeon from
20 the trial of this case please.
21 THE CLERK: Thank you. You may be seated.
22 You are excused from the trial of this case.
23 Juror Number 150, Corinne Poage
24 (white/female).
25 MS. HODGE: I'm sorry. What number is it?

Jury Selection

21

1 THE CLERK: Uh, that was 150.
2 What says the State?
3 MS. HODGE: Please present the juror.
4 THE CLERK: What says the Defendant?
5 MR. CHAMBERS: Excuse Ms. Poage from the
6 trial of this case please.
7 THE CLERK: Thank you. You may be seated..
8 You are excused from the trial of this case.
9 Juror Number 165, Alexander Rogers
10 (white/male).
11 What says the State?
12 MS. HODGE: Please present the juror.
13 THE CLERK: What says the Defendant?
14 MR. CHAMBERS: Swear Mr. Rogers please.
15 THE CLERK: Thank you. You may be seated
16 in the jury box.
17 Juror Number 175, Charlene Sims
18 (black/female).
19 What says the State?
20 MS. HODGE: Please present the juror.
21 THE CLERK: What says the Defendant?
22 MR. CHAMBERS: Swear Ms. Sims please..
23 THE CLERK: Thank you. You may be seated
24 in the jury box.
25 Juror Number 230, Maria Popp

Jury Selection

22

1 (white/female).

2 What says the State?

3 MS. HODGE: Please present the juror.

4 THE CLERK: What says the Defendant?

5 MR. CHAMBERS: Excuse Ms. Popp from the
6 trial of this case please.

7 THE CLERK: Thank you. You may be seated.
8 You are excused from the trial of this case.

9 Juror Number 201, Yanlai Wang
10 (Asian/female)..

11 What says the State?

12 MS. HODGE: Please present the juror.

13 THE CLERK: What says the Defendant?

14 MR. CHAMBERS: Swear Mr. Wang please.

15 THE CLERK: Thank you. You may be seated
16 in the jury box.

17 Juror Number 121, Recio Majors
18 (black/male).

19 What says the State?

20 MS. HODGE: Please excuse this juror.

21 THE CLERK: Thank you. You may be seated.
22 You are excused from the trial of this case.

23 Juror Number 159, Cynthia Ritchey
24 (white/female).

25 What says the State?

Jury Selection

23

1 MS. HODGE: Please present the juror.
2 THE CLERK: What says the Defendant?
3 MR. CHAMBERS: Excuse Ms. Ritchey from the
4 trial of this case please.
5 THE CLERK: Thank you. You may be seated.
6 You are excused from the trial of this case.
7 Juror Number 90, William Harvey
8 (white/male).
9 What says the State?
10 MS. HODGE: Please present the juror.
11 THE CLERK: What says the Defendant?
12 MR. CHAMBERS: Swear Mr. Harvey please.
13 THE CLERK: Thank you. You may be seated
14 in the jury box.
15 Juror Number 181, Terri Strange
16 (white/female).
17 What says the State?
18 MS. HODGE: Please present the juror.
19 THE CLERK: What says the Defendant?
20 MR. CHAMBERS: Swear Ms. Strange please.
21 THE CLERK: Thank you. Please have a seat
22 in the jury box.
23 Juror Number 131, Richard Miller
24 (white/male).
25 What says the State?

Jury Selection

24

1 MS. HODGE: Please present the juror.
2 THE CLERK: What says the Defendant?
3 MR. CHAMBERS: Excuse Mr. Miller from the
4 trial of this case please.
5 THE CLERK: Thank you. You may be seated.
6 You are excused from the trial of this case.
7 Juror Number 9, Clayton Barrett
8 (white/male).
9 What says the State?
10 MS. HODGE: Please present the juror.
11 THE CLERK: What says the Defendant?
12 MR. CHAMBERS: Swear Mr. Barrett please.
13 THE CLERK: Thank you. You may be seated
14 in the jury box.
15 Juror Number 226, Judy Green
16 (white/female).
17 What says the State?
18 MS. HODGE: Please present the juror.
19 THE CLERK: What says the Defendant?
20 MR. CHAMBERS: Swear Ms. Green please.
21 THE CLERK: Thank you. You may be seated
22 in the jury box.
23 THE COURT: That's 12? Okay. Two
24 alternates. One and two strikes.
25 THE COURT: Okay.

Jury Selection

25

1 Juror Number 8, Thomas Bagwell
2 (white/male).
3 What says the State?
4 MS. HODGE: Please present the juror.
5 THE CLERK: What says the Defendant?
6 MR. CHAMBERS: Swear Mr. Bagwell please.
7 THE CLERK: You may have a seat in the
8 jury box.
9 Juror Number 47, John Cook (white/male).
10 What says the State?
11 MS. HODGE: Please present the juror.
12 THE CLERK: What says the Defendant?
13 MR. CHAMBERS: Excuse Mr. Cook from the
14 trial of this case please.
15 THE CLERK: Thank you. You may be seated.
16 You're excused from the trial of this case.
17 Juror Number 190, Mary Thompson
18 (black/female).
19 What says the State?
20 MS. HODGE: Please present the juror.
21 THE CLERK: What says the Defendant?
22 MR. CHAMBERS: Swear Ms. Thompson please.
23 THE CLERK: Thank you. You may be seated
24 in the jury box.
25 THE COURT: All right, counsel. Any

Court Remarks

26

1 issues or matters of law to take up with
2 respect to qualification or selection of this
3 jury?

4 MS. HODGE: None from the State, Your
5 Honor.

6 MR. CHAMBERS: None from the defense, Your
7 Honor.

8 THE COURT: Thank you very much.

9 All right. Ladies and Gentlemen, I presume
10 that, uh, condolences are in order. You didn't
11 get selected for this jury, but fret not. You
12 might get another chance maybe even today or
13 later in the week. So if you'd go back
14 downstairs please to the jury qualification
15 room and, uh, the Clerk of Court will tell you
16 where to go from there. Thank you for coming
17 up. Good to see you. Hope to see you again
18 later this week.

19 (WHEREUPON, the jury panel exits at
20 approximately 12:08 p.m.)

21 THE COURT: All right, Ladies and
22 Gentlemen. Congratulations. We have selected
23 the jury on trial of this case and you will
24 preside as jurors in this case. We are going
25 to break for lunch. Then I'm going to bring

Court Remarks

27

1 you back at 1:30 and we'll begin the trial of
2 this case.

3 When we come back, I'm going to give you an
4 introductory charge and I'm going to give you
5 an idea of how we'll proceed just procedurally,
6 so you'll know what's coming next, the order of
7 presentation of witnesses and testimony and
8 evidence and the order of arguments so that you
9 will have some idea about how we'll conduct the
10 trial before we get started. I'll give you a
11 brief charge on the law just to tell you a few
12 things that you need to know and keep in mind
13 before we get started.

14 While you break for lunch, I'll caution you
15 not to discuss the case. I know you only heard
16 what I read to you on the indictments. That's
17 all you may have heard about this case. So
18 you're not really in the position to discuss or
19 deliberate over anything in this case because
20 you haven't seen any evidence yet. So please
21 don't discuss the case casually or otherwise.
22 You don't have to -- please don't get on the
23 phone and talk to your spouse or your
24 significant other or any of your friends
25 telling about the case because you don't know

1 enough about the case yet.

2 And if you start speculating on what the
3 case is about or you start taking something
4 away from what I read on the indictments, then
5 you will have begun your deliberations and that
6 would be inappropriate. The reason I say that
7 is because it's not appropriate for you to
8 start your deliberations until you've heard all
9 the evidence, that is, both sides given the
10 opportunity to present evidence to you and give
11 you the full story. It's not appropriate for
12 you to start deliberating when you've heard
13 five percent of the case or when you've heard
14 zero percent of the case at this juncture or if
15 you heard 75 percent of the case. You need to
16 hear all of the case before you can begin your
17 deliberations.

18 Also, when you are out on lunch, please
19 don't conduct any self-help. That is, don't
20 get on your Blackberry or go to the library or
21 your office and get on the computer and try to
22 see if you can find out any information about
23 this case. The only information that's going to
24 be appropriate for your consideration is that
25 evidence which is admitted appropriately and

Court Remarks

29

1 lawfully in this court. So please don't do any
2 self-help. Having said that, Ladies and
3 Gentlemen, I'll see you back here at 1:30.
4 Y'all have a great lunch.

5 (WHEREUPON, the jury exits at approximately
6 12:10 p.m.)

7 THE COURT: All right. Counsel, any
8 matters we need to take up before we, uh,
9 adjourn for lunch?

10 MR. CHAMBERS: No, Your Honor.

11 MS. HODGE: Nothing from the State.

12 THE COURT: Okay. Good enough. I'll see
13 y'all back about 1:25ish.

14 (WHEREUPON, a lunch recess is taken.)

15 (WHEREUPON, State's Exhibits 18(a), 18(b) and 19
16 are marked for identification purposes.)

17 THE COURT: Good afternoon. All right.
18 Y'all ready for the jury?

19 MS. HODGE: Yes, sir.

20 THE COURT: Okay.

21 (WHEREUPON, the jury enters at approximately
22 1:50 p.m.)

23 THE COURT: All right. Ladies and
24 Gentlemen, welcome back. Thank you for being
25 on time. I do appreciate that. It makes a big

Court Remarks

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1 difference because if we can start timely each
2 and every morning and after each and every
3 break, it will go a lot more quickly and a lot
4 more efficiently.

5 Before we get started, it's always good for
6 me to give y'all a heads-up on what's going to
7 happen, give you some idea about the procedure
8 that we're going to follow and also advise you
9 of what your role is as a jury as opposed to
10 what my role is as a judge in this case.

11 Now, the first thing that you're going to
12 see this afternoon after I quit speaking is
13 you're going to see the opening arguments from
14 counsel. Opening arguments from counsel are
15 just that, that is, arguments. They are not to
16 be considered facts by you. They are not to be
17 considered evidence by you. It is simply
18 advocacy, an argument in favor of each party's
19 respective side.

20 After having heard arguments from each
21 side, then you will hear evidence being put
22 into the record, evidence that's put into the
23 record by way usually of witnesses who take the
24 stand and take an oath to tell the truth. And
25 you will hear testimony from those witnesses.

Court Remarks

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1 You will also receive evidence potentially in
2 other forms. That is, you could potentially
3 receive evidence in the form of documents, you
4 could receive audiotapes, you could receive
5 videotapes, you could receive actual tangible
6 objects as evidence. But you will receive
7 those as each party is putting their case-in-
8 chief into the record.

9 After having heard from the State, the
10 defense will have the opportunity, if he elects
11 to, to put a case up as well and to present
12 facts and witnesses. After having heard from
13 the defense; under certain limited
14 circumstances, the State may have the
15 opportunity then to put reply evidence into the
16 record, that is, call another witness to
17 respond to something that the defense may have
18 put into the record.

19 Then after you have heard all of the
20 evidence that's been presented and each side
21 has had the opportunity to put their case up
22 into the record, then you will receive closing
23 arguments from each side. And again, when you
24 hear those closing arguments, that is just an
25 argument, advocacy from each of the respective

Court Remarks

32

1 attorneys. Understand again, and I will charge
2 you that that's not to be considered as
3 evidence by you. That is simply argument made
4 by the attorneys in the case.

5 I also tell you that the questions that the
6 attorneys ask in this case are not to be
7 considered evidence. They are simply the
8 questions that are posed. The answers are the
9 evidence that you must consider in this case.

10 Ladies and Gentlemen, in this case, you are
11 charged with determining whether the State
12 meets its burden of proving the defendant
13 guilty beyond a reasonable doubt. I told you
14 when we first began that the State has the
15 burden of proving the defendant guilty beyond a
16 reasonable doubt. That presumption of
17 innocence rests with the defendant until such
18 time as you decide that the State has met its
19 burden.

20 Now, you won't make that decision until you
21 have heard all of the evidence and you have
22 heard closing arguments and after you have
23 heard my closing charge on the law. I will
24 give you a closing charge on the law after the
25 attorneys have made their closing arguments. I

Court Remarks

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1 will tell you the law that needs to be applied
2 to the facts in this case.

3 Now, you will determine what the facts are
4 in this case. That is your job as jurors to
5 determine what the facts are. You will hear
6 all of the evidence and receive all of the
7 evidence that's put into the record. You will
8 take that evidence and you will determine what
9 the facts are. You will determine what weight,
10 what value to put on evidence that's presented.
11 You will determine the credibility of the
12 witnesses who take the stand and testify before
13 you, and you will make that determination when
14 you begin your deliberations.

15 As I instructed you earlier, please don't
16 begin your deliberations until such time as I
17 tell you to, that is, after you've heard all
18 the case and I've given you a charge on the
19 law. Again, as I told you, it's not fair for
20 you to begin your consideration before you have
21 heard the entire story. You could not make a
22 fully informed decision until you've heard
23 everything. I tell you you should do that
24 because it's fair. It's fair to the State.
25 It's fair to the defense.

Court Remarks

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1 It's also fair to y'all. The reason I say
2 that is this, if you begin your deliberations
3 before you are supposed to, potentially I may
4 have to call for a mistrial. That means you
5 will have wasted a substantial amount of your
6 time on this case. I charge you that your time
7 is much too valuable to take it lightly and to
8 have to spend a substantial amount of time only
9 to have me declare a mistrial and have to start
10 this trial again. So please don't discuss the
11 case.

12 Now, during the course of this trial, you
13 will see that the attorneys will make
14 objections or they will make motions before the
15 court. Now, I'm going to rule on those motions
16 because my job, as distinguished from y'all as
17 finders of the fact is as the finder of the
18 law, which means I'm the referee. All right.
19 My interest is in making sure that this is a
20 fair trial. It's a fair trial for the defense
21 and for the State and a fair trial for y'all as
22 well. So I'm charged with, and I have
23 responsibility for ruling on the objections and
24 the motions that are made by the respective
25 parties.

Court Remarks

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1 When I rule on those motions and when I.
2 rule on those objections, I'm going to
3 necessarily rule in favor of one side and
4 against another. I want to make sure that you
5 understand that when I rule in favor of one
6 side or against another, I'm not showing any
7 bias. I'm not being partial to either side or
8 the other. All I'm doing is making a very
9 clinical determination as to a matter of law
10 and that's all I'm doing. Please don't take
11 away from anything I say or anything I do that
12 I have a bias or a preference in this case. I
13 surely don't. It does not matter to me one bit
14 what your determination is at the end of this
15 trial. I have no opinion about this case.

16 You and I will see all of this evidence for
17 the first time together. I have not seen it.
18 I don't know any more about this case honestly
19 than y'all do right now. I read the
20 indictment. Y'all listened to the indictment.
21 That's as much as I know about this case. So
22 we'll be seeing it together. Now, if you think
23 at any point in time that I say anything that
24 you believe is a comment on the facts, then I
25 will tell you now, disregard that because I

Court Remarks

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1 honestly don't have an opinion about the facts,
2 what the facts should be. That's your role.
3 I'm not allowed to have an opinion about the
4 facts so please don't take anything that I say
5 to give you the impression that I have an
6 opinion one way or the other.

7 Also, when the attorneys make objections --
8 and I don't know who's going to object to what.
9 We're going to take it as it comes. Understand
10 that's their job. Don't hold it against them.
11 They are charged, uh, with advocating their
12 respective sides. If they make objections,
13 that's okay. That's what they are supposed to
14 do. Don't hold it against them.

15 From time to time, if there's an objection
16 that's lodged and there's a matter of law that
17 I need to take up with the attorneys, I may ask
18 you to leave the courtroom and go back into
19 your jury room because I may need to hear a
20 little something more about an issue. I may
21 need to be a little bit more deliberative about
22 it than just ruling "overruled" or "sustained".
23 I might need to take something up.

24 Sometimes if I need to hear a little bit
25 more but I think it's going to be fairly

Court Remarks

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1 simple, that is, we're not going to have to put
2 a lot of time into it, I may call the attorneys
3 up and we may talk about it. Ordinarily, I may
4 tell you, as much as I can, what we're talking
5 about. I don't want there to be any secrets
6 from you. The only thing you are not going to
7 be able to hear are those things that are not
8 admissible. And those things that aren't
9 admissible, I'll make sure that you don't hear
10 it. But to the extent that I can tell you
11 what's going on and why we may have done one
12 thing as opposed to another, I'll tell you to
13 the extent that I'm able to do that so that
14 you'll know what I know most times.

15 Now, breaks. We're going to take breaks
16 about every hour to an hour and a half or so,
17 uh, depending on the witness' -- what the
18 witness, you know, where we stand in testimony
19 and what is happening in the trial.
20 Ordinarily, we're going to take that break. If
21 you need to take a break for whatever reason,
22 uh, please let me know. I would much, much
23 rather you be attentive and listening to what
24 is going on in the courtroom and listening to
25 witnesses and to evidence than thinking, boy, I

Court Remarks

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1 really need to take a break for whatever
2 reason.

3 So don't be shy. If you need to take a
4 break, either get my attention or get the
5 bailiff's attention and say, hey, I need to
6 take a short break. There's probably somebody
7 else in the courtroom that needs to take a
8 break at the same time too. Okay.

9 What we're going to do this afternoon is
10 we're going to start the case. We will hear
11 opening arguments. Then we will start. The
12 State will begin to put its testimony into the
13 record and put witnesses up on the stand. And
14 we'll probably go tonight until about 5:00 or
15 5:30. Ordinarily, we're going to try to keep
16 to a normal workday, that is, 9:00 to 5:00.
17 Now, we may go later some nights, but we won't
18 go later unless I tell you before the fact that
19 we're going later so that you can make
20 arrangements.

21 Also, we'll start at 9:00 in the mornings.
22 We'll take a break about 10:30 or so. Then
23 we'll probably break for lunch around 12:30.
24 Take an hour to an hour and a half lunch
25 depending on what issues I need to take up with

Court Remarks

39

1 the lawyers. A lot of times when y'all are
2 gone, I'll have additional business to take up.
3 The staff, the court staff, personnel and the
4 attorneys and I'll all need to go to lunch too.
5 So sometimes it will be -- I'll spread it out
6 to an hour and a half depending on how much
7 business we have to take up.

8 Then when you come back in the afternoon
9 from lunch, we'll start up again. We'll take a
10 break in the afternoon. Then we'll go again to
11 somewhere between 5:00 and 5:30 usually.
12 Usually.

13 In this case, you've heard all the
14 witnesses that are likely to be called in this
15 case. If my counting is correct, that's about
16 21. I don't know how long all those witnesses
17 will be. But I'm guessing right now as I stand
18 here we're looking at about three days. We're
19 looking maybe Wednesday or Thursday being done
20 with this case. As we go along, I'll keep you
21 updated on essentially the witness count where
22 we stand, how much longer we have so that y'all
23 won't be in the dark on that. Okay? All
24 right. Good enough. Having said that, Ladies
25 and Gentlemen, let's get started.

1 **THE CLERK:** Your Honor, you want me to
2 swear them?

3 **THE COURT:** Swear the jury. I knew that.
4 I was testing them.

5 **THE CLERK:** Would you please stand and
6 raise your right hand? The response to the
7 oath is "I will". You shall well and truly try
8 cases 2009-GS-23-4364, State versus Antwan
9 Dominique Grayson, indicted for Armed Robbery
10 and Possession of a Weapon during the
11 Commission of a Violent Crime, 2009-GS-23-4365
12 for Criminal Sexual Conduct first degree and
13 2009-GS-23-4366 for Kidnaping and a true
14 verdict render according to the law and the
15 evidence so help you God. I will?

16 (WHEREUPON, each juror responds.)

17 **MS. HODGE:** And Your Honor, may it please
18 the Court.

19 Ladies and Gentlemen of the jury, you have
20 been selected on a case that is probably every
21 woman's worse nightmare. Not only is it a
22 woman's worse nightmare, it's a husband, a
23 father and a son's worse nightmare. This case
24 encompasses a very challenging, difficult and
25 frightening dilemma that faces humans at

Opening Statement by Ms. Hodge

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1 certain times, that is, what would one do if
2 you were faced with the possibility, the very
3 real possibility you would be killed or that
4 someone that you loved would be killed.

5 Psychologists and psychiatrists have coined
6 a very catchy little phrase. Well, there's
7 either flight or fight. You're either going to
8 fight your attacker off so that you'll be safe
9 or you're going to run from your attacker so
10 you'll be safe. But what if neither is a
11 viable option? What if you can't run for safety
12 or fight for safety? What would one do?

13 Crystal Byers is the victim in this case.
14 She will tell you she was faced with that very
15 dilemma. In a split second, she had to decide
16 what was she going to do. Those two things
17 were not an option for her. She will tell you
18 that in her mind, the safest best thing she
19 could do was to be calm, as calm as she could,
20 to be rational, as rational as she could and to
21 be cooperative, as cooperative as she could.

22 On March the 16th of 2009, Crystal Byers
23 was doing nothing out of the ordinary. She was
24 doing nothing inherently dangerous or crazy.
25 She was doing nothing wrong. She took her

Opening Statement by Ms. Hodge

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1 husband to work at McDonald's in Greer. He
2 worked the 11:00 til 7:00 a.m. shift. She
3 dropped him off and she was coming home, coming
4 home to go inside and go to bed. She gathered
5 her things from her car and she got about 10
6 steps away from her door and she heard
7 footsteps behind her. And in a split second,
8 she had a gun in her face, actually in her
9 mouth.

10 She was told they wanted money, wanted to
11 get in her house and find out what was in there
12 and take what they wanted. She also will tell
13 you she heard a second set of footsteps and a
14 second voice, but the only person she really
15 got to see with any degree of certainty was the
16 gunman. However, the gunman had a hoodie and a
17 hat and a blue bandanna on his face.

18 In that split second, she was not going to
19 run or to fight because behind that door, she
20 will tell you, in her apartment, was her
21 elderly mother who she was also afraid if she
22 did any of the first two options could also be
23 killed. The evidence will show, and Crystal
24 will tell you, that she offered up as
25 cooperatively as she could "I don't have any

Opening Statement by Ms. Hodge

43

1 money. I don't have anything, but you can take
2 my car. I have money in the bank. You can go
3 there. Just take what you want. Just take
4 anything you want."

5 Well, the gunman, the robbers thought that
6 was a good idea about money in the bank. So
7 they forced her at gunpoint back into her own
8 car. Forced her to drive at the ATM and take
9 out as much money as she could. That was only
10 \$80. Driving back, still at gunpoint, she's
11 forced to go back to the very apartment complex
12 that she had just been abducted from with the
13 gunman in the front seat, second suspect in the
14 back seat.

15 The entire time the gun is out, she will
16 tell you, and there are threats. If you don't
17 do what I say, you will be killed. You will be
18 shot. She was taking these as very real
19 threats. Things took a turn for the worse.
20 After she had already been forced to go to the
21 bank, give money that she -- the little money
22 that she had, as she's heading back to the
23 apartment complex, the gunman in the front seat
24 starts groping her, grabbing her breasts
25 telling her maybe we can work something out.

Opening Statement by Ms. Hodge

44

1 She will tell you that the suspect in the
2 back didn't want any part of that, wanted out.
3 She was told again, with the gun out the entire
4 time, stop the car, he's getting out. He jumps
5 out. She's then forced to go down a long,
6 dark, wooded road past her own apartment and
7 told to park in a dark spot, forced out of the
8 car at gunpoint into the back seat, forced to
9 take off her pants and panties and she's raped
10 by him.

11 She will tell you when that was over with,
12 she was forced again by gunpoint to get back in
13 her car and drive to her own apartment. Why?
14 She will tell you that during the entire
15 incident that lasted about 30, 40 minutes from
16 the time of abduction until the time it was
17 over, she was trying to be that calm person,
18 that rational person. She's talking, trying to
19 make herself human.

20 In that conversation, the gunman or
21 possibly the suspect in the back, one of them
22 asked about a cell phone, do you have a cell
23 phone and are you going to call the cops
24 repeatedly. She told them I don't have my cell
25 phone here. I have it in my house. So not

Opening Statement by Ms. Hodge

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1 only did the person stick a gun in her face,
2 make her take all the money she had out of the
3 bank, threaten to kill her, rape her, now, he
4 wants her phone. Her life line to the outside
5 world, her way to call police.

6 So she drives back to her apartment. The
7 gun is back out. She's forced to her apartment
8 door. Again, she's thinking of her mother
9 inside. She's trying to be logical and
10 rational and say if you will just let me get
11 it, I will get it, I promise. He stands at the
12 door, hand on the doorknob as she steps a foot
13 or two inside and grabs the phone. Gives him
14 the cell phone. Then he forces her to walk
15 back away from the door.

16 At this point, they are back in the parking
17 lot. She will tell you it was as if he had
18 gotten everything he wanted. He calmly walked
19 off into the dark playing with her phone as if
20 nothing had happened. She immediately went
21 inside, locked the doors and called the police.

22 The evidence will show that that gunman,
23 that rapist, that robber, that kidnapper was
24 this defendant, Antwan Grayson. This defendant
25 is charged with Armed Robbery which is the

Opening Statement by Ms. Hodge

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1 taking or carrying away of goods or someone
2 using force or intimidation and using a weapon
3 to do it. Also charged with Possession of a
4 Weapon during the Commission of a Violent
5 Crime. It's pretty obvious armed robbery is a
6 violent crime. He's charged with Kidnaping.

7 Now, Kidnaping in South Carolina is not as
8 we think of in the movies. It doesn't require
9 someone being taken somewhere, tied to a chair,
10 held for ransom. You merely have to have your
11 personal liberties seized, confined by a person
12 who has no authority to do so and against your
13 will.

14 He's also charged with Criminal Sexual
15 Conduct in the first degree, rape. It's a
16 sexual battery which the law says could be
17 vaginal/penile intercourse, anal intercourse or
18 oral sex that's accomplished by aggravated
19 force. We tend to think of aggravated force to
20 be beating someone up really bad. Taking it
21 from them. But also the use of a weapon is
22 very powerful and is aggravated force in
23 getting what you want, the sexual battery.

24 The State's going to prove the defendant is
25 guilty of all four of these charges through

Opening Statement by Ms. Hodge

47

1 evidence. Evidence is going to come in the
2 form of three different things, testimony -- I
3 believe the judge gave his brief instruction.
4 There will be testimony from police officers,
5 the victim, uh, a witness after the incident
6 and the second suspect, in fact. There will
7 also be tangible evidence, physical evidence
8 that you can take back to your jury room.
9 Photographs of the crime scene which were
10 essentially the car and video and still
11 photographs from the bank machine where she was
12 forced to go.

13 Last, there will be scientific evidence,
14 DNA. Evidence from the rape kit taken from
15 Crystal Byers at the hospital immediately after
16 this incident shows the Defendant's DNA was in
17 there.

18 At the conclusion of all the evidence, the
19 State will be back in front of you asking you
20 to return a verdict, a verdict that takes into
21 account the facts, of course, the evidence as
22 you see it to be and a verdict that speaks the
23 truth. In this case, that will be a verdict of
24 guilty on all counts. Thank you.

25 THE COURT: Mr. Chambers.

1 MR. CHAMBERS: Please the Court, Your
2 Honor.

3 Ladies and Gentlemen, as His Honor told you
4 a little bit earlier, my name is Randy
5 Chambers. I'm representing Antwan Grayson who
6 is seated here beside me. This young man I'm
7 representing is, as you've heard, accused of
8 some very serious offenses. He is accused of
9 raping Crystal Byers, of kidnaping her and of
10 robbing her. You heard a short summary of what
11 the State, through the Solicitor, here says
12 that she is going to show you. We're going to
13 talk a little bit about that in just a minute.

14 I always like to take a little bit of time
15 at the outset of the trial to talk about this
16 concept of reasonable doubt. You've heard that
17 the burden of proof rests here with the
18 Solicitor. That's true.

19 You will hear my client referred very often
20 as the defendant. I started my legal career as
21 a lawyer for the United States Navy. One of
22 the things I liked is in the military, we don't
23 even use that term "defendant". To me, that
24 implies that you have something to prove. We
25 used the term "the accused". All you've heard

Opening statement by Mr. Chambers

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1 so far are accusations. They have to back up
2 those accusations. They have to prove it.

3 Now, you folks have been chosen to sit on
4 the jury. As I sit over here today, like I
5 always do, I observe people's body language. I
6 know that there are some of you who are not
7 really excited about being here. You have
8 jobs. You have lives. You have families.
9 There are places that you'd rather be. You've
10 probably heard until you are tired of hearing
11 about how valuable your service is and how much
12 it means that you are here. But folks, the
13 reason that we say that is because it's true.

14 I would like to echo Judge Stilwell in
15 saying that short of military service, there is
16 no greater service that you can provide for
17 your community. You know, all of our founding
18 fathers have things to say about the jury
19 system. The reason that it works, to
20 paraphrase Thomas Jefferson, it is the
21 cornerstone of liberty. It is what allows us
22 to keep the government in check. We bring 12
23 people in here. They look at the evidence
24 that's being presented with a skeptical and
25 cynical eye and hold the government to its

1 burden of proof.

2 We turn on the news everyday and we see
3 these countries in the Middle East that are run
4 by dictators where all this unrest is going on
5 and all these people are finally rising up
6 against these people because in countries like
7 that, if the government says you did something
8 wrong, you go to prison for a long time or you
9 get killed. That's what it comes down to.
10 That's not how it works here.

11 All of you folks took an oath a few minutes
12 ago to give everybody associated with this case
13 a fair trial. Now, I also know that it's human
14 nature that some of you come in here and you
15 see Antwan seated over here with me and you say
16 he must have done something wrong because why
17 would all these people accuse him of doing
18 something wrong. That always gives me a little
19 pause. I don't worry too long about it. I've
20 been doing this a long time now. I know that
21 jurors take that oath very seriously. I know
22 that what you want to do in this case is you
23 are going to hold them to their burden of
24 proof.

25 You are going to withhold judgement until

Opening statement by Mr. Chambers

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1 you see all the evidence. You are going to
2 listen to each witness that takes that stand.
3 You're going to do what we all do just about
4 everyday and that is you're going to judge what
5 they have to say. You're going to listen to
6 them and you are going to look to see if
7 there's anything that corroborates it. Is
8 there any physical evidence? Are there any
9 other statements that corroborate? Does it
10 make sense to me?

11 You are the triers of the fact. Nobody
12 else is going to decide the facts. You're
13 going to do that based on the evidence that
14 comes to you through the witness stand and
15 through exhibits that are introduced through
16 those witnesses. You are going to do that by
17 taking the law that His Honor is going to give
18 you and you are going to apply that law to the
19 facts in this case, to the evidence in this
20 case. And you are going to do that by using
21 your common sense.

22 All of you come from different walks of
23 life, different life experiences, different
24 ages. Again, that's what makes this system
25 work. It's human nature that some of you are

1 -- have stronger personalities than others.
2 Some people are leaders. Some people are
3 followers. When you get back there in that
4 deliberation room after you've heard all the
5 evidence in this case, nobody's voice is
6 greater than the other. Make sure that you're
7 heard. Make sure that you get into the
8 discussion that goes on.

9 Now, what is reasonable doubt? There are
10 lots of ways to describe it. There are lots of
11 definitions that are given. In court, the one
12 you're going to hear most often is either going
13 to be that it's the kind of doubt that causes a
14 reasonable person to hesitate to act or it is
15 the kind of proof that leaves you firmly
16 convinced. In other words, you are very sure.
17 If it was something or somebody that meant a
18 great deal to you, would you stake that on that
19 decision? Firmly convinced. It is not beyond
20 any doubt. Some of you could probably be able
21 to believe under the right circumstances that
22 the sun is not going to come up tomorrow.
23 That, folks, is not a reasonable doubt.

24 It can't be that it's more likely than not.
25 That's the standard that's used when we come

1 into court and we fight over money in a civil
2 case with a scale that's always used to
3 describe the burden of proof that the Plaintiff
4 or the prosecutor has. They would just have to
5 tilt that scale just a little bit in their
6 favor.

7 There are other trials and hearings where
8 you go in and the standard is by clear and
9 convincing evidence. That's the middle
10 standard, clear and convincing evidence.
11 Beyond a reasonable doubt is the greatest
12 standard that's applied. The reason for that
13 is because when you walk into a criminal court,
14 you stand to be deprived of your liberty.
15 There is nothing that we can take from somebody
16 that's more precious than your liberty. So you
17 think about that scale. You think about that
18 scale being moved all the way. Now, folks,
19 that is the standard. That is what you have to
20 keep in mind through this entire proceeding as
21 you listen to the evidence in this case.

22 Now, you've heard what the Solicitor had to
23 say about what they are going to show you.
24 That remains to be seen. We believe that you
25 are going to hear evidence in this case as we

1 go through this process that it didn't really
2 happen the way that they are telling you that
3 it happened. Now, I'll tell you right up front
4 that Antwan Grayson and the alleged victim in
5 this case engaged in sexual intercourse.
6 There's DNA evidence to prove that. It
7 happened, but you will hear evidence that it
8 was consensual.

9 Now, in a lot of ways, this is not a story
10 that most of us would be familiar with or a set
11 of circumstances that most of us would be
12 familiar with, but it is the kind of thing that
13 goes on in Greenville County and other places
14 around this country every day. You're going to
15 hear that Antwan and his cousin Tony had gone
16 over to [REDACTED] [REDACTED] to meet somebody
17 to sell this person some crack. They were
18 waiting on a guy that was going to come and buy
19 some crack. And they waited and they waited
20 and this guy never showed up. They got to the
21 point that they were about ready to leave.

22 That is when Crystal Byers pulls up. She
23 gets out of her car. She walks over to Antwan
24 and his cousin. They just start talking. She
25 asked him what's going on. At some point, she

Opening statement by Mr. Chambers

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1 says to him you got any dope. Antwan says what
2 do you mean. She says you got any dope, any
3 crack. He said no, no, no, I don't have
4 anything like that.

5 Then he thought about it for a minute and
6 he said, are you the police. She then lifts up
7 her shirt to show that she is not wearing a
8 wire and she says no, I'm not the police. So
9 he says yeah, I might have some. You got any
10 money. She says no, I don't have any money.
11 He says, uh, well, then I don't have any crack.
12 I don't have any dope. She says but I can get
13 some money. She tells him that they could go
14 to the ATM.

15 They all walk through the parking lot.
16 Bear in mind this is an apartment complex.
17 Cars parked. People living in various
18 apartments. They walked to her car. All three
19 of them get in. They drive to Wade Hampton to
20 the ATM. She gets \$80. With that \$80, she
21 buys from Antwan four crack rocks.

22 Any police officer, anybody that knows
23 anything about this will tell you that as long
24 as I can remember, crack rocks have been \$20 a
25 piece. It's the one thing that apparently has

1 not ever been affected by inflation. \$20 a
2 piece.

3 She gets that. They start to drive back.
4 She says that she is -- that she wants some
5 more. She tells him that she's got -- he says
6 well, do you have any more money. No, I don't
7 have any more money. He says, well, you got a
8 phone. She says yeah. She trades the phone
9 for two crack rocks. As time is going on, she
10 smokes the crack. She uses it. Okay.

11 Finally, they get to the point that she
12 wants some more and she offers to have sex with
13 him for the crack. After that discussion, they
14 pull off and they let Tony get out of the car.
15 Tony goes. They then go to another apartment
16 complex, not down some dark windy road, to
17 another apartment complex. They pull in. You
18 will hear that the victim, alleged victim in
19 this case even sees cars in the parking lot.
20 She even sees a police car, a white police car
21 in that parking lot. Despite that, they pull
22 into a parking space.

23 Then Antwan and her get out of the car.
24 She then gets back into the car into the back
25 seat. Takes her pants off. He takes the time,

Opening statement by Mr. Chambers

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1 at her request, to put on a condom. That's
2 where the DNA came from. They found a condom
3 later on out in the parking lot. Puts on a
4 condom. Then they have sex for several
5 minutes. They then put their clothes back on
6 and get in the car.

7 They then go back to her apartment. Walk
8 up to the apartment together. As you heard
9 from the Solicitor, she goes into her
10 grandmother's or into her mother's or her
11 apartment where her mother is. Doesn't close
12 the door behind her. She says that she decided
13 not to close it because she felt he wouldn't
14 like it. Goes in and then comes back out.
15 They walk out to the car together.

16 You're going to hear as you go through this
17 that there was never -- she never yelled. She
18 never screamed. She never blew her horn. She
19 never struggled. She never received any
20 injuries. Nothing. That's what you're going
21 to hear and that's what you're going to have to
22 size up. Basically two different stories.
23 You're going to decide which one makes sense.
24 You're going to do that by applying this
25 standard of reasonable doubt. Reasonable

1 doubt.

2 You know, there's hardly a day goes by that
3 we don't see or hear about something where
4 there's a discussion about whether somebody did
5 something. Inevitably, somebody will say,
6 well, you know, they are innocent until proven
7 guilty. Folks, this is where you get to decide
8 that. It is a very important event in the life
9 of Antwan Grayson.

10 We appreciate you being here. We look
11 forward to you hearing this case. We look
12 forward to you holding them to that standard.
13 We'll get an opportunity to come back and talk
14 to you at the end. But based on what we know
15 of the evidence, we believe they are going to
16 fall short in this case. But again, we thank
17 you for being here.

18 THE COURT: Ms. Hodge.

19 MS. HODGE: Thank you. The State calls
20 Deputy Porter.

21 THE CLERK: Deputy Porter, if you would,
22 come forward. Raise your right hand to be
23 sworn in.

24 GREGORY PORTER

25 having first been sworn, testifies as follows:

Gregory Porter - Direct Examination by Ms. Hodge

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1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MS. HODGE:

4 Q Would you please state your full name for
5 the record?

6 A Gregory Alexander Porter.

7 Q Who do you work for?

8 A Greenville County Sheriff's Office.

9 Q How long you been with the Sheriff's
10 Office?

11 A Almost three years now.

12 Q What kind of duties or responsibilities do
13 you have with the Sheriff's Office?

14 A Uh, my primary roll is to answer 911 calls.

15 Q And what kind of education or training do
16 you have for your job?

17 A College degree and academy.

18 Q And how long is the academy?

19 A Nine weeks.

20 Q Were you employed in this same capacity as
21 responding to 911 calls back on March the 16th of
22 2009?

23 A Yes, I was.

24 Q Did you have an occasion to respond to
25 [REDACTED] in Greenville County?

Gregory Porter - Direct Examination by Ms. Hodge

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1 A I did.

2 Q What time did you, uh, receive a call for
3 service that day?

4 A The call came in at 11:54 p.m.

5 Q And what was the call in reference to?

6 A An armed robbery and sexual assault.

7 Q Were you the first deputy to arrive on the
8 scene?

9 A Myself and Deputy Charlie Cunningham
10 arrived at the same time.

11 Q And what, if anything, did you observe on
12 arrival?

13 A The apartment complex, we parked kind of
14 far away from the apartment and walked up. We could
15 see the victim's car there and we approached the
16 victim's apartment complex, her apartment door.

17 Q Which apartment number was she in?

18 A Uh, 1.

19 Q Were there any people milling about or
20 hanging out in the parking lot?

21 A Not that I recall. There was nobody out.

22 Q How about was it a really brightly lit area
23 or something more or less?

24 A An apartment complex is pretty dark
25 usually. There's only a few streetlights outside.

Gregory Porter - Direct Examination by Ms. Hodge

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1 Q And is that in Greenville county, that
2 apartment complex?

3 A Yes, ma'am.

4 Q Did you make contact with the victim in
5 this case?

6 A Yes, ma'am. We walked in and the victim
7 was in the living room. She briefly described what
8 took place, that she was, uh, coming home. She had
9 gotten McDonald's, taken her husband to work. Had
10 McDonald's in the car. Came home. Two subjects
11 approached her from behind as she was going up to the
12 apartment complex, apartment door. One had a silver
13 handgun and demanded money from her. She said she
14 didn't have any on her but she could go to the bank
15 for it.

16 So they all get in her car. She's at
17 gunpoint the entire time. She goes to the bank.
18 Withdraws \$80. Comes back. On the way back, uh, to
19 her apartment, in front of the apartment complex,
20 there's two sets of railroad tracks. The subject in
21 the back seat got out. Uh, the other subject in the
22 front seat told her to continue on. Drove her to a
23 different part of the apartment complex. She drove
24 to a different part of the apartment complex. He
25 then raped her.

Gregory Porter - Direct Examination by Ms. Hodge

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1 In our experience, we usually try -- I
2 didn't ask her anymore questions about the rape. I
3 asked her -- another deputy, a female deputy to come
4 and talk about the rape. Usually a female can talk a
5 little bit easier to another female.

6 Q Was she able to give you any suspect
7 descriptions at that time?

8 A She did. At that point, she told us it was
9 two black males, one wearing all dark clothing and a
10 hoodie, approximately 5 foot 6. Possible first name
11 was Trey. She heard one of them refer to the other
12 person as Trey. Approximately 20 years old. The
13 second one, wearing blue jeans, black jacket, wearing
14 a blue bandanna over his face and approximately 5
15 foot 8. That is pretty much what she gave us at the
16 time of the scene.

17 Q Was there any car that she could tie them
18 to other than her own car?

19 A No, she just said it was her own car. They
20 walked away from the scene.

21 Q I'm going to show you this map here. Are
22 you familiar with this area of Greenville county?

23 A Yes, ma'am.

24 Q And I'll put this up here. Can you tell
25 the jury what we are looking at on the map that I

Gregory Porter - Direct Examination by Ms. Hodge

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1 just showed you? You want to step down? Just keep
2 your voice up please. Let's do it over here.

3 MS. HODGE: Is that going to be in your
4 way, Judge Stilwell?

5 THE COURT: No, ma'am. You're fine.

6 BY MS. HODGE:

7 Q Can you see that in the back? Okay. Okay.
8 So where did you respond?

9 A Our two cars -- I responded -- we pulled up
10 right in front of here. This is [REDACTED].
11 This is the entire [REDACTED] at [REDACTED]
12 [REDACTED]. Her apartment is in this first
13 building. We walked up. I believe her car was in
14 one of these spots right here.

15 Q Okay.

16 A So it was one of the first ones.

17 Q Did you reference the railroad tracks?

18 A Right. The railroad tracks. If she left
19 and went to Wade Hampton Boulevard to the bank, she
20 would have to go out. This is West Main Street in
21 Taylors. We go out to Wade Hampton. She came back
22 and said that one of the tracks, she left the other
23 subject at.

24 Q Okay. Thank you. You can have a seat. Is
25 that in anyone's way to see the witness?

Gregory Porter - Direct Examination by Ms. Hodge

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1 A Yeah, there's one.

2 Q Okay. Just not enough room. All right.
3 Is that better? Do you know approximately how many
4 other deputies or master deputies would have
5 responded to this incident?

6 A Myself and Deputy Cunningham were there,
7 Sergeant Whopley [phonetically], uh, Deputy
8 McGanagill [phonetically] and Master Deputy McMakin.
9 I believe that was it.

10 Q Was a tracking team sent out?

11 A Oh, yeah. Deputy Leathers with his K -- he
12 has a K-9 team. He came out and responded. We
13 attempted to have a track with the K-9 and didn't get
14 any result.

15 Q Were you a participant or did you find any
16 suspects on this evening?

17 A No, ma'am.

18 Q Did you call for a forensic officer to come
19 and process this scene?

20 A We did.

21 Q And did a forensic officer respond?

22 A Investigator Browning came out and
23 processed her vehicle only. That was pretty much the
24 only crime scene we had.

25 Q And is Officer Browning, is he still

Gregory Porter - Direct Examination by Ms. Hodge

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1 employed with forensics? Do you know?

2 A I don't know personally if he is.

3 Q Were you present on the scene while he was
4 processing the car?

5 A Yes, ma'am.

6 Q What kind of car did the victim have? Do
7 you recall?

8 A I think it was a Nissan Sentra.

9 Q Do you remember what color it was?

10 A White.

11 Q And did you, in fact, collect any evidence
12 from her car on this evening?

13 A The forensic officer is the one who
14 searched the vehicle and found the two receipts and
15 gave them to me and I placed into Property and
16 Evidence.

17 Q Okay. I'm going to show you what's State's
18 number 1 and State's number 2. Do you recognize
19 those items?

20 A Yes, ma'am.

21 Q And what are those?

22 A Two bank, Wachovia Bank withdrawal
23 receipts.

24 Q Were these collected from the victim's car
25 and given to you?

Gregory Porter - Direct Examination by Ms. Hodge

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1 A Yes, ma'am.

2 Q Are they in substantially the same
3 condition as when you collected them?

4 A Yes, ma'am.

5 Q And what dates and times are on these?

6 A March 16, 2009. The first one is at 11:27
7 p.m. and the second one is at 11:29 p.m.

8 MS. HODGE: Okay. Thank you.

9 Your Honor, we would move to admit State's
10 number 1 and number 2 into evidence.

11 MR. CHAMBERS: No objection, Your Honor.

12 THE COURT: All right. Without objection,
13 the State has moved into evidence State's
14 Exhibit 1 and number 2.

15 MS. HODGE: Thank you, Your Honor.

16 THE COURT: Are they already marked?

17 MS. HODGE: Yes, they are.

18 THE COURT: Okay.

19 (WHEREUPON, State's Exhibits 1 and 2 are
20 admitted into the record.)

21 BY MS. HODGE:

22 Q What do you do with evidence when you've
23 collected it?

24 A I complete a Property and Evidence sheet as
25 a chain of custody and I place it into the Property

Gregory Porter - Direct Examination by Ms. Hodge

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1 and Evidence Room.

2 Q What is Property and Evidence?

3 A It's a secure locker at the Law Enforcement
4 Center.

5 Q Does anyone have access to that?

6 A Only Property and Evidence personnel.

7 Q Law enforcement?

8 A Yes.

9 Q But no citizen can --

10 A No civilian has access to it.

11 Q Was an ambulance called in this case?

12 A Yes, ma'am. We called an ambulance, for
13 the victim, to come out. They transported her to
14 Greenville Memorial to have a sexual assault kit
15 done. I followed the ambulance down to the hospital.

16 Q Why did you do that?

17 A Just to make sure that she was willing and
18 going to complete the sexual assault kit and if we
19 needed to have any more assistance for her.

20 Q Were you present during the sexual assault
21 examination?

22 A No, that's a -- usually a four-hour process
23 and pretty much as standby at the beginning. We will
24 collect the sexual assault kit later on ---

25 Q Did you --

Gregory Porter - Direct Examination by Ms. Hodge

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1 A --- when it's finished.

2 Q I'm sorry. You can finish.

3 A I'm done.

4 Q Did you actually collect the kit in this
5 case?

6 A I did not.

7 Q What was the last thing you did in this
8 case?

9 A The last thing, I left the victim there at
10 the hospital when she started the sexual assault kit.

11 Q And in your conversation, in your
12 interaction with the victim -- let me back up.
13 Excuse me. In your three years on the road, have you
14 come into contact with people who have used crack
15 cocaine?

16 A Yes, ma'am.

17 Q Do they have certain behaviors if they had
18 been smoking crack cocaine? Are there some common
19 characteristics?

20 A Yes.

21 Q In your opinion, did Ms. Byers have those
22 characteristics on this night of someone who had been
23 using crack cocaine?

24 A Not in my opinion. I couldn't smell any
25 odor of alcohol. She wasn't exhibiting any behavior

Gregory Porter - Cross-Examination by Mr. Chambers

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1 of any of those leading me to believe that she was on
2 any type of drug.

3 Q And do you recall in her vehicle seeing any
4 type of drug paraphernalia? Was any of that handed
5 to you to put into Property and Evidence?

6 A No, ma'am.

7 Q Is there typically paraphernalia used with
8 people who smoke crack cocaine?

9 A Yes, ma'am.

10 Q You can't just smoke the rock, is that
11 correct?

12 A Correct.

13 Q There has to be something that they use ---

14 A Yes, ma'am.

15 Q --- to assist? Once you left the hospital
16 on that night, was that the end of your involvement
17 in this case?

18 A Yes, ma'am.

19 Q Thank you. Please answer any of Mr.
20 Chambers' questions.

CROSS-EXAMINATION

21
22 BY MR. CHAMBERS:

23 Q Okay. So you responded, according to your
24 report, around 11 o'clock that even, is that correct?

25 A Yes, sir.

Gregory Porter - Cross-Examination by Mr. Chambers

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1 Q And you departed, I think, around 11:52.
2 Does that sound about right?

3 A At 11:52?

4 Q Yeah, 52 minutes later.

5 A I believe I got there at 11:54.

6 Q Oh, okay. So that's when you arrived,
7 11:54. So this was supposed to have happened, I
8 guess, about an hour before you got there?

9 A According to the victim, she told us that
10 it was from 11:00 to 11:52 is when the event
11 occurred.

12 Q Okay. So anywhere --

13 A She called us at 11:54. Myself and Deputy
14 Cunningham were there --

15 Q Okay. So according to her, it could have
16 happened anywhere from 11:00 to just about two
17 minutes before you got there?

18 A Yes, sir.

19 Q Okay. And when you got there, she told you
20 that these two individuals had come up behind her,
21 she said, and they eventually walked and got in her
22 car and drove away, is that right?

23 A Can you repeat that?

24 Q Okay. That they walked and got in her car
25 and then drove away.

Gregory Porter - Cross-Examination by Mr. Chambers

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- 1 A To the bank.
- 2 Q Yeah.
- 3 A Yes.
- 4 Q Drove away from the apartment complex?
- 5 A Yes, sir.
- 6 Q In her car?
- 7 A Yes, sir.
- 8 Q One in the front seat, one in the back
- 9 seat.
- 10 A Yes, sir.
- 11 Q Now, is this a common parking lot where
- 12 there are other cars parked?
- 13 A Yes, sir.
- 14 Q How many apartments do you think are out
- 15 there in that vicinity where she was parked?
- 16 A How many apartments?
- 17 Q Yeah, just roughly. You said you were
- 18 familiar with the area.
- 19 A Each court in that apartment complex has
- 20 three buildings. So I would guess that each building
- 21 has eight to ten apartments.
- 22 Q Okay. So lots of folks ---
- 23 A Yes, sir.
- 24 Q --- parked their cars out there potentially
- 25 in and out of that area?

Gregory Porter - Cross-Examination by Mr. Chambers

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1 A Yes, sir.

2 Q And the parking lot itself, are there
3 lights in the parking lot?

4 A Yes, sir.

5 Q So it is a -- the parking lot is lighted.
6 You are not out there in the pitch black?

7 A Not in pitch black, no.

8 Q Okay. They walked out. You said as they
9 were coming back, she told you that they stopped at a
10 railroad track and then the individual that is in the
11 back seat, he got out?

12 A Yes, sir..

13 Q So he just got out and he left? And nobody
14 really knows where he went?

15 A No, sir.

16 Q He's -- at that point, he's out of the
17 picture?

18 A Yes, sir.

19 Q All right. So then they pull into this
20 other parking lot of the apartment complex and they
21 pull into a parking space there. That's what she
22 told you, right?

23 A That's what she told me.

24 Q And then they get in the back seat and they
25 have sex, correct?

Gregory Porter - Cross-Examination by Mr. Chambers

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1 A Against her will, yes.

2 Q That's what she told you. But at any rate,
3 we can agree that she told you that in one manner or
4 another they had sex?

5 A Yes, sir.

6 Q And then they finished and they drive in
7 her car back to where her apartment is, correct?

8 A Yes, sir.

9 Q She then told you that they walked -- now
10 was her apartment downstairs or upstairs?

11 A Downstairs.

12 Q Okay. So they walked to her downstairs
13 apartment where her mother is and she then goes into
14 the apartment, right?

15 A Yes, sir.

16 Q Then she tells you she didn't stay in the
17 apartment, she got a phone and came back out of the
18 apartment, right?

19 A I believe she gave the phone to him.

20 Q So she didn't like close the door and lock
21 it behind her, right?

22 A She didn't get into those particulars. I
23 can't really --

24 Q We just know that she went in the apartment
25 and she came back out, correct?

Gregory Porter - Cross-Examination by Mr. Chambers

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1 A Yes, sir.

2 Q Now, you indicated in your statement a few
3 minutes ago that she indicated that there were to
4 individuals. One of them was wearing a dark colored
5 hoodie, right?

6 A Yes, sir.

7 Q And then the other, your testimony I
8 thought I heard was that his face was covered with a
9 blue bandanna?

10 A Yes, sir.

11 Q But as I look at your report where you list
12 under "Suspect Descriptions", under suspect number
13 two, and you can correct me if I'm wrong on this,
14 what you wrote was wearing blue bandanna on head,
15 correct?

16 A Yes, sir.

17 Q So on head is a lot different than covering
18 face, right?

19 A Yes, sir.

20 Q I mean, that would be a key difference. If
21 I were investigating something and somebody say well,
22 he had his face covered with a blue bandanna, I, as
23 an investigating officer would probably want to note
24 that, correct?

25 A Yes, sir.

Gregory Porter - Redirect Examination by Ms. Hodge

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1 Q But what you said was on head, right?

2 A On head, yes, sir. That's what I wrote,
3 yes.

4 Q And later, on the second page of your
5 report -- you can look at it. Again, correct me if
6 I'm wrong -- she says that -- she simply says I never
7 got a good look at their face, correct?

8 A Yes, sir.

9 Q Nothing on there about a bandanna covering
10 anybody's face, right?

11 A Nothing about that.

12 Q And then nothing about the hoodie or
13 anything else covering the other guy's face?

14 A No, sir.

15 Q So if we were to read your statement, what
16 we would be lead to believe is there was nothing
17 covering the faces of either one of these
18 individuals, correct?

19 A (No response.)

20 Q Correct?

21 A Reading the report, yes.

22 Q Okay. Thank you.

23 REDIRECT EXAMINATION

24 BY MS. HODGE:

25 Q She never said this was consensual, did

Jonathan Reece - Direct Examination by Ms. Hodge

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1 she?

2 A She never said that any of this was
3 consensual. She said it was against her.

4 Q At gunpoint, correct?

5 A Yes. Yes, ma'am.

6 Q Is your face on your head?

7 A Yes, it is.

8 Q Thank you. No further questions.

9 THE COURT: Any recross?

10 MS. HODGE: No, sir.

11 THE COURT: Thank you, Officer. I
12 appreciate you being here, sir. You can step
13 down.

14 MS. HODGE: Deputy Reece.

15 THE CLERK: Deputy Reece, if you would,
16 place your left hand on the Bible and raise your
17 right to be sworn in.

18 JONATHAN REECE
19 having first been sworn, testifies as follows:

20 THE CLERK: Thank you. You may be seated.

21 Would you please state your full name for
22 the record.

23 THE WITNESS: Jonathan Reece.

24 THE CLERK: Thank you.

25 DIRECT EXAMINATION

Jonathan Reece - Direct Examination by Ms. Hodge

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1 BY MS. HODGE:

2 Q Deputy Reece, who are you employed by?

3 A Greenville County Sheriff's Office.

4 Q And how long have you been with them?

5 A Almost three years.

6 Q What are your duties and responsibilities?

7 A I'm on uniform patrol. My main primary
8 function is to answer calls for services, 911
9 hangups, 911 calls and other law enforcement-related
10 activities.

11 Q And were you employed in the same capacity
12 on March the 17th of 2009?

13 A Yes, ma'am.

14 Q What time or shift were you working?

15 A I believe I was on night shift that night.
16 It was past 12 o'clock when I went to arrive at
17 Greenville Memorial Hospital.

18 Q What hours are night shift?

19 A 7:00 to 7:00. 7:00 at night til 7:00 in
20 the morning.

21 Q And what did you do in this case?

22 A I got a dispatch call that a sexual assault
23 kit was ready for pickup at 701 Grove Road, which was
24 Greenville Memorial Hospital. I responded there.
25 It's standard procedure that the beat area that I was

Jonathan Reece - Direct Examination by Ms. Hodge

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1 working at the time arrives at the hospital. Like
2 Deputy Porter said, it takes four hours to do these
3 kits. So it's impractical for a deputy to sit there
4 and wait on it. So I responded there and took
5 possession of a sexual assault kit which contained
6 sheets, clothing, so on and so forth from the victim
7 in this case. I received that from Registered Nurse
8 Karen Lewis who as an employee at Greenville Memorial
9 Hospital. I took possession of it. I also --

10 Q And you -- go head.

11 A I also transported the victim and her
12 mother back to their residence. Once I dropped them
13 off at the residence, I responded to Property and
14 Evidence. Due to the hours, Property and Evidence
15 was not open. The sexual assault kit has to be
16 refrigerated for storage. So I notified the records
17 division, which is standard procedure. They
18 responded down to Property and Evidence. I believe
19 it was Josh Spencer. He took possession of the kit
20 and placed it into Property and Evidence which they
21 have access to do so and put it under refrigeration.
22 And he took custody of it.

23 (WHEREUPON, State's Exhibit 20 is marked for
24 identification purposes.)

25 BY MS. HODGE:

Jonathan Reece - Direct Examination by Ms. Hodge

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1 Q All right. I'm showing you what's State's
2 Exhibit number 20. If you would, take a look at that.
3 for me.

4 A Yes, ma'am. This is the sexual assault kit
5 that I took from Ms. Karen Lewis and took to Property
6 and Evidence.

7 Q All right.

8 A I signed the chain of custody over there.

9 Q And you got it from Ms. Lewis. Is her
10 signature there?

11 A Yes. Karen Lewis is here. She's a
12 Registered Nurse at Greenville Memorial.

13 Q And what time did you collect?

14 A 04:00 in the morning.

15 Q When you collected this kit from Ms. Lewis
16 -- you can see today it's open -- was it open like
17 this?

18 A No, ma'am. It was sealed with red seal
19 tape.

20 Q So the seal was not broken on either side?

21 A No, ma'am. It was not.

22 Q Did you open this box at any time?

23 A No, ma'am. I did not.

24 Q When you handed it over the records
25 custodian, Mr. Spencer, did you hand it over sealed?

Crystal Byers - Direct Examination by Ms. Hodge

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1 A It was sealed when I handed it to Mr.
2 Spencer.

3 Q Did that end your involvement in this case?

4 A That ended my involvement in this case,
5 yes, ma'am.

6 Q Thank you. I've got no further questions.

7 MR. CHAMBERS: Your Honor, no questions
8 for Deputy Reece.

9 THE COURT: Thank you, sir. Appreciate
10 you being here.

11 Yes, ma'am.

12 MS. HODGE: Your Honor, the State would
13 call Crystal Byers.

14 THE CLERK: Ms. Byers, if you would, come
15 forward. Place your left hand on the Bible and
16 raise your right to be sworn in. Raise your
17 right hand.

18 CRYSTAL BYERS
19 having first been sworn, testifies as follows:

20 THE CLERK: Thank you. Would you please
21 state your full name for the record.

22 THE WITNESS: Crystal Byers.

23 THE CLERK: Thank you.

24 DIRECT EXAMINATION

25 BY MS. HODGE:

Crystal Byers - Direct Examination by Ms. Hodge

81

1 Q Ms. Byers, I'm going to need you to speak
2 into the microphone. Make sure you speak loudly
3 enough so the last jurors can hear you. All right.
4 How old are you, Ms. Byers?

5 A 35.

6 Q And are you married currently?

7 A Separated.

8 Q And do you have any children?

9 A No.

10 Q How far have you gone in school?

11 A I got my license for massage therapy and a
12 certificate for medical assistant.

13 Q And are you currently working anywhere?

14 A No.

15 Q Have you worked other places in the past?

16 A Yes.

17 Q What kinds of jobs have you had?

18 A I worked at dry cleaners, grocery store,
19 Adidas. That was my last job.

20 Q And are you currently living in South
21 Carolina today?

22 A No.

23 Q Did you formerly live here in Greenville in
24 2009?

25 A Yes.

Crystal Byers - Direct Examination by Ms. Hodge

82

1 Q Let's go back to March of 2009. Where were
2 you living then?

3 A I was living in Apartments.

4 Q How long had you been living in
5 Apartments?

6 A Uh, I had lived in another apartment in the
7 complex for a year. I had just moved in the
8 apartment.

9 Q What -- do you remember what number the one
10 was you were living in when this incident occurred?

11 A

12 Q Can you see the map from where you're
13 sitting?

14 A No, ma'am.

15 Q I want you to speak into the microphone.
16 Don't worry about getting down. I'll just turn it
17 for now. Is the arrow on or near where your
18 apartment was at the time of this?

19 A Yes.

20 Q I'm going to get you a pointer. So you can
21 stay right where you are. That little button here,
22 push that. It will show a red dot. Tell us which
23 apartment in that building was number

24 A The bottom floor apartment on the lefthand
25 side on the back.

Crystal Byers - Direct Examination by Ms. Hodge

83

1 Q Would you park your car in the front closer
2 towards where the railroad tracks are, I guess?

3 A It depend on where I could park.

4 Q At the time of March the 16th of 2009, were
5 you married and living with your husband at the time?

6 A Yes.

7 Q What was your husband's name?

8 A Travis Hodge.

9 Q Who was living with you then?

10 A My mother had just moved in which us.

11 Q Is that one of the reasons you moved into
12 the different apartment?

13 A Yes.

14 Q Was it a larger apartment you moved into?

15 A We moved into a three-bedroom.

16 Q And how was your mother at this time?

17 A She was on dialysis. She had recently had
18 stints put in her heart.

19 Q You stated, I believe, that you had been
20 working at Adidas. Where were you working during
21 this incident?

22 A I was working at Adidas.

23 Q Where is Adidas?

24 A It's in Spartanburg.

25 Q What do they do there?

Crystal Byers - Direct Examination by Ms. Hodge

84

1 A It's a warehouse. They ship shoes,
2 clothing.

3 Q How about your husband at the time?

4 A He was working at McDonald's in Greer.

5 Q And do you recall did he have a certain
6 shift that he worked?

7 A He had a pretty -- he had a set schedule.
8 He worked 11:00 to 7:00, four days a week.

9 Q And was that 11:00 in the morning or 11:00
10 at night?

11 A 11:00 at night.

12 Q Until 7:00 in the morning. Did you and
13 your husband have more than one vehicle?

14 A No, he didn't have his license, so I would
15 drive.

16 Q So you would drive. What kind of car did
17 you have?

18 A A Nissan Sentra.

19 Q And on March the 16th of 2009, did you take
20 him to work?

21 A Yes.

22 Q What time do you think you got to his work?

23 A Uh, a few minutes before 11:00.

24 Q So he was on time for work?

25 A Yes.

Crystal Byers - Direct Examination by Ms. Hodge

85

1 Q What, if anything, did you do while you
2 were at his work?

3 A I dropped him off and then I went through
4 the drive-thru because my mother wanted a milkshake.
5 I went through the drive-thru and ordered her a
6 milkshake, myself a milkshake and some chicken
7 nuggets. Talked to the girls at the window. One had
8 just recently had a child and one was about to have a
9 child and I knew them through my husband so I talked
10 to them.

11 Q Do you think you were there for a long
12 time, a few minutes? What do you think?

13 A Not too long. I just talked to the woman.
14 I handed her my money. Then I talked to the other
15 one while I was waiting for the food.

16 Q So you still had to pay for the food from
17 McDonald's ---

18 A Yes.

19 Q --- even though your husband worked there?
20 What happened after you got your food and finished
21 talking?

22 A I drove home.

23 Q Were you planning on going anywhere this
24 night or doing anything other than taking him to
25 work?

Crystal Byers - Direct Examination by Ms. Hodge

86

1 A No.

2 Q Do you remember how you were dressed?

3 A I was wearing my pajamas.

4 Q And pajamas being?

5 A I had pajama pants and a white t-shirt on.

6 Q Okay. About how long does it take to drive
7 from McDonald's to the [REDACTED]?

8 A About 10 to 15 minutes.

9 Q And what happened when you got back to the
10 apartments?

11 A I parked my car. I grabbed the food and my
12 keys and got out and started walking to my apartment.
13 Then I heard something behind me. When I turned, I
14 saw a man dressed in baggy clothing, a bandanna on
15 his face. He had a gun. He put it up against my
16 mouth. And they wanted to go into my apartment. I
17 didn't want to let them in. They didn't know which
18 one was mine. I wasn't close enough to it for them
19 to know. I didn't want them in the apartment.

20 Q Why didn't you want them in the apartment?

21 A Because my mother is elderly, sick. I
22 didn't want her to panic.

23 Q You say that you saw a gun?

24 A Yes.

25 Q A gun was placed in your face. Can you

Crystal Byers - Direct Examination by Ms. Hodge

87

1 show me -- with your finger as a gun, show me what
2 happened?

3 A Okay. Up against my mouth.

4 Q Do you have any idea what the gun looked
5 like or what kind of gun it may have been?

6 A I could see the barrel. It was a small
7 silver gun. I thought it might be a small caliber,
8 like a 22.

9 Q And are you familiar with handguns enough
10 to know calibers and things like that?

11 A Uh, yeah. I grew up around guns.

12 Q Was it something family or your father?

13 A Just my father. My husband's family.

14 Q You did get a pretty decent look at the
15 gun. How about were you able to see anything of the
16 person's face at all?

17 A Just the eyes, a little bit of forehead and
18 bridge of the nose.

19 Q And what was being said to you at this
20 time?

21 A That they wanted to go into the apartment,
22 for me to be quiet, they would shoot me. When I told
23 them no, I didn't have anything in the apartment, my
24 mother was in there, I wasn't going to allow them in
25 there, they kept repeating that I was playing them

Crystal Byers - Direct Examination by Ms. Hodge

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1 and the second person was telling him to shoot me.

2 Q So the one that came up second ---

3 A Yes.

4 Q --- was saying to shoot you? And were you
5 taking these as very real threats?

6 A Yes.

7 Q What was going on in your mind at this
8 point?

9 A I just wanted to cooperate as much as I
10 could without allowing them into the apartment. I
11 was trying not to get shot.

12 Q Did you have any money or anything on you
13 to give them?

14 A No. I had some change left in the console
15 in the car from buying the food.

16 Q Did you offer them anything?

17 A I told them I might have some money in the
18 bank. I had just moved and spent everything paying
19 the moving company to move. I didn't really have
20 anything. I didn't know how much I had in the bank.

21 Q Did you offer them your car?

22 A Yes.

23 Q Were you trying to give them whatever you
24 could?

25 A Yes.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q What happened from that point?

2 A He said he didn't want the car because it
3 would be too easy to track, catch them. So he walked
4 back to the car. The one with the gun, he stayed
5 with me while the other gentleman walked around to
6 the passenger's side. He told him when he got in the
7 car to keep it on me. So he was implying that the
8 other one had a gun. He walked around and got in the
9 passenger side.

10 Q When you were talking about "he", which
11 person are you primarily talking about in this
12 scenario?

13 A The one with the gun.

14 Q So you only saw one gun ---

15 A I only saw one gun.

16 Q --- with your eyes?

17 A Yes.

18 Q It was implied that the other person, the
19 second person that came up may have had one as well?

20 A Yes.

21 Q When you say we walked out to the car, were
22 you walking out to the car because you wanted to go
23 out there?

24 A No.

25 Q Was it walking? What was it? Freely?

Crystal Byers - Direct Examination by Ms. Hodge

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1 A No, he had his hand on me and the gun on
2 me.

3 Q What happened once you got into the car?

4 A I told them that we could go to Wachovia.
5 They had a discussion about which Wachovia, and the
6 only one I could think of was the one that I banked
7 at down at Wal-Mart. To me, it was the quickest one,
8 easiest way to get them what they wanted and to get
9 rid of them.

10 Q Did you, uh, just pick that? Did you start
11 driving or was there --

12 A They had a discussion about it. I don't
13 think they knew exactly which one I was talking
14 about.

15 Q Were they pointing you to a different one
16 or telling you to go to another one?

17 A There's one also out by Target.

18 Q Which one did you bank at?

19 A I banked at the one by Wal-Mart on Wade
20 Hampton.

21 Q Is it actually a little bit past Wal-Mart
22 going towards downtown?

23 A Yes, by Walgreens.

24 Q Okay. Flip this over here. I'll let you
25 first take a look at it and then you can tell where

Crystal Byers - Direct Examination by Ms. Hodge

91

1 were you coming from? Can you use the pointer and
2 tell me where you got into the car? It's kind of
3 hard to see here.

4 A I was coming from my apartment.

5 Q And how did you get to the Wachovia?

6 A I drove up and I took it.

7 Q Speak up.

8 A I drove down Lynn Street and drove down
9 Wade Hampton.

10 Q And show where -- where is the Wachovia?

11 A (Pointing).

12 Q All right. And is this the Wal-Mart you
13 are referring to?

14 A Yes.

15 Q So you, in fact, have to go past Publix on
16 Wade Hampton to that Wachovia. Was the bank open at
17 11:00 at night?

18 A No.

19 Q So what happened at the bank?

20 A I tried to use my husband's card. I didn't
21 have any money in the account that I could take out.
22 Then I used my card because it was joined with my
23 mother's account to see if she had any money in the
24 account. I could only get \$80 out. She had a little
25 more than \$80. So I took it out and I handed it to

Crystal Byers - Direct Examination by Ms. Hodge

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1 the one in the passenger seat next to me. Then I
2 started to drive away. I had forgotten my card. I
3 didn't remember. He noticed it. He had me back up
4 and get my card out of the ATM machine.

5 Q And were you remaining calm at this point?

6 A I was trying to.

7 Q Did you think about driving your car into a
8 store or anything that may have been open at that
9 time?

10 A Uh, I thought about driving my car into a
11 post but not anything like that. I just wanted to
12 remain calm and get back to my mother and get it over
13 with. I had no idea what was going to happen. I
14 figured they just wanted the money and be done with
15 it and they'd leave.

16 Q And in the car, were there any threats made
17 to you or was that only at the apartment?

18 A No, while they were in the car on the way
19 there, they thought that I was playing them. The one
20 in the back seat kept telling him to shoot me.

21 Q Was the gun present and out while you were
22 in the car?

23 A Yes.

24 Q Who was holding the gun?

25 A The one in the passenger seat next to me.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q Did that person still have a bandana on his
2 face?

3 A Yes.

4 Q How about the person in the back? Did you
5 ever get a look or tried to look?

6 A I would glance up and I was told not to
7 look at him.

8 Q And when you got to the bank machine, uh,
9 was there cameras at the bank machines?

10 A Yes.

11 Q Tell me about those. Was there any
12 conversation about that?

13 A I was told to stay where I blocked the
14 camera so that they couldn't be seen.

15 Q Do you recall getting ATM slips as all this
16 was going on?

17 A No, I don't remember grabbing them.

18 Q Let me show you State's number 1 and number
19 2. Do you know if these were from your account
20 and/or your husband's account?

21 A This one was. This is when I think I used
22 my husband's card. And this was when it was my card
23 to access my mother's account.

24 Q So State's number 1 would have been your
25 husband's card. And did he have any money in the

Crystal Byers - Direct Examination by Ms. Hodge

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1 account you could get?

2 A No.

3 Q How about State's number 2? You said it
4 was yours?

5 A It was my card, but it was my mother's
6 account.

7 Q Did you attempt to get more money than what
8 was actually in there?

9 A Yes.

10 Q What --

11 A It wouldn't allow me. They demanded a
12 large amount of money. I know that sometimes the
13 bank will allow you to pull a certain amount over
14 out. I was trying to pull out more to give them the
15 money. I didn't want to anger them.

16 Q In the end, you were only able to get out
17 \$80?

18 A Yes.

19 Q Did the money ever change hands from the
20 person in the front that had the gun to the person in
21 the back that you know of?

22 A Not that I know of.

23 Q On the, uh, -- tell us what happened when
24 you leave the bank machine, the ATM.

25 A Uh, he told me to drive back to the

Crystal Byers - Direct Examination by Ms. Hodge

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1 apartment. On the way, he was looking at me and said
2 that work something out or something else out or
3 something like that and proceeded to put his hands on
4 me.

5 Q Where did he proceed to touch you?

6 A He started groping my breast, my right
7 breast.

8 Q Were you in any way a willing participant
9 to this?

10 A No.

11 Q Were you trying to fight him off or do
12 anything like that?

13 A I stiffened up and moved. But I just --

14 Q What were you thinking? Tell us what you
15 were thinking?

16 A I don't honestly remember what I was
17 thinking. I was trying to go moment by moment
18 thinking what I should do. I should try to wreck the
19 car or something.

20 Q How about -- tell me did he touch any other
21 part of your body while you were in the car?

22 A No.

23 Q Again, the gun still out and present, face
24 still covered?

25 A Yes.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q Where -- do you recall where on the pathway
2 home this was?

3 A Uh, right before we got to the turn off, to
4 turn off onto Main Street.

5 Q Main Street, Taylors?

6 A Yes.

7 Q Okay.

8 A To go to the apartment.

9 Q Fairly close back to almost ---

10 A Yes.

11 Q --- to [REDACTED] What happened then?

12 A The one in the back seat wanted out. He
13 said he would go call their ride. They had me stop.
14 I ended up stopping on the railroad tracks. But then
15 the guard had started to blink red and started to
16 come down because there was a train coming. So I
17 pulled forward and sat there for a second waiting for
18 everyone to get out. I guess he had jumped out when
19 I first started. Then he told me to drive down to
20 the apartment complex.

21 Q When you say "he", we're talking about the
22 person in the front?

23 A In the passenger seat with the gun.

24 Q All right. Flip my map around for you
25 again. You can use your pointer and just show us

Crystal Byers - Direct Examination by Ms. Hodge

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- 1 what you're talking about. Where did you stop?
- 2 A He had me stop on the double set of tracks.
- 3 Q The double set, which is the second one?
- 4 A Yes.
- 5 Q That's where the person in the back jumped
- 6 out?
- 7 A Yes.
- 8 Q And where did you drive -- where were you
- 9 instructed to drive?
- 10 A He had me pull back into the road going
- 11 into the apartment complex.
- 12 Q You can show that.
- 13 A Then he had me drive back. They actually
- 14 don't have the part of the complex that he had me
- 15 drive into on the map. It's going out to the office.
- 16 Q Where is the office?
- 17 A The office is right there.
- 18 Q So it was the next one after that?
- 19 A Yes.
- 20 Q How about this area right here? Is this
- 21 area tree-lined? Is there a lot of shrubs?
- 22 A There's a lot of trees there on both sides.
- 23 And it's dark. There's not a lot street light.
- 24 Q Tell me about the lighting actually around
- 25 your court.

Crystal Byers - Direct Examination by Ms. Hodge

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1 A It's very dim. There's only one light in
2 the back and one light in the front in the people
3 part right there. There's more. Across the side
4 where I park, it was actually quite dark.

5 Q And you or some people in the apartments
6 requested more lighting?

7 A After this, yes. They were told that they
8 couldn't. It wasn't worth fighting it.

9 Q Were any people hanging out or milling
10 about in your court?

11 A No.

12 Q How about back here where you're saying is
13 off the map over here? Were there any people in the
14 court back here where you were instructed to drive?

15 A Not that I saw, no.

16 Q Was there a police car back there?

17 A Yes, there was a sheriff's officer car
18 parked.

19 Q Was there a sheriff's officer or police
20 officer in there?

21 A No.

22 Q If there had been, what would you have
23 done?

24 A I would have probably caused a huge scene,
25 maybe even crashed into their car.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q Did anyone ever come out, during any of
2 this incident, of their apartments?

3 A No.

4 Q Anyone ever pull up in their car during any
5 of this?

6 A Not that I recall, no.

7 Q Tell us what happened when you get to that
8 back court.

9 A He had me pull straight into the building
10 facing the road, the second one in the line of three.
11 Then he told me to get out of the car and to get into
12 the back seat.

13 Q Was there any discussion prior to this?

14 A Yes, I started thinking about what was
15 going to happen. I asked him if he had anything.
16 When I said that, I meant a disease because I would
17 rather be shot and take my chances with that than to
18 catch something.

19 Q When you are asking him if he had anything,
20 are you weighing your options about what to do?

21 A Yes.

22 Q What happened when you said that?

23 A He said yes and he pulled out a condom.

24 Q Is that what you meant?

25 A No.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q What went through your mind when you saw
2 that?

3 A I don't know. I just started trying to
4 block out everything. I didn't even what to think
5 about it.

6 Q Tell us what happened when you were forced
7 to go in the back seat of the car.

8 A He had me get into the back seat. I was
9 dragging along because I didn't want -- I was like
10 refusing to believe this was happening. He told me
11 to come on, you know how this is done. Then he had
12 me take off my pants and my underwear. Then he
13 pulled his pants down.

14 Q You need to take a break? Do you want to
15 take a break? Tell me what kind of pants you were
16 wearing?

17 A I was wearing a pair of plaid pajama pants.

18 Q And did you have panties on?

19 A Yes.

20 Q And how about your top?

21 A I was just wearing a white t-shirt.

22 Q Were you wearing a bra at that time?

23 A No.

24 Q Do you want to take a break or do you think
25 you can tell us what happened next?

Crystal Byers - Direct Examination by Ms. Hodge

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1 A I need a minute.

2 Q You need a break. You need a minute?

3 MS. HODGE: Your Honor, may we have a
4 brief break?

5 THE COURT: Sure. Absolutely.

6 Ladies and Gentlemen, if you would, please
7 retire to your jury room. Please don't discuss
8 the case. We'll come back in just a few
9 minutes.

10 (WHEREUPON, the jury exits at approximately
11 2:56 p.m.)

12 THE COURT: All right, Ladies and
13 Gentlemen. We'll take a break.

14 Ms. Byers, you're welcome to take a break
15 and go to the restroom or do whatever you need
16 to do. Please don't discuss your testimony with
17 anyone. You are still under oath. Okay. All
18 right. Thank you very much.

19 (WHEREUPON, a short recess is taken from
20 approximately 2:57 p.m. to 3:11 p.m.)

21 THE COURT: Okay. You can bring them in.

22 (WHEREUPON, the jury enters at approximately
23 3:12 p.m.)

24 THE COURT: All right. Ms. Hodge, it's
25 your witness, ma'am.

Crystal Byers - Direct Examination by Ms. Hodge

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1 BY MS. HODGE:

2 Q Let's back up for one second. Was there
3 any conversation about your cell phone while you and
4 the gunman and the other suspect was still in your
5 car?

6 A He asked if I had a phone. I said not on
7 me.

8 Q Why didn't you have your phone on you?

9 A Because I was just planning on going, drop
10 my husband off and come home.

11 Q And what happened during that conversation
12 when they asked you if you had a phone?

13 A I told them that I didn't have a phone.

14 Q At some point, did you tell them that you
15 had one at your house?

16 A Yes. They asked what it was.

17 Q What did you say?

18 A I said that I had a Blackberry Pearl. It
19 was in my house.

20 Q Was there any reference or any conversation
21 about you using your phone?

22 A He repeatedly asked me if I was going to
23 call the police.

24 Q When you say "he", which one are we
25 talking?

Crystal Byers - Direct Examination by Ms. Hodge

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1 A The one with the gun.

2 Q Was this on the way to the ATM machine or
3 back or after?

4 A I believe it was on the way back.

5 Q What were you saying?

6 A That no, I wasn't going to call the cops.

7 Q Why would you tell them that?

8 A Because I didn't want to get shot.

9 Q Were you trying to play along?

10 A Yes.

11 Q And this -- when you get to the railroad
12 track area that you described with the crossing
13 guards coming down, did the person in the back seat,
14 did they appear to want to get out of the car or was
15 that something they were --

16 A No, he acted like he wanted out of the car.

17 Q You said something. I don't know if I
18 heard you. You said something about a ride?

19 A He said that he was going to call a ride.

20 Q That's when the second suspect was gone?

21 A Yes.

22 Q Okay. And back to the point, you drive
23 down to the court further than what that map shows.
24 Tell us what happened when you were ordered to get in
25 the back seat.

Crystal Byers - Direct Examination by Ms. Hodge

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1 A He had me get in the back seat, lay in the
2 back seat. He said that I -- you know how this was
3 done and he wanted me to hurry. He had me to take
4 off my pants, my underwear and proceeded to penetrate
5 me. Then he started talking and making comments and
6 saying how about we make this a weekly thing, about
7 how much he was enjoying himself.

8 Q At this time, were car doors shut?

9 A Yes.

10 Q You guys were in the back seat of your car?

11 A Yes.

12 Q Close quarters?

13 A Yes.

14 Q Did he have the gun out that you were aware
15 of?

16 A I believe he had put it in the pocket of
17 his hoodie.

18 Q Did he leave his hoodie on?

19 A Yes.

20 Q How about the bandanna on his face?

21 A At one point, he took the hat on his head
22 and covered my face and told me not to look. Then he
23 was trying to kiss me. He was feeling on my breasts.

24 Q What were you doing during this time?

25 A Laying there trying not to think about what

Crystal Byers - Direct Examination by Ms. Hodge

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1 was happening.

2 Q And, uh, I think you said something about
3 he was asking or saying it was good or something like
4 that, enjoying himself?

5 A Yes.

6 Q Did he ask you any questions at that point?

7 A He wanted me to respond. He asked me the
8 question how about we make this a weekly thing. He
9 wanted me to respond. When I didn't, he became more
10 aggressive and asked me if I heard him.

11 Q When you say became more aggressive, what
12 do you mean?

13 A He started pushing into me harder.

14 Q And do you know what part of his body he
15 was using?

16 A His penis.

17 Q And what part of your body was it going
18 into?

19 A My vagina.

20 Q And did you say anything in response when
21 he got more physically aggressive?

22 A I told him yes I heard him and that he was
23 hurting me.

24 Q Did you make any comment ever about your
25 husband or anything like that?

Crystal Byers - Direct Examination by Ms. Hodge

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1 A He repeatedly asked me if I was going to
2 call the police. I would tell him no, that I wasn't
3 going to call the police and I asked him not to hurt
4 me because if he left any physical marks, hit me in
5 the face or anything like that that my husband would
6 call the police.

7 Q Was this again your playing along kind of
8 thing?

9 A Yes.

10 Q Had you calculated what else could happen
11 to you?

12 A Yes.

13 Q So was that driving any of your decision
14 about what you were saying back to him?

15 A Yes.

16 Q What was in the forefront of your mind?

17 A Just trying to get past it and not be
18 killed.

19 Q Do you have any concept of time at this
20 point?

21 A No.

22 Q You know if it took a minute, five minutes,
23 ten minutes?

24 A No.

25 Q At some point, did he quit raping you?

Crystal Byers - Direct Examination by Ms. Hodge

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1 A Yes.

2 Q What happened then?

3 A He told me to put my clothes back on and
4 get back into the front seat and drive up to my
5 apartment. He wanted my phone.

6 Q Did he still have his face --

7 A He had his face covered at that point
8 again.

9 Q So at any point, did you ever see a full
10 face?

11 A No.

12 Q What happened or tell us how you get from
13 the back court?

14 A I pulled back out and drove back up to the
15 apartment complex, the part of the apartment complex
16 that I lived in.

17 Q Was there any conversations? Were he
18 saying anything or you saying anything during this
19 time?

20 A I honestly don't remember. I was to the
21 point of hysteria by then.

22 Q When you say you were in hysteria, were you
23 holding that in or were you outwardly --

24 A No, I was holding it in. I was trying not
25 to give him reasons to shoot me or injure me or

Crystal Byers - Direct Examination by Ms. Hodge

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1 anything.

2 Q What happened when you got back in front of
3 your apartment complex?

4 A I parked the car and he wanted to come into
5 the apartment with me. Again, I told him that I
6 would go in. It was on the table in the dining room.
7 He stood at the door with the door cracked. I
8 thought about trying to slam the door and lock it but
9 I didn't want to risk that because my mother was
10 sitting in the living room.

11 Q Were you worried she would do something?

12 A I was worried that she might panic if I
13 tried something like that and he got into the
14 apartment and he would shoot her.

15 Q How about the lock on your door? Did that
16 give you any cause for concern?

17 A It didn't quite lock properly. It took a
18 minute to jiggle it to get it to lock.

19 Q Did that play into your --

20 A Yeah, I was afraid that if I tried to do
21 it, it wouldn't lock properly and he would just pull
22 the door open.

23 Q And where was your phone inside the
24 apartment?

25 A It was in the dining room on the dining

Crystal Byers - Direct Examination by Ms. Hodge

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- 1 room table.
- 2 Q Is that close to the front door?
- 3 A Yeah. It's within visual sight.
- 4 Q Did he stand right at your door?
- 5 A Yes.
- 6 Q What happened then?
- 7 A I grabbed the phone and went back out of
- 8 the apartment, shut the door and handed it to him.
- 9 Q Then what happened?
- 10 A Then he said something to me about food
- 11 that I had in the car. I told him he could have it
- 12 if he wanted it. He said no, that I needed to eat.
- 13 Q Any reason why he would tell you that?
- 14 A I have no clue.
- 15 Q Uh, the food in the car, is this the food
- 16 that you got at the drive-thru ---
- 17 A Yes.
- 18 Q --- when you went through? Had you tried
- 19 to take it into your apartment?
- 20 A When I first got there, yes.
- 21 Q Did you end up carrying it back?
- 22 A I carried it back to the car.
- 23 Q And this comment about you needing to eat,
- 24 was he in a differ-- did his tone change? Was he
- 25 acting a little different?

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1 A Yeah, he was acting a little different.

2 Q Still had -- did he have the gun at this
3 point?

4 A He didn't pull it back out after. But he
5 still had it on his person.

6 Q And then what happened once he makes that
7 comment about you needing to eat?

8 A He just walked off with the phone, playing
9 with it as he walked away.

10 Q What did you do?

11 A Went back into the apartment. Actually, I
12 went to go back into the apartment and my mother had
13 followed us out. She didn't see what was going on.
14 She was kind of slow. She had part of her foot
15 removed. She was about halfway down the thing when I
16 went back towards the apartment.

17 Q What did you do when you saw her?

18 A I flipped out and I started fussing at her.
19 I had tried to signal for her to stay back, get out
20 of the way if she could. She just didn't understand
21 why I was acting that way.

22 Q She didn't catch on to what was going on
23 outside?

24 A No. No.

25 Q At any point, did you ever scream or make

Crystal Byers - Direct Examination by Ms. Hodge

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1 any kind of calls for help or any of that kind of
2 stuff?

3 A No.

4 Q Was there a reason why you didn't do that?

5 A I didn't want to set him off and have him
6 shoot me.

7 Q And now your mother's come out. Did you
8 tell her something when you're outside or did you
9 wait to get in?

10 A No, I grabbed her and pulled her back into
11 the apartment and asked her what was wrong with her,
12 why she followed me out. Then I told her what
13 happened after I shut and locked the door.

14 Q Did you call the police?

15 A Yeah, I went and found a phone and called
16 the police.

17 Q Did you have a landline in your house?

18 A No, she had a cell phone also.

19 Q Were you using your cell phone as your
20 personal phone for everything? For home, for work
21 and things like that?

22 A Yes.

23 Q I'm going to show you State's number 19.
24 Do you know what this is?

25 A It's my Blackberry Pearl.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q Is this the phone that you gave to the
2 gunman?

3 A Yes.

4 Q And is it in substantially the same
5 condition as you can tell from this?

6 A Yes.

7 Q Did you give this phone freely and
8 voluntarily to that man?

9 A No.

10 Q Did you trade it for some crack cocaine?

11 A No.

12 MS. HODGE: At this time, we move to admit
13 State's number 19.

14 MR. CHAMBERS: No objection, Your Honor.

15 THE COURT: All right. Without objection,
16 the same is moved into evidence as State's
17 number 19.

18 MS. HODGE: Thank you.

19 (WHEREUPON, State's Exhibit 19 is admitted into
20 the record.)

21 BY MS. HODGE:

22 Q Let me go back just a little bit, Crystal,
23 and show you some pictures and have you tell the jury
24 what these photographs are going to be of.

25 Do you mind maybe dimming one light? Let's

Crystal Byers - Direct Examination by Ms. Hodge

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1 see how that looks, Mr. Bailiff?

2 Okay. Let me tell you what number it is
3 first. State's number 3, number 4, number 5, 6, 7,
4 8, 9, and let's start -- stop with 9 for now. What
5 are these photographs of?

6 A Of my car.

7 Q The inside and outside?

8 A Yes.

9 Q Is this how your car looked on March 16th
10 of 2009?

11 A Yes.

12 MS. HODGE: At this time, Your Honor, we
13 would move to enter numbers 3 through 9.

14 MR. CHAMBERS: No objection, Your Honor.

15 THE COURT: All right, sir. Without
16 objection, the same is moved into evidence as
17 State's Exhibits 3 through 9.

18 MS. HODGE: Thank you, Your Honor.

19 (WHEREUPON, State's Exhibits 3 through 9 are
20 admitted into the record.)

21 BY MS. HODGE:

22 Q Beginning with State's number 3, Ms. Byers,
23 what is this?

24 A The back of my car.

25 Q And what kind of car was this?

Crystal Byers - Direct Examination by Ms. Hodge

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1 A A Nissan Sentra.

2 Q Does it have two doors or four doors?

3 A Four.

4 Q State's number 4. Do you know what this
5 picture is showing?

6 A The back seat.

7 Q Okay. And how about those pillows? Were
8 those there for any reason?

9 A I had just gone to get my mother. They
10 were my mom's.

11 Q Where was your mom living?

12 A She was living in Union with my sister-in-
13 law.

14 Q Okay. And I'm going to show you State's
15 number 5. What is that a picture of?

16 A The back passenger seat.

17 Q Okay. And I don't know if you can see it.
18 May I borrow that for one second? Is there something
19 here?

20 A Mud.

21 Q And is there something here as well?

22 A Mud.

23 Q And do you know if that mud was there from
24 you or your mother or your husband?

25 A No.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q Do you know how that mud got there?

2 A It was put there by the second person in
3 the back seat.

4 Q The person in the back seat?

5 A Yes.

6 Q Do you recall if it was rainy or misty or
7 anything on this night?

8 A I believe it had been raining. I don't
9 know if it was raining that night.

10 Q I want to show you State's number 6. What
11 is this a picture of?

12 A The front passenger seat.

13 Q There's some McDonald's food bags in there?

14 A Yes.

15 Q Now is this the food bag that you had
16 gotten that night?

17 A I don't believe so, no.

18 Q Did you eat at McDonald's a good bit?

19 A My husband did.

20 Q And State's number 7.

21 A The driver's seat.

22 Q State's number 8. Do you know what that
23 is?

24 A The bank card.

25 Q Do you know which one that might be?

Crystal Byers - Direct Examination by Ms. Hodge

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1 A No.

2 Q Did you have more than one bank card this
3 night?

4 A Yes.

5 Q And which ones did you have?

6 A I had my husband's one from Wachovia. I
7 also had one for Bank of America and one from
8 Suntrust.

9 Q Did you have accounts with all of those
10 banks?

11 A Yes.

12 Q The only bank that you went to that night
13 was the Wachovia bank?

14 A Yes.

15 Q Is there any reason that that's the one
16 you--

17 A When he pulled out the cards, I told him
18 the other two were no good.

19 Q I'm going to show you State's number 9. Do
20 you know what that is?

21 A Looks like a bank receipt.

22 Q From Wachovia?

23 A Yes.

24 Q Let's go back one second on State's number,
25 uh, 6, this front passenger seat. Was the gunman

Crystal Byers - Direct Examination by Ms. Hodge

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1 person sitting in this seat?

2 A Yes.

3 Q Was he sitting, you think, on top of all
4 that stuff?

5 A No, that's where the officer moved stuff.

6 Q I'm sorry. Where they had moved things?

7 A Yeah, when they were going through the car.

8 Q They put some stuff in the seat. And then
9 State's number 5, which side of the vehicle did the
10 second suspect get in?

11 A He got in on the passenger side.

12 Q Okay. The side where you got the mud?

13 A Yes.

14 Q Let me show you these last couple of
15 photographs, State's number 10, number 11, number 12,
16 and then finally number 13. Do you know what these
17 are pictures of?

18 A My bank cards, my husband's bank card and
19 the receipt.

20 Q Can you see dates and times on these
21 receipts?

22 A Yes.

23 Q What are they?

24 A 6/10/09 at 11:27 and 11:29.

25 Q And were these in your car still once the

Crystal Byers - Direct Examination by Ms. Hodge

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1 police got there?

2 A Yes.

3 Q You have any idea where in your car they
4 were?

5 A No.

6 Q Did someone place them to be able to take a
7 photograph?

8 A Yes.

9 Q Are these true and accurate pictures of
10 your bank cards and the ATM receipts?

11 A Yes.

12 MS. HODGE: At this time, we'd move to
13 admit numbers 11, 12, 13 -- excuse me -- 10, 11,
14 12 and 13.

15 MR. CHAMBERS: Without objection, Your
16 Honor.

17 THE COURT: All right. Without objection,
18 the same are introduced as State's exhibits.

19 (WHEREUPON, State's Exhibits 10 through 13 are
20 admitted into the record.)

21 BY MS. HODGE:

22 Q Just for the jury, Exhibit number 13 is a
23 combination of your bank card and your husband's as
24 well?

25 A Yes.

Crystal Byers - Direct Examination by Ms. Hodge

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- 1 Q And the two receipts from this evening?
- 2 A Yes.
- 3 Q And did you drive to that bank to take out
- 4 money to buy crack cocaine?
- 5 A No.
- 6 Q Did you drive to that bank because you
- 7 wanted to?
- 8 A No.
- 9 Q Why did you go to that bank?
- 10 A Because they wanted money and he had a gun.
- 11 Q You ended up calling 911, is that correct?
- 12 A Yes.
- 13 Q Did officers respond in a few minutes? Do
- 14 you know how long it may have taken them to get
- 15 there?
- 16 A I don't know how long it took them. I know
- 17 they got there while I was still on the phone.
- 18 Q And did you tell them essentially what
- 19 you've told us today?
- 20 A Yes.
- 21 Q Did you have to go to the hospital that
- 22 night?
- 23 A Yes.
- 24 Q What happened at the hospital?
- 25 A They performed a rape kit on me.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q Is that a fairly invasive procedure?

2 A Yes.

3 Q Is that something you enjoyed or wanted to
4 do?

5 A No.

6 Q Something you would have voluntarily
7 submitted to do ---

8 A No.

9 Q --- just for fun? Did you do it for any
10 certain special attention?

11 A No.

12 Q Have you ever smoked crack cocaine?

13 A No.

14 Q Do you have any drug problem?

15 A No.

16 Q Did you know this person that sat in the
17 front of your car, pointing a gun at you and raped
18 you, did you know him at all?

19 A No.

20 Q Did you ever see anyone that looked even
21 similar to him?

22 A I never saw his face. I wouldn't have
23 known if I had seen him around there before.

24 Q How about his voice? You heard this voice
25 prior to this night from anybody who had come out to

Crystal Byers - Direct Examination by Ms. Hodge

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1 these apartments?

2 A No.

3 Q Anyone you associated with?

4 A No.

5 Q How about the guy, the second suspect in
6 the back? You didn't see who that was, correct?

7 A No.

8 Q His voice, you ever heard his voice before?

9 A No.

10 Q Was there a significant amount of talking
11 going on during this ordeal?

12 A Mostly me, but the one in the back seat
13 telling the other one to shoot me saying that I was
14 playing. The one in the front passenger seat called
15 the other one by name. The one in the back seat did
16 not like it.

17 Q Did anyone receive a phone call?

18 A There was a phone call.

19 Q To one of the suspects?

20 A Yes.

21 Q Do you remember which one?

22 A I believe it was the one in the back, but
23 I'm not certain.

24 Q Did you hear any part of the conversation?

25 A Just him telling her he'd call her back.

Crystal Byers - Direct Examination by Ms. Hodge

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- 1 Q Could you tell it was a female?
- 2 A Yeah, I could hear her voice.
- 3 Q Was it loud?
- 4 A Yes.
- 5 Q Upset?
- 6 A She sounded upset.
- 7 Q And the person in the front, the gunman, he
- 8 had some conversations with you during the incident
- 9 and then, of course, during the sexual assault?
- 10 A Yes.
- 11 Q You heard his voice ---
- 12 A Yes.
- 13 Q --- in close proximity?
- 14 A Yes.
- 15 Q You ever have the radio on or any of those
- 16 kind of things?
- 17 A No.
- 18 Q After you had to endure the sexual assault
- 19 exam, did you stay at the hospital or did you go
- 20 home?
- 21 A Afterwards, an officer drove me and my
- 22 mother home.
- 23 Q Did she come to the hospital with you?
- 24 A Yes.
- 25 Q Once you got home, you have any idea what

Crystal Byers - Direct Examination by Ms. Hodge

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- 1 time this is we're talking about?
- 2 A I have no idea.
- 3 Q Were you able to go to sleep at all?
- 4 A No.
- 5 Q Did an investigator from the sheriff's
- 6 office come to you that same day but much later in
- 7 the day?
- 8 A Yes.
- 9 Q Do you remember if it was Investigator
- 10 Fortner?
- 11 A Yes, and I believe he had someone else with
- 12 him.
- 13 Q Investigator King possibly?
- 14 A I don't remember.
- 15 Q What happened when the police or
- 16 Investigator Fortner and King got there? Do you
- 17 recall?
- 18 A He asked me to tell him what happened.
- 19 Q Did you give a statement to him?
- 20 A Yes.
- 21 Q Did you write out a statement or did he
- 22 write out a statement?
- 23 A I believe he typed it up.
- 24 Q Did he have a computer with him?
- 25 A I think it was a laptop.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q How about was there a discussion about your
2 cell phone?

3 A They wanted me to get permission for them
4 to track it.

5 Q Did it have a locator on it?

6 A Yes, it did.

7 Q And did you give permission for them to
8 access your phone?

9 A My husband did. It was in his name.

10 Q They had permission to access your phone
11 records as well as the locator?

12 A Uh-huh.

13 Q How about your car? Did they take your car
14 that night?

15 A Yes.

16 Q The only car that y'all had was taken for
17 processing?

18 A Yes.

19 Q Did you sign a consent form to allow them
20 to?

21 A I believe I did. I had to sign several
22 things.

23 Q Did you let them search your car if they
24 needed to?

25 A Yes.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q Collect any evidence if they needed to?

2 A Yes.

3 Q Were you trying to hide anything in your
4 car?

5 A No.

6 Q Do you know a person or did you back then
7 know a person named Nicole Foster?

8 A No.

9 Q Did you know a person name Marika or
10 Markeya Woodruff?

11 A No.

12 Q How about a Bryan Wilkins?

13 A No.

14 Q If any of those people had called your
15 phone or used your phone, would you have given them
16 permission to do that?

17 A No.

18 Q Did you give permission for Bryan Wilkins
19 to have your phone?

20 A No.

21 Q When was the last time you saw that phone,
22 State's number 19?

23 A When I handed it out.

24 Q To whom?

25 A The guy with the gun.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q The guy with the gun. Uh, did you ever
2 have to come to the Law Enforcement Center downtown
3 in Greenville in regards to this case?

4 A Yes.

5 Q Do you know when it was that you went to
6 the Law Enforcement Center?

7 A I know it was night.

8 Q Was it in close proximity to when this
9 event happened? Within a day or two?

10 A Yes.

11 Q And why were you called to come down there?
12 Or were you taken down there by someone?

13 A No, I drove down.

14 Q Why were you going there? Why did you go
15 there?

16 A I was called and told that they had
17 arrested one of the suspects.

18 Q And did you know the name or did they tell
19 you the name?

20 A I believe he told me the name, but I don't
21 remember.

22 Q And when they told you the name of the
23 person they had arrested at the time, did that name
24 ring a bell to you?

25 A No.

Crystal Byers - Direct Examination by Ms. Hodge

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1 Q Did you know that person?

2 A No.

3 Q Did you go to the arraignment of that
4 person where they go in front of a judge and were
5 told what they were charged with. Did you attend
6 that?

7 A Yes.

8 Q Was that for Antwan Grayson, this
9 defendant?

10 A Yes.

11 Q And during that hearing, did the defendant
12 answer any questions the judge may have posed? Did
13 he talk at all during that hearing?

14 A Yes.

15 Q Well, how large was the room? Tell me the
16 setup of the arrangement.

17 A It's not very large.

18 Q Who all was in the room? Do you recall?

19 A The judge. I saw Officer --

20 Q Fortner?

21 A Yes, and Antwan Grayson.

22 Q Was anyone from his family in there?

23 A No, they wouldn't allow my husband and my
24 mother to come back with me.

25 Q So your husband and mom had come with

Crystal Byers - Direct Examination by Ms. Hodge

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1 you ---

2 A Yes.

3 Q --- to the center but they couldn't come
4 back?

5 A They couldn't come back.

6 Q And when you heard the voice of that person
7 at that arraignment, did you recognize that voice?

8 A Yes.

9 Q Whose voice was that?

10 A Antwan Grayson.

11 Q And where had you heard that voice before?

12 A When he came up and stuck a gun in my face.

13 Q Was there something about it? Did
14 something trigger in your mind?

15 A Yes.

16 Q Were you certain that was the same voice
17 that you heard?

18 A Yes.

19 Q No question in your mind. Is that the same
20 voice of the person that raped you?

21 A Yes.

22 Q Crystal, I have to ask you, was this in any
23 way anything that you willingly participated in in
24 going to the bank machine and the sexual encounter
25 and the giving of your phone, any of that, did you

Crystal Byers - Cross-Examination by Mr. Chambers

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1 freely, voluntarily give Antwan Grayson any of your
2 property or your body?

3 A No.

4 Q Did you want to?

5 A No.

6 Q Were you trying to survive this incident?

7 A Yes.

8 Q Please answer any of Mr. Chambers'
9 questions.

10 CROSS-EXAMINATION

11 BY MR. CHAMBERS:

12 Q Okay, Ms. Byers. If I understood your
13 testimony correct, you dropped your husband off at
14 work just before 11 o'clock, correct?

15 A Yes.

16 Q And prior to dropping him off at work, you
17 went through the drive-thru at the McDonald's?

18 A No, after I dropped him off.

19 Q After you dropped him off. And I believe
20 -- you correct me if I'm wrong -- you said that you
21 got a milkshake and some chicken nuggets?

22 A I got a milkshake for my mother, a
23 milkshake for myself and an order of 20-piece
24 nuggets.

25 Q So you had two milkshakes?

Crystal Byers - Cross-Examination by Mr. Chambers

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- 1 A Yes.
- 2 Q And you had chicken nuggets?
- 3 A Uh-huh.
- 4 Q Were the nuggets in a bag?
- 5 A Yes.
- 6 Q The milkshakes just in the cups?
- 7 A Uh-huh.
- 8 Q And you said that from the time you dropped
- 9 your husband off, I believe it took you about 10
- 10 minutes to get back to your apartment complex?
- 11 A About 10 minutes.
- 12 Q So it would have been just a little bit
- 13 after 11 o'clock when you got back. Is that correct?
- 14 A Yes.
- 15 Q And you were wearing pants, panties, you
- 16 said you had on a white t-shirt and you were not
- 17 wearing a bra on underneath?
- 18 A I wasn't wearing a bra.
- 19 Q Is that correct? Were you carrying a purse
- 20 with you?
- 21 A No.
- 22 Q All right. So when you got out of the car
- 23 -- and what's your apartment number?
- 24 A
- 25 Q Is that on the bottom floor?

Crystal Byers - Cross-Examination by Mr. Chambers

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1 A It's on the bottom floor back apartment on
2 the left.

3 Q All right. So from where you parked, about
4 how far was your apartment from there?

5 A Not very far.

6 Q Were there any other cars parked in the
7 parking lot?

8 A Yes.

9 Q And, uh, do you have to walk behind any
10 other apartments to get to your apartment?

11 A Two.

12 Q Okay. So as you walked up, you said you
13 had not quite gotten to your apartment yet when you
14 encountered these two individuals, is that correct?

15 A That's correct.

16 Q Now, as you were walking from the car, did
17 you have your, uh, two milkshakes and your chicken
18 nuggets with you?

19 A Yes.

20 Q And how were you carrying those?

21 A I had the milkshakes in my arm, my bag in
22 my hand and I was playing with my keys trying to get
23 my house key out.

24 Q If you could, stand up and demonstrate that
25 a little bit.

Crystal Byers - Cross-Examination by Mr. Chambers

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1. A I had the milkshakes in my arm, bag in my
2 hand and I had my keys.

3 Q So you're saying you had the two milkshakes
4 tucked into your arms here?

5 A Uh-huh.

6 Q And where was the bag?

7 A In my hand.

8 Q In your hand. So all over here on the left
9 side, you were walking. You got the two milkshakes.
10 You got the chicken nuggets and you are playing with
11 your keys with this other hand.

12 A Yes.

13 Q Is that right? And is one of those the
14 apartment key?

15 A Yes.

16 Q So was your -- did you anticipate that
17 apartment door was locked? Did you lock it when you
18 left?

19 A Yes.

20 Q Because your mother was there?

21 A Yes.

22 Q So you were anticipating when you had those
23 two milkshakes tucked in your arm right there and the
24 chicken nuggets in the left hand and you were playing
25 with the keys that when you get to your apartment you

Crystal Byers - Cross-Examination by Mr. Chambers

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1 were going to put the key in the door and you were
2 going to open the door and go in, is that correct?

3 A Yes.

4 Q So all of your hands were occupied?

5 A Yes.

6 Q Uh, and you said that when you walked up,
7 you heard these people come up behind you. Any idea
8 from what direction they were coming?

9 A They were coming up from behind.

10 Q From the direction of the parking lot or
11 from some other direction?

12 A The way they came in, it looked like they
13 were coming from the left as you're facing the
14 building from the side.

15 Q Did you know they were coming because you
16 could see them or because you could ---

17 A I heard them.

18 Q --- hear the footsteps? And what did you
19 do in response to those footsteps? Anything?

20 A I turned to look to see.

21 Q So you turned around to look. Could you
22 see them when you turned around?

23 A I saw the one with the gun. He was in
24 front of the other one.

25 Q So you turned to look with your two

Crystal Byers - Cross-Examination by Mr. Chambers

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1 milkshakes in your left arm and your bag of nuggets
2 and your keys and you turned and looked and that's
3 when you say the guy stuck a gun in your mouth?

4 A Yes.

5 Q Did you do anything with your hands or arms
6 at that point?

7 A No, I just seized up.

8 Q So a guy sticks a gun in your mouth and you
9 continue to hold two milkshakes tucked in your arm
10 and chicken nuggets in your left hand and your keys
11 in your right hand?

12 A Yeah, I just seized up, tightened up.

13 Q Really?

14 A Yes.

15 Q And at that -- so you say after he sticks a
16 gun in your mouth, he then, uh, ask you -- let's see
17 -- he asked you for money. Is that right?

18 A He asked if I had any money on me and then
19 they wanted to go into my apartment.

20 Q Okay. So they asked if you had any money.
21 You told them what?

22 A That I didn't have any on me.

23 Q Then they wanted to go into the apartment
24 and you told them what?

25 A I told them no.

Crystal Byers - Cross-Examination by Mr. Chambers

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1 Q And they were okay with you telling them
2 no, that you couldn't go in the apartment?

3 A No, they weren't okay with me telling them
4 no.

5 Q No, cause the other guy kept saying shoot
6 her, right?

7 A Uh-huh.

8 Q Did you feel like he meant that?

9 A Yeah.

10 Q He sounded like he meant it when he was
11 saying go ahead and shoot her?

12 A Yes.

13 Q So you were scared?

14 A Yes.

15 Q But they didn't go in the apartment?

16 A No.

17 Q In fact, at no point did they ever go in
18 the apartment?

19 A No.

20 Q And you were the one who suggested, hey, I
21 don't have any money on me, but I have an ATM card,
22 right?

23 A Yes.

24 Q You said we could go to the Wachovia?

25 A I told them we could go to the bank. I

Crystal Byers - Cross-Examination by Mr. Chambers

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1 wanted to be cooperative and get them away from me.

2 Q So they didn't say, hey, do you have an ATM
3 card or let's go to the bank?

4 A No.

5 Q You suggested that?

6 A Yes.

7 Q Then after telling them that you could take
8 them to the ATM, that is when you then turned still
9 with your two milkshakes in your left arm and your
10 chicken nuggets in your left hand and your keys in
11 your right hand and you walked back to the car?

12 A Yes.

13 Q And taking all that food with you?

14 A Yes. I didn't even realize I was still
15 holding it at that point.

16 Q You didn't realize that you had two
17 milkshakes?

18 A No.

19 Q The only reason they weren't falling on the
20 ground at this point is because you were holding them
21 with your left arm?

22 A Yes.

23 Q All right. So you walk back and you get in
24 the car. I believe you said the one person got in
25 the back seat, correct?

Crystal Byers - Cross-Examination by Mr. Chambers

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1 A Yes.

2 Q All right. And it would appear, based on
3 this picture that the Solicitor showed you a few
4 minutes ago, that the person that you say got in the
5 back seat got in the right passenger back seat.

6 A Yes.

7 Q So he had the -- did he have to walk around
8 the car from where you were?

9 A Yes.

10 Q Okay. Because that's where the mud is and
11 that's where that person would have gotten into the
12 back car -- in the back seat of the car. The guy
13 that you're saying had the gun got into the passenger
14 seat, correct?

15 A Yes.

16 Q So you get in the car. Were you the first
17 one to get in the car?

18 A No, I was not.

19 Q Who got in the car first?

20 A The one that got in the back passenger
21 seat.

22 Q So he got in, but the gunman had to walk
23 around the car, correct?

24 A Yes, he stayed there until I got into the
25 car and told the other one to keep it on me and then

Crystal Byers - Cross-Examination by Mr. Chambers

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1 walked around me.

2 Q You then took your milkshakes and your
3 chicken nuggets and put them in the car?

4 A I just sat it down, I guess.

5 Q Yeah.

6 A I don't remember. I was in shock.

7 Q And then y'all drove off. Now on the way
8 to the car, you never yelled out, did you?

9 A No.

10 Q You never did anything to try and arouse
11 any attention, did you?

12 A No.

13 Q You didn't try to get any of your
14 neighbors' attention?

15 A No.

16 Q Anything like that?

17 A I was afraid if I made a scene, I would
18 have been shot.

19 Q And, uh, so then you get in the car and you
20 drive to the ATM. After going through all the stuff
21 you described, you get the money. You only got \$80,
22 right?

23 A That's all I had.

24 Q Four 20s.

25 Q And who did you give the money to?

Crystal Byers - Cross-Examination by Mr. Chambers

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1 A I gave it to the one in the passenger seat
2 next to me.

3 Q Was he the one -- was he holding that gun
4 the whole time?

5 A Yes.

6 Q How was he holding it?

7 A He had it in his hand on his lap?

8 Q So he was just like holding it down on his
9 lap? He wasn't pointing it at you or anything?

10 A It was pointing toward me, but not like in
11 my face like it was when he first came up.

12 Q And then when you start getting close to
13 the apartment, you stop for these railroad tracks and
14 the guy in the back seat gets out and leaves?

15 A Yes.

16 Q You don't know why?

17 A He wanted out of the car.

18 Q He just left?

19 A Yes.

20 Q So after all this had gone on up to this
21 point, he decides he's going?

22 A Yes.

23 Q But the guy in the front seat had already
24 started groping you and stuff. Is that correct?

25 A Yes.

Crystal Byers - Cross-Examination by Mr. Chambers

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1 Q Uh, then y'all pulled back into the
2 apartment complex, correct?

3 A Yes.

4 Q And he said to pull on past where your
5 building was?

6 A Yes.

7 Q And so y'all drove on down close to where
8 the office is?

9 A Yes.

10 Q You pulled into a parking space?

11 A Yes.

12 Q Now, there are other cars and stuff parked
13 there, correct?

14 A Yes.

15 Q And there were lots of apartments there,
16 correct?

17 A Yes.

18 Q I think you even noted that there was a
19 police car that was parked there, correct?

20 A Yes.

21 Q Knowing all that, did you ever think to try
22 to do anything to call attention to yourself? Blow
23 the horn?

24 A I didn't want to be shot.

25 Q I understand. So, uh, you never got shot,

Crystal Byers - Cross-Examination by Mr. Chambers

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1 did you?

2 A No.

3 Q You never got injured in any way, did you?

4 A I wouldn't say that. No, I was injured.

5 Q You don't have any physical injuries other
6 than the fact that you're claiming that you were
7 raped, you didn't have any swelling, any bumps, any
8 bruises?

9 A No.

10 Q Any cuts?

11 A No.

12 Q I mean, you didn't suffer what anybody
13 would think that was a physical injury, correct?

14 A No, not a physical injury.

15 Q Uh, then you say you pulled into this
16 parking lot. And both of you get out of the car.
17 Did you walk around? What side did you get in?

18 A I got in on the driver's side.

19 Q Okay. And did you -- I saw that there were
20 two pillows in the back seat. Did you leave those in
21 the back seat?

22 A I don't know what happened. I think they
23 were shoved down into the floorboard on the driver's
24 side.

25 Q These two pillows here? These large

Crystal Byers - Cross-Examination by Mr. Chambers

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1 pillows?

2 A Yes.

3 Q You think they were shoved into the
4 floorboard?

5 A Yes.

6 Q So somebody, before taking that picture
7 pulled them back out? Is that right?

8 A Uh, I don't see it.

9 Q Can you see those?

10 A Yes.

11 Q Those were the pillows?

12 A Yes.

13 Q So you didn't lay your head on those
14 pillows?

15 A No.

16 Q Are you saying you laid your head down on
17 the seat?

18 A Yes.

19 Q Did you pull your pants off before or after
20 you got into the car?

21 A After.

22 Q So you laid down on the seat and then you
23 pulled your pants off?

24 A Yes, when he told me to pull them off.

25 Q Then you pulled your panties off?

Crystal Byers - Cross-Examination by Mr. Chambers

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1 A Yes.

2 Q What was he doing while you were doing all
3 that?

4 A He was unzipping his pants and pulled them
5 down.

6 Q Okay. Did he use both hands to do that?

7 A I don't recall.

8 Q You ever remember if he was using both
9 hands to unzip his pants? Did he pull his pants off
10 or did he just unzip them?

11 A Just pulled them -- unzipped them and
12 pulled them down a little.

13 Q And did you see what pocket he took the
14 condom out of?

15 A No.

16 Q But you saw him take out a condom?

17 A He did that on the drive down after I asked
18 him if he had anything. He pulled it out and said
19 yes.

20 Q So while y'all were still in the car?

21 A Yes.

22 Q Was that before or after the guy in the
23 back seat got out?

24 A After.

25 Q After the guy got out of the back seat, he

Crystal Byers - Cross-Examination by Mr. Chambers

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1 pulls out a condom? Did he open it? Did he take it
2 out of the package?

3 A He had it in his hands. I don't know.

4 Q How did you know he had it?

5 A Because he pulled it out and said yes that
6 he had it in his hand.

7 Q So he pulled it out. Did he show it to
8 you?

9 A He had it held up, yeah.

10 Q Which hand was he holding it with to show
11 it to you?

12 A His right hand.

13 Q And so did you see what he did with it when
14 y'all got out and you laid in the back seat?

15 A No.

16 Q Okay.

17 A I wasn't even sure at the time he was using
18 it.

19 Q Did you hear him at any point fool with the
20 package or anything like that?

21 A While we were driving.

22 Q Okay. Did, uh, -- you're saying you don't
23 know whether he put it on or not?

24 A At the time, I didn't know whether he had
25 put it on or not, no.

Crystal Byers - Cross-Examination by Mr. Chambers

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1 Q And then he climbed into the back seat with
2 you?

3 A Yes.

4 Q And that's when you say y'all had sex?

5 A That's when he raped me, yes.

6 Q And then he finished and he got out. Now,
7 while he was doing that, I think you said that at one
8 point he started to kiss you and also to suck on your
9 nipple, is that correct?

10 A Yes.

11 Q And that was after you told him that he was
12 getting too rough, is that right?

13 A I'm sorry. Would you repeat that?

14 Q When he began to kiss you and suck on your
15 nipple, that was right after you told him he was
16 being too rough, is that correct?

17 A I don't know the exact timeline of when he
18 said that or when he did that.

19 Q You remember giving a statement to the
20 police, a typed statement?

21 A Yes.

22 Q Does this look like the statement that you
23 gave?

24 A Yes.

25 Q You said in response to what you had to say

Crystal Byers - Cross-Examination by Mr. Chambers

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1 that Investigator Fortner would type this out?

2 A Yes.

3 Q You then had an opportunity to review it,
4 correct?

5 A Yes.

6 Q In fact, you initialed different places
7 indicating that all this was accurate?

8 A Yes.

9 Q Then you signed it?

10 A Yes.

11 Q So this statement would be accurate as of
12 March 17th of 2009?

13 A Yes.

14 Q All right. Look at this with me. It says
15 when I told him he was hurting me, he stopped being
16 as rough with me. He then kissed me and sucked on my
17 nipple. So that would indicate at some point, your
18 shirt was pulled up, correct?

19 A Yes.

20 Q Did you do that?

21 A No.

22 Q Then, after the two of you finished, that's
23 when you got dressed again?

24 A Yes.

25 Q Now, as he was having sex with you, or as

Crystal Byers - Cross-Examination by Mr. Chambers

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- 1 you say, raping you, uh, where was his hands? How
2 was he holding himself up?
- 3 A I don't know. He had my face covered.
- 4 Q Well, you didn't say that a few minutes
5 ago. Where did he have your face covered?
- 6 A I did say he covered my face.
- 7 Q What did he cover your face with?
- 8 A With a hat.
- 9 Q Really, did you put that in your statement?
- 10 A I don't remember.
- 11 Q Take a look. I want you to read that.
12 Tell me where you said you covered your face.
- 13 A (Reading). I didn't.
- 14 Q You didn't say that, did you?
- 15 A No.
- 16 Q So you don't know how he was holding
17 himself up?
- 18 A No.
- 19 Q This is not a big back seat, correct?
- 20 A No, it's not.
- 21 Q And you were laying on your back?
- 22 A Yes.
- 23 Q In the back seat of this Nissan?
- 24 A Yes.
- 25 Q So he was somehow, in order to perform this

Crystal Byers - Cross-Examination by Mr. Chambers

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1 act, I'm assuming he was on top, correct?

2 A Yes.

3 Q Was somehow holding himself up while he was
4 -- cause you said this went on for five or six
5 minutes, correct?

6 A I don't know how long it went on, but about
7 that, yeah.

8 Q I mean, your testimony was it was about
9 five or six minutes. Would that be fair to say?

10 A Uh-huh.

11 Q Again, let's take --

12 A It's not like I was looking at my watch.

13 Q I want you to look at this line right here.
14 Is that what you said right there, that this lasted
15 five or six minutes?

16 A Yeah.

17 Q Huh?

18 A Yeah.

19 Q No?

20 A No, I said yes.

21 Q It says it lasted for five or six minutes.
22 He acted like he ejaculated, but he was wearing a
23 condom so I don't really know.

24 A I assumed he had it on.

25 Q You assumed he had it on?

Crystal Byers - Cross-Examination by Mr. Chambers

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1 A I assumed he had it on since he pulled it
2 out.

3 Q Actually what you said in your statement on
4 the 17th, and again, you correct me. I want you to
5 look at it with me.

6 A Uh-huh.

7 Q It says that he told me to take pants off.
8 Before that, he put a condom on.

9 A He was playing with it.

10 Q But that would indicate that you were
11 certain that he was putting on a condom?

12 A I didn't see him put it on. I just heard
13 him playing with the wrapper.

14 Q And then later, you made reference to the
15 fact that you didn't know whether he ejaculated
16 because he was wearing a condom, correct?

17 A I assumed that he was wearing it.

18 Q But you didn't assume when you gave the
19 statement. You were pretty definite about it? Is
20 that fair to say? You approved it. You initialed by
21 it.

22 A Yeah.

23 Q You signed it. Correct?

24 A Yeah.

25 Q Okay. So then you get done and you put

Crystal Byers - Cross-Examination by Mr. Chambers

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1 your clothes on. I guess he gets back in the
2 passenger seat. Oh, wait a minute. While all this
3 is going on in the back seat, and he is, as you said
4 in your statement, putting on a condom, getting into
5 the back seat, somehow holding himself up, keeping
6 his balance as he's having sex, or as you said,
7 raping you for five or six minutes, uh, no gun?

8 A I was in -- I was assuming he put it in his
9 hoodie.

10 Q You're assume--

11 A The pocket. It was dark in the car. I
12 couldn't see.

13 Q So you think he put it in his pocket?

14 A In some pocket.

15 Q At any rate, it was pretty clear at that
16 point he --

17 MS. HODGE: Your Honor, can she be allowed
18 to finish her question.

19 MR. CHAMBERS: I'm sorry.

20 MS. HODGE: Mr. Chambers interrupted a few
21 times already.

22 THE COURT: Okay.

23 MR. CHAMBERS: I'm sorry. Go ahead.

24 THE COURT: If you have any additional
25 thing to say, you can say it.

Crystal Byers - Cross-Examination by Mr. Chambers

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1 If not, you may ask another question.

2 BY MR. CHAMBERS:

3 Q But at least at this point, he didn't have
4 a weapon pointed at you or readily available,
5 correct?

6 A He didn't have it pointed at me.

7 Q You could have resisted, yelled out, tried
8 to close the door on him as he was putting on his
9 condom, locked the door, any number of things. You
10 didn't do any of that, did you?

11 A No.

12 Q In fact, what you did -- you correct me on
13 this if I'm wrong is that you got back in the
14 driver's seat, he got back in the passenger's seat
15 and you drove right back to the apartment where
16 everything started, correct? And you say that at
17 that point you were going to get for him this cell
18 phone?

19 A Yes.

20 Q Now, you said while this whole thing was
21 going on, when you testified a few minutes ago, that
22 he kept saying he didn't want you to call the police
23 and you -- the implication being that that was why he
24 wanted your cell phone. Am I correct in that?

25 A No, he didn't want me to call the police.

Crystal Byers - Cross-Examination by Mr. Chambers

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1 He just kept asking me over and over if I was going
2 to call the police.

3 Q Okay. And you told him that you didn't ---

4 A He wanted the cell phone because he wanted
5 it.

6 Q --- have the cell phone.

7 A I told him I didn't have it on me.

8 Q All right. In your statement, the only
9 thing you said about that was right here, is that
10 right, where you said he asked me about my cell phone
11 and I told him where it was?

12 A He asked me if I had a cell phone.

13 Q You told him it was a Blackberry?

14 A Yes.

15 Q All right. And so he wanted the phone. So
16 at this point, according to your testimony, he has
17 gotten the \$80 from the ATM. The other guy left
18 without getting anything. He has raped you. And now
19 he's going back to the apartment to get the phone.

20 A Yes.

21 Q And again he said he wanted to go inside
22 the apartment?

23 A Yes.

24 Q But you didn't let him go inside?

25 A Right.

Crystal Byers - Cross-Examination by Mr. Chambers

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1 Q He just didn't go, right?

2 A He stood at the door.

3 Q Up until this point, he has, by gunpoint,
4 forced you into the car, forced you to get money from
5 the ATM, forced you to have sex. But at no point did
6 he decide to use force to get into this apartment
7 that he apparently told you several times that he
8 wanted to go into, right?

9 A At that point, no.

10 Q In fact, when he went there, he didn't even
11 go inside?

12 A No, he stood outside the door.

13 Q He stood outside the door. And you went
14 inside away from him.

15 A Uh-huh.

16 Q And then came back out on your own?

17 A Yes.

18 Q You didn't lock the door?

19 A I didn't want to waste trying to shut the
20 door and lock it in his face.

21 Q So in other words, rather than risking
22 locking the door in his face where he would not be
23 able to get to you, you voluntarily went right back
24 out into the hallway ---

25 A Like I said --

Crystal Byers - Cross-Examination by Mr. Chambers

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1 Q Hold on --- with the guy that had been
2 threatening to kill you that you were so afraid of
3 that was going to kill you, you walked right back to
4 him?

5 A Like I said, I didn't want to risk locking
6 the door because the lock was messed up. And if it
7 didn't lock, he might come in and hurt my mother.

8 Q In fact, what you said when you gave your
9 statement was I went in and did not close the door
10 all the way because I was afraid he would keep me
11 from doing that. He stood right next to the door,
12 right? So you didn't say anything about him putting
13 a foot in the door to keep you from closing it.

14 A He had his hand on the door.

15 Q You didn't say that. You said it was your
16 idea not to close the door all the way, right?

17 A I meant that I didn't try to do that
18 because I didn't want to anger him where he'd try to
19 force the door open and come in.

20 Q Well, I'm assuming that this whole time you
21 feel like that he is -- you feel like you're going to
22 get shot, right?

23 A Yes.

24 Q And yet, you're going to walk right back
25 out to this guy that has a gun when you have some

Crystal Byers - Cross-Examination by Mr. Chambers

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1 chance of putting a locked door between the two of
2 you.

3 A And there was some chance that the lock
4 would fail in trying to do it and him coming in and
5 killing me.

6 Q So then you go back out with the phone?

7 A Yes.

8 Q And he very nicely walks you back out
9 making these comments that you talked about saying he
10 wanted you to eat because you left your food in the
11 car?

12 A Yes.

13 Q He didn't take the car?

14 A No, he didn't want the car.

15 Q And the food is still right there in the
16 car where you left it?

17 A Yes.

18 Q And so -- and you're saying that you didn't
19 attempt at any point to buy crack?

20 A No.

21 Q That you didn't offer to go get these four
22 20s to buy four crack rocks?

23 A No.

24 Q That you didn't offer to trade this
25 telephone for two crack rocks?

Crystal Byers - Cross-Examination by Mr. Chambers

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1 A No.

2 Q That you didn't, at some point, offer to
3 issue your car as a means of getting crack from him,
4 correct?

5 A No.

6 Q And that you didn't have sex with him for
7 crack?

8 A No.

9 Q And yet, what you are telling us, if I
10 understood from what you said and from your
11 statement, because there were some inconsistencies,
12 is that you, uh, just with the food that you had
13 tucked under one arm, without -- someone sticking a
14 gun in your mouth, don't drop it, don't move, are
15 able to walk back with him to the car, get in the
16 car, drive off to the ATM, right?

17 A Uh-huh.

18 Q The ATM that you suggested to him that you
19 go to, right?

20 A The bank that I suggested that they go to?

21 Q Yeah. For all you know, when they -- with
22 the response of, hey, I don't have any money, they
23 might have just taken off at that point?

24 A No, they started insisting more that they
25 go into the apartment.

Crystal Byers - Cross-Examination by Mr. Chambers

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1 Q And then after you go to the ATM and you
2 come back, the other guy gets out at the railroad
3 track, right?

4 A Uh-huh.

5 Q And you are saying that right after that,
6 you go into the apartment complex where there's all
7 these cars, there's even a police car?

8 A Yes.

9 Q And then he rapes you but you don't blow a
10 horn, you don't yell, you don't fuss, you don't
11 fight, you don't do anything to try and arouse
12 attention even though you are afraid that this guy is
13 going to shoot you?

14 A I was afraid that if I aroused any
15 attention or tried to escape that he would shoot me.

16 Q And yet the one thing that he said that he
17 didn't -- that he wanted to do, to go into your
18 apartment, never did?

19 A No.

20 Q Even though he went right to the door of
21 your apartment?

22 A No.

23 Q And as you were leaving, your mother came
24 out?

25 A Yes.

Crystal Byers - Cross-Examination by Mr. Chambers

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1 Q So she, at that point, knew that there was
2 a guy out there with you?

3 A No, she didn't know there was a guy out
4 there with me.

5 Q She came out and she was there where you
6 and he were?

7 A No, we were already around the corner of
8 the building.

9 Q Okay. Now, you have indicated today that,
10 uh, -- let me ask you. The guy that was in the back
11 seat, was he wearing anything on his face?

12 A I didn't get a good look at him.

13 Q Why not?

14 A Cause I kept being told not to look at him.

15 Q And you are saying the other guy had what
16 on his face?

17 A The one with the gun had a bandanna on his
18 face.

19 Q On his face. How was it on his face?

20 A It was across his face.

21 Q You're saying that this -- y'all were
22 together for the better part of an hour based on what
23 you said, right?

24 A I guess so.

25 Q Well, don't guess. Is that what you said?

Crystal Byers - Cross-Examination by Mr. Chambers

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1 I mean, you said this happened some time between
2 11:00 and say 11:54. So that's pretty close to an
3 hour.

4 A Yeah.

5 Q So you are together with this guy the whole
6 time?

7 A Uh-huh.

8 Q And you're saying that he kept this
9 bandanna on his face. And through this bandanna, he
10 was able to suck your nipple and kiss you?

11 A No, it was off. He took it off because he
12 was using his mouth on me.

13 Q And he was able to kiss you with something
14 covering your face?

15 A He had my eyes covered.

16 Q And the thing you never put in your
17 statement. The other thing is, I'm looking at your
18 statement and you do give a description of these
19 individuals. Both of them were black. Both were in
20 their late teens or early-20s. The guy with the gun
21 was about 5'8 or 5'9 and thin. He was thin and was
22 wearing baggy pants. He wore maybe 150 to 160
23 pounds.

24 The other guy was shorter, about 5'6 or 5'7
25 and wore about 170 pounds. Now, I don't see anywhere

Crystal Byers - Cross-Examination by Mr. Chambers

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1 in your statement anywhere where you ever indicated
2 that anybody had a bandanna covering their face. You
3 can answer that. If you need to, you can look
4 through there and let me know if you see in there
5 where you told the police that. You want to look?

6 A No.

7 Q So you didn't say anything about a bandanna
8 covering anybody's face?

9 A No, I guess I didn't if it's not in the
10 statement.

11 Q So if we read this statement, it would be,
12 uh, reasonable to believe that nothing was covering
13 the face, right?

14 A I guess you could assume that.

15 Q In fact, in your statement, you even
16 indicated, and if you don't remember this, I can show
17 it to you, that when you got to the Wachovia, that
18 they were holding their head so as not for anybody to
19 be able to see their face on the camera, correct?

20 A They didn't want anybody to know that there
21 was anybody in the car with me.

22 Q But you said so that they couldn't see
23 their face.

24 A So they couldn't see.

25 Q Yeah, see their face, right?

Crystal Byers - Cross-Examination by Mr. Chambers

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1 A I don't know.

2 Q Okay. Yeah. Said the guy in the back was
3 telling the guy in the front not to look at the
4 camera. Which would indicate that that person was
5 not wearing anything on their face, right?

6 A Like I said, I didn't get a look at the
7 second guy. So I don't know if he had anything on
8 his face. But I know the one with the gun had a
9 bandanna on his face.

10 Q But on March 17th, no mention of anything?
11 No mention of a bandanna on anybody's face, right?
12 No mention of anybody covering their eyes? Uh, one
13 last question. Is it true that on just recently you
14 were convicted of Shoplifting?

15 A Yes.

16 Q It is true?

17 A Yes. I was with a friend of mine and she
18 was stealing some stuff.

19 Q Thank you.

20 A Yes.

21 MS. HODGE: You can finish your answer if
22 you would like.

23 THE WITNESS: That's all I was saying. I
24 ended up taking responsibility for it because I
25 felt that she was my friend and I was in a state

Crystal Byers - Redirect Examination by Ms. Hodge

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1 of depression at the time.

2 BY MR. CHAMBERS:

3 Q So you lied for your friend?

4 A Yes, because she actually had a felony
5 against her for Battery.

6 Q You lied to the police and to the judge and
7 everybody about committing a criminal offense?

8 A No, I was there. And I took responsibility
9 for my part in it. I covered for her also by taking
10 full responsibility.

11 Q So when you're saying you covered for her,
12 that would indicate that you lied to the judge and
13 police.

14 A No, I took responsibility for my part of it
15 by leaving her out.

16 Q Okay. Thank you, Ms. Byers.

17 REDIRECT EXAMINATION

18 BY MS. HODGE:

19 Q And that was after you had been raped and
20 robbed and --

21 A It was almost a year after.

22 Q Did you have any aftereffects from this
23 rape and robbery?

24 A Yes, I couldn't perform at my job anymore.
25 I started missing time. I lost my job. I separated

Crystal Byers - Redirect Examination by Ms. Hodge

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1 from my husband. My family came and took my mother
2 up to North Carolina. I just fell apart after that.
3 I couldn't function very well. I was depressed all
4 the time. In March of last year, I tried to kill
5 myself.

6 Q After that, you tried to turn it around?

7 A Yes.

8 Q Got yourself in a little bit better place?

9 A Yes.

10 Q And you moved from South Carolina?

11 A To Florida.

12 Q Mr. Chambers, uh, made a big deal about
13 your statement.

14 MS. HODGE: At this time, Your Honor, I'd
15 move to admit Ms. Byers' statement under the
16 Rule of Completeness and also he stated there
17 were prior inconsistencies.

18 THE COURT: All right.

19 MR. CHAMBERS: Without objection, Your
20 Honor.

21 THE COURT: All right. Without objection,
22 the same is admitted into evidence as State's
23 number?

24 MS. HODGE: When the police officer --

25 THE COURT: Hold on.

Crystal Byers - Redirect Examination by Ms. Hodge

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1 MS. HODGE: I'm sorry.

2 THE COURT: Let her mark it.

3 (WHEREUPON, State's Exhibit 21 is marked for
4 identification and admitted into the record.)

5 BY MS. HODGE:

6 Q Crystal, when you called 911, you told them
7 essentially the same thing you told the police when
8 they came to your house right after this happened,
9 correct?

10 A Yes.

11 Q And you told the officer that responded to
12 the house that, in fact, the person with the gun was
13 wearing a blue bandanna, is that correct?

14 A Yes, I believe I said something on the 911
15 call. I'm not sure.

16 Q In your statement, you don't say anywhere
17 that this is for crack cocaine, is that right? That
18 any of this was about crack for you?

19 A For me, no.

20 Q Was there something about crack cocaine
21 said though?

22 A Yes, I asked why they were doing this.

23 Q What was said?

24 A He said they were doing it for drugs, for
25 crack.

Crystal Byers - Redirect Examination by Ms. Hodge

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1 Q And did that seem like a serious response
2 in your mind or what tone did the person saying it
3 respond in?

4 A He kind of giggled afterwards, so I wasn't
5 sure he was serious.

6 Q All right. And who said it, front seat or
7 back?

8 A Front seat.

9 Q The one with the gun?

10 A Yes.

11 Q And, uh, Mr. Chambers wanted to make a big
12 deal about you going back to your apartment to grab
13 your phone and not screaming and hollering and making
14 a big production. You had just given this robber and
15 this rapist your money and you had endured being
16 raped.

17 A Yes.

18 Q Were you wanting to get shot after all of
19 that had already happened?

20 A No.

21 Q Was it in your best interest to scream and
22 yell at that point?

23 A No.

24 Q If it was any time to scream and yell,
25 would it have been after all these things had already

Crystal Byers - Redirect Examination by Ms. Hodge

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1 happened to you and you could get killed?

2 A It wasn't in my best interest.

3 Q How about for your mother? Was that in her
4 best interest?

5 A No.

6 Q Were you doing anything and everything to
7 get them to leave you alone?

8 A Yes.

9 Q Leave your mother alone?

10 A Yes.

11 Q Just go on their merry way?

12 A Yes.

13 Q Mr. Chambers asked you if you were
14 physically injured. Do you have any bruises or marks
15 on your face?

16 A No.

17 Q How did you manage to do that?

18 A By telling him when he asked me if I called
19 the police -- if I would call the police and I told
20 him no, that if he left any marks on me, my husband
21 would.

22 Q Would know?

23 A He would know that something happened. I
24 would have to tell him and he would call the police.

25 Q So you had essentially been rational enough

Crystal Byers - Redirect Examination by Ms. Hodge

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1 to think through not getting any marks on you?

2 A I didn't want to be beaten either. I
3 didn't want to be hurt. I didn't want to be shot. I
4 didn't know if he would go crazy and end up killing
5 me.

6 Q And is your opinion, being raped, does that
7 injure you?

8 A Yes.

9 Q Thank you. I don't have any more
10 questions.

11 MR. CHAMBERS: Nothing else, Your Honor.

12 THE COURT: All right. Thank you.
13 Appreciate you being here.

14 MS. HODGE: Proceed?

15 THE COURT: Yes, ma'am.

16 MS. HODGE: Your Honor, the State would
17 call Mr. Ronald Mahler.

18 THE CLERK: Mr. Mahler, if you would, come
19 forward. Place your --

20 THE WITNESS: Where do you want me?

21 THE CLERK: You can just place your left
22 hand on the Bible and -- thank you.

23 RONALD MAHLER

24 having first been sworn, testifies as follows:

25 THE CLERK: Thank you. Would you please

Ronald Mahler - Direct Examination by Ms. Hodge

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1 state your full name for the record.

2 THE WITNESS: Ronald Mahler.

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MS. HODGE:

6 Q Mr. Mahler, who do you work for?

7 A Wachovia Bank.

8 Q How long have you been with Wachovia?

9 A Going on four years.

10 Q What are your duties or your job
11 responsibilities?

12 A I'm a teller. At the time of this
13 incident, I was in charge of the video equipment.

14 Q For which branch?

15 A I'm sorry. Wade Hampton Boulevard in
16 Taylors. It's actually Greenville, but because
17 there's two on Wade Hampton Boulevard. One is the
18 Greer office. We're in the Taylors' office.

19 Q And where is the Greer office located?

20 A Further up Wade Hampton toward, uh, Lyman.
21 In that area.

22 Q All right. And do you recall coming to
23 work on March the 17th of 2009 and checking the video
24 equipment for that day?

25 A Yes.

Ronald Mahler - Direct Examination by Ms. Hodge

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1 Q And was your video equipment in proper
2 working order?

3 A Yes, it was.

4 Q Were all of your cameras working during
5 this time?

6 A Yes, they are checked every morning.

7 Q So what's the procedure just briefly?

8 A The second person in the bank, and that was
9 me at the time, you go in the video room. There's
10 buttons you push. You reverse the camera. You go
11 through and make sure all the cameras had worked
12 overnight. I believe there's 12 cameras on site.
13 They were all working. Then we log it in that
14 everything was okay.

15 Q Did you get a call from, uh, I don't know
16 if it was your corporate office or your security from
17 Wachovia that law enforcement was interested in one
18 of your tapes from the night before, the March 16th,
19 '09?

20 A Yes.

21 Q And did you then have an occasion to speak
22 with Investigator Mike Fortner with the Sheriff's
23 Office?

24 A Yes, I did.

25 Q And was he interested in getting the video

Ronald Mahler - Direct Examination by Ms. Hodge

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1 surveillance from that prior evening?

2 A Yes.

3 Q Did you then, uh, -- how were y'all
4 recording things back then?

5 A VHS.

6 Q All right. Let me show you State's number
7 18(a). Can you identify that for me?

8 A Yeah. That is the tape because I have my
9 writing on there at the time that this tape was put
10 in.

11 Q Okay. And what was the procedure for
12 changing tapes?

13 A You take that one out and mark when it was
14 taken out. I didn't because we gave them that ahead
15 of time. Then we put another tape in and mark the
16 time that it goes in.

17 Q So you put in 5:21 on April -- excuse me --
18 March the 12th?

19 A Correct.

20 Q And the incident they were interested in
21 looking at was March the 16th, so it would have been
22 on this tape?

23 A Correct.

24 Q Then when you gave this tape away, you put
25 a new VHS in ---

Ronald Mahler - Direct Examination by Ms. Hodge

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1 A Yes.

2 Q --- and documented that? Did you ever view
3 what was on the videotape from the night before?

4 A I guess just a brief reverse, pull forward
5 to make sure all the cameras worked during the night.
6 I didn't really look to see what happened or anything
7 unless I obviously saw something that was bad. No.
8 I mean, yes, but no.

9 Q All right. Did you cue it up for
10 Investigator Fortner when he came to your office?

11 A Yes, I did.

12 Q Was he allowed to use your equipment to
13 view this tape?

14 A Yes.

15 Q Because there are 12 different cameras, did
16 it take special viewing equipment at the time?

17 A The camera, the screen and everything is
18 right there in our video room. You just keep
19 reversing until you get to the time and date.

20 Q And when you handed this over, do you know
21 if you made any additions or deletions from this
22 tape?

23 A Absolutely not.

24 MS. HODGE: At this time, Your Honor, we
25 move to admit State's number 18(a).

Brian Wilkins - Direct Examination by Ms. Hodge

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1 MR. CHAMBERS: Without objection.

2 THE COURT: All right, sir. Without
3 objection, the same is admitted as State's
4 number 18.

5 MS. HODGE: Thank you.

6 (WHEREUPON, State's Exhibit 18(a) is admitted
7 into the record.)

8 BY MS. HODGE:

9 Q Did you have any other involvement in this
10 case? Did anyone ever come and talk to you about
11 potential witnessing the incident or viewing of
12 anything that may have occurred on the tape?

13 A Other than the fact that I would be
14 subpoenaed to be a witness, no.

15 Q Thank you so much for being here. That's
16 all the questions I have.

17 MR. CHAMBERS: No questions for this
18 witness, Your Honor.

19 THE COURT: All right. Mr. Mahler, thanks
20 for being here.

21 THE WITNESS: Thank you.

22 THE COURT: Appreciate it.

23 MS. HODGE: May this witness be excused,
24 Your Honor?

25 MR. CHAMBERS: Without objection, Your

Brian Wilkins - Direct Examination by Ms. Hodge

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1 Honor.

2 THE COURT: Yes, ma'am. Absolutely. Yes,
3 ma'am.

4 MS. HODGE: The state would call Brian
5 Wilkins.

6 THE CLERK: Mr. Wilkins, if you would,
7 come forward. Place your left hand on the Bible
8 and raise your right to be sworn in.

9 BRIAN WILKINS
10 having first been sworn, testifies as follows:

11 THE CLERK: Thank you. You may be seated.
12 Would you please state your full name for the
13 record.

14 THE WITNESS: Brian Wilkins.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MS. HODGE:

18 Q Mr. Wilkins, I'm going to get you to make
19 sure you speak into that microphone please, all
20 right, so everyone can hear you. Thank you. How old
21 are you, Mr. Wilkins?

22 A 24.

23 Q And are you married?

24 A No, ma'am.

25 Q How many children do you have?

Brian Wilkins - Direct Examination by Ms. Hodge

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- 1 A Five.
- 2 Q Are you working?
- 3 A Not right now.
- 4 Q How far did you go in school?
- 5 A 9th.
- 6 Q Where did you go to school?
- 7 A Greer High.
- 8 Q Are you related to the Defendant, Antwan
- 9 Grayson?
- 10 A Yes, ma'am. That's my brother.
- 11 Q I'm sorry?
- 12 A Yes, ma'am. That's my brother.
- 13 Q Do you have the same mother?
- 14 A Yes, ma'am.
- 15 Q Do you have the same father?
- 16 A No, ma'am.
- 17 Q Who is your mother? What's her name?
- 18 A Tina Michelle Grayson.
- 19 Q And what's your father's name?
- 20 A Lyman Wilkins.
- 21 Q How about the defendant, Mr. Grayson?
- 22 What's his father's name?
- 23 A I don't know his full name.
- 24 Q Okay. Who is older, you or the defendant?
- 25 A I am.

Brian Wilkins - Direct Examination by Ms. Hodge

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1 Q At certain times in your life, did you guys
2 live together in the same house?

3 A Yes, ma'am.

4 Q At some times, did you live apart' growing
5 up?

6 A Yes, ma'am.

7 Q How about on March the 16th of 2009? Were
8 you guys living together then?

9 A No, ma'am.

10 Q Okay. Where were you staying then?

11 A I was staying with my girlfriend.

12 Q What was her name?

13 A Marika Williams.

14 Q And where was, uh, the defendant staying
15 then?

16 A He was staying with our uncle.

17 Q Who is that?

18 A Gernard Grayson.

19 Q Do you know Curtis Wilkie?

20 A Yes, ma'am.

21 Q Are you related to Mr. Wilkie at all?

22 A Yes, ma'am. That's my cousin.

23 Q And, uh, are y'all related on your mom's
24 side or your dad's side?

25 A Mom.

Brian Wilkins - Direct Examination by Ms. Hodge

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1 Q And you stated that the defendant -- did
2 you state that the defendant was staying with a
3 Grenadi Grayson? Is that what you were telling me?

4 A Gernard.

5 Q Gernard. I'm sorry. Where was that?
6 Where did Gernard live?

7 A I don't know how to say the apartments. I
8 don't know the name of the apartments, but it was
9 right across from the apartments.

10 Q Was it across from [REDACTED]?

11 A Yes, ma'am.

12 Q Those are the ones we been talking about.
13 There's an apartment complex across the street?

14 A Yes, ma'am.

15 Q Okay. I want to get you to look on this
16 map for me. Would it have been called Brook Terrace
17 Apartments back in '09 possibly?

18 A Really, it didn't have no sign.

19 Q Okay.

20 A But I think that is the name of it.

21 Q These are [REDACTED] here, is
22 that right? Is that where those are?

23 A Yes, ma'am.

24 Q Okay. So there's something over here
25 across the street?

Brian Wilkins - Direct Examination by Ms. Hodge

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1 A Yes, ma'am.

2 Q And where would Mr. Grayson -- do you know
3 which building, uh, Mr. Grayson would have been
4 staying in?

5 A The one on the picture.

6 Q Okay. Can you use the pointer and kind of
7 show the direction? You can just push this little
8 button right here. It's going to bring up a red
9 light. And you can show me up, down, left, right.
10 It will be over this way some?

11 A Yes.

12 Q And is this walking distance from here over
13 to here?

14 A Uh-huh.

15 Q These apartments over here?

16 A Yes.

17 Q And double railroad tracks?

18 A Yes.

19 Q What road is -- what does this go to? What
20 does Brook Glen Road go to first? What road is that?
21 Do you know?

22 A I just know it's a skate rink right there.

23 Q Skating rink?

24 A Rolling skate rink.

25 Q The one in Taylors? Is it Taylors we're

Brian Wilkins - Direct Examination by Ms. Hodge

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1 talking about?

2 A Yes.

3 Q Are you more familiar with Greer area and
4 that way?

5 A Yes, ma'am.

6 Q So Greer would be to your right on that map
7 and Greenville would be to your left?

8 A Uh-huh.

9 Q Do you know if anybody else happened to be
10 staying with, uh, Gernard Grayson and the defendant
11 back in this time in March of last year? Excuse me,
12 in 2009. Anybody else staying in that house?

13 A Really, I can't just place myself to saying
14 that they was staying there. It's just like my
15 uncle, you know, he like to help out. If you ain't
16 got no where to stay, he'll let you stay there.

17 Q Okay. So you could stay for a day or two?

18 A Yeah.

19 Q Or as long as you needed. All right. And
20 was there an aunt staying there too?

21 A No, ma'am. She stayed like a building
22 over.

23 Q What's her name?

24 A Sheba.

25 Q Okay. So she's not in the same apartment

Brian Wilkins - Direct Examination by Ms. Hodge

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1 with --

2 A No, ma'am.

3 Q Okay. Did you ever visit over to Gernard's
4 apartment when Mr. Grayson, the defendant would have
5 been there? Did y'all ever hang out over there
6 together?

7 A Yes, ma'am. That's my brother.

8 Q So you are hanging with them over there
9 some times. All right. Back in March, specifically
10 around March 16th or so of 2009, did the defendant --
11 did he have his own cell phone back then?

12 A No, ma'am.

13 Q Did you -- how did you communicate with
14 him?

15 A Me and my uncle and just my uncle phone or
16 whoever phone he called from.

17 Q Okay. Just if he could get a phone, you'd
18 use it.

19 A Yeah.

20 Q All right. Did you have your own cell
21 phone back then?

22 A Yes, ma'am.

23 Q You remember what your cell phone number
24 was?

25 A It's 361-3196.

Brian Wilkins - Direct Examination by Ms. Hodge

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1 Q Do you remember on March, late on the 16th
2 or early the 17th of 2009, do you remember seeing
3 this cell phone, State's number 19?

4 A Yes, ma'am.

5 Q Tell us how you saw that phone, when you
6 saw that phone.

7 A My brother told me he was --

8 Q Hang on. Hang on. I'm going to stop you
9 there. You can't say anything your brother said to
10 start with. Tell me, first of all, when is the first
11 time you saw that phone. Tell me that.

12 A Whatever date y'all was saying, I guess.

13 Q Okay. On March 16th to the 17th of 2009,
14 does that sound about right?

15 A Yes, ma'am.

16 Q Okay. Is that the first time you saw that
17 phone?

18 A Yes, ma'am.

19 Q Who had that phone when you saw it first?

20 A Antwan Grayson..

21 Q Okay. The defendant. All right. Where
22 did you see that phone first that Antwan had? Where
23 were you guys?

24 A We was in front of -- we was standing in
25 the apartment complex, my uncle apartment.

Brian Wilkins - Direct Examination by Ms. Hodge

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1 Q Outside, inside?

2 A Outside.

3 Q And, uh, had you talked to your brother
4 before you saw that phone?

5 A Yes, ma'am.

6 Q And did he tell you something about how he
7 was going to get that phone?

8 A Really, he said that he had a lick.

9 Q Okay.

10 A A lick mean that -- I want to state for the
11 court, it can mean anything. I could say I'm going
12 to hit a lick. That mean I'm going to sell some
13 drugs. Some people state it as hitting a lick is
14 going to rob somebody. In our terms in Greer, you
15 can ask somebody, it's state going to sell somebody
16 some drugs. I'm going to hit a lick. I'll be right
17 back. He said he had somebody that -- did I want to
18 buy it. I said yes. He said come down. I came down.
19 End of discussion.

20 Q Okay. So you brought -- how much did you
21 pay for that phone?

22 A I paid like \$60, \$40.

23 Q And who -- you gave the money to Antwan?

24 A Yes, ma'am.

25 Q And he gave you that phone right there?

Brian Wilkins - Direct Examination by Ms. Hodge

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1 A Yes, ma'am.

2 Q And, uh, was -- do you remember what he may
3 have been wearing on that night?

4 A Well, I was listening to y'all's story.

5 Q No, no, no. You can't tell --

6 A I'm just saying --

7 Q From your own mind.

8 A From my own mind, that's what I'm saying.

9 From my own mind, I don't remember all that clothing,
10 but I don't remember no hat. That's what I'm saying.

11 Q Uh-huh. Right, because that hat's become
12 really significant, hasn't it?

13 A Yeah.

14 Q There's no way you wouldn't remember that
15 hat now for your brother, wouldn't you?

16 A I don't remember it.

17 Q Okay. So you remember that he might have
18 had a hoodie, he might have had a bandanna.

19 A Really, he didn't have no hoodie on. It
20 was a jacket.

21 Q Didn't have a hood on it?

22 A It wasn't a hoodie. It was a jacket.

23 Q With a hood on it?

24 A Yeah. It had a hood on it.

25 Q Now, this is your brother, right?

Brian Wilkins - Direct Examination by Ms. Hodge

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1 A Yes, ma'am.

2 Q It's pretty hard for you to be in this
3 spot, right?

4 A Not really.

5 Q No? You don't care what happens to your
6 brother?

7 A I mean I do care, but at the same time,
8 Miss, whatever going to happen going to happen.

9 Q All right. So he said he's going to hit a
10 lick and he sells you that phone and you buy that
11 phone and you start using that phone?

12 A Yes, ma'am.

13 Q Okay. So who do you call with that phone?

14 A Well, first, the phone rung.

15 Q Did you answer it?

16 A No, I did not.

17 Q And then what did you do?

18 A I was like, the phone is still turned on.
19 So after the phone end, I dialed my number to see if
20 it work and then if it was making any outgoing calls.
21 So my phone started ringing. So I was like, well,
22 let me try another number. I dialed Nicole Foster
23 number.

24 Q Who is that?

25 A That is my girlfriend's sister. So when

Brian Wilkins - Direct Examination by Ms. Hodge

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1 her phone started ringing, I turned the phone off.
2 Well, I don't know how it happened, but the next day,
3 the police called my girlfriend and tell me to turn
4 my cell phone in. What I was supposed to do.

5 Q All right. So the police had called
6 wanting to talk to you about that phone, is that
7 right?

8 A Yes, ma'am.

9 Q And then did you go talk to the police?

10 A Yes, ma'am.

11 Q And did you tell them where you got that
12 phone?

13 A Yes, ma'am.

14 Q And did you tell them you just gotten it
15 the night before from your brother?

16 A Yes, ma'am.

17 Q Did you tell them you paid for it?

18 A Yes, ma'am.

19 Q And you have no idea what happened before
20 you saw him with that phone, do you?

21 A No, ma'am.

22 Q You weren't there?

23 A Huh-uh.

24 Q So you don't know what he was doing? All
25 you know is you saw him later with that phone, is

Brian Wilkins - Direct Examination by Ms. Hodge

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1 that right?

2 A Not with my own two eyes, no, I do not
3 know.

4 Q And you told the police all that you knew
5 about that phone and how you got that phone?

6 A Yes, ma'am.

7 Q And you told them what -- I guess they
8 figured out the numbers that you had dialed and
9 called that phone.

10 A I gave it to them.

11 Q You gave it to them. Okay. Okay. Did
12 you, uh, -- did you actually give them that phone?
13 Did you have that phone with you?

14 A It was in the car. He told me if I didn't
15 give up the phone that he was going to charge me with
16 Armed Robbery, Rape or Kidnaping. I told my
17 girlfriend to go to the car and get the phone.

18 Q Cause you didn't do that, right?

19 A No.

20 Q You just happened to have the phone that
21 was in this prior incident, correct?

22 A Yes, ma'am.

23 Q So this is the phone that you gave them.
24 In fact, that's how the police got this phone, is
25 that right, the victim's phone?

Brian Wilkins - Direct Examination by Ms. Hodge

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- 1 A Uh-huh.
- 2 Q You don't know Crystal Byers, do you?
- 3 A No, ma'am.
- 4 Q Never seen her before?
- 5 A No, ma'am.
- 6 Q Had dealings with her before?
- 7 A No, ma'am.
- 8 Q Heard her name before?
- 9 A No, ma'am.
- 10 Q And she doesn't know you, I guess, is that
- 11 right? Y'all don't know each other?
- 12 A Uh-huh.
- 13 Q No connections.
- 14 A (Shakes head.)
- 15 Q Was the defendant with somebody else on
- 16 this night when you bought the phone from him? Was
- 17 your brother with someone?
- 18 A It was Tony Wilkins, Watkins. It sound
- 19 like my last name.
- 20 Q Tony?
- 21 A Yes, ma'am.
- 22 Q Is it Antonio Wilkie?
- 23 A Okay. That's what it is.
- 24 Q And this is one you are related to,
- 25 cousins?

Brian Wilkins - Cross-Examination by Mr. Chambers

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1 A No, ma'am.

2 Q All right. But he was there also?

3 A Yes, ma'am.

4 Q The night when you got this phone. And
5 y'all were at Brook Terrace Apartments across from
6 [REDACTED]

7 A Yes, ma'am.

8 Q Thank you, Mr. Wilkins.

9 CROSS-EXAMINATION

10 BY MR. CHAMBERS:

11 Q When you got the phone, was it just after
12 midnight, somewhere around in that time?

13 A Yes, sir.

14 Q Okay. And you had a discussion with Antwan
15 and he told you he just hit this lick and he had this
16 phone?

17 A Uh-huh.

18 Q I believe your testimony was your
19 understanding of hit this lick, Antwan and you knew,
20 was that he was selling dope?

21 A Yes, sir.

22 Q And have you known him to sell dope to
23 people?

24 A Yes, sir.

25 Q Okay. That's all the questions I have.

Brian Wilkins - Redirect Examination by Ms. Hodge

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REDIRECT EXAMINATION

BY MS. HODGE:

Q One last question. I'm sorry. Is Antwan or Twan, the person that you're talking about that you bought the phone, is he present in court today?

A (Nods head.)

Q Can you state on the record?

A Yes, ma'am.

Q Where is he sitting?

A He's right there.

Q Okay. So you know your brother?

A Yes, ma'am.

Q That's him? Okay. Thank you. That's all I have.

THE COURT: Thank you, Mr. Wilkins. You can step down.

MS. HODGE: Your Honor, may we approach briefly?

THE COURT: Sure.

(WHEREUPON, a bench conference is held off the record in the presence of the jury.)

THE COURT: All right. Ladies and Gentlemen, what we were talking about is additional witnesses, whether the State was going to call another witness today. But

Brian Wilkins - Redirect Examination by Ms. Hodge

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1 probably the next witness that the State would
2 call would go over the time that I told you I
3 was going to keep you until. So we're going to
4 break for the night. And if you will, please be
5 back here at 9 o'clock in the morning, we'll
6 start as promptly as possible.

7 Now, please don't discuss the case. I know
8 this is going to be very tempting when you go
9 home to tell whomever you are talking to what
10 happened and the facts of the case as you have
11 seen them or the evidence that you have seen. I
12 instruct you not to do that.

13 The problem with doing that is it sounds
14 very innocent at first bluff but if you start
15 discussing the case with someone outside of this
16 jury, then what you start to do is explain to
17 them what happened, which means you have to make
18 qualitative assessments of what you heard.
19 What's going to happen is that person's going to
20 start asking you questions. As that person
21 starts asking you questions, you have to start
22 thinking about what you heard and you have to
23 start relaying information. In relaying
24 information, you are deliberating. That's what
25 you're doing. And you can't deliberate until I

1 tell you to do that.

2 So when you go home tonight and someone
3 starts to ask you about it and ask you about
4 your day and what happened, just tell them I
5 can't talk to you about it yet. Wait a couple
6 of days and we'll talk until late in the night,
7 but not yet. Don't do any self-help either as I
8 told you earlier. So thank y'all and y'all have
9 a great evening. I look forward to see you
10 tomorrow.

11 (WHEREUPON, the jury exits at approximately
12 4:37 p.m.)

13 THE COURT: All right. Before we break
14 for the evening, let me take note that there is
15 a child in the courtroom and that is a precious
16 child. I love children. I have several myself.
17 But really, this case and this courtroom is no
18 place for a child. Okay. So tomorrow, I would
19 like you to find someplace for that child to
20 stay. Okay. Okay?

21 UNIDENTIFIED SPEAKER: Yes, sir.

22 THE COURT: Okay. Anything else we need
23 to put on the record?

24 MS. HODGE: Nothing from the State, Your
25 Honor.

Brian Wilkins - Redirect Examination by Ms. Hodge

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1 MR. CHAMBERS: Nothing from the defense,
2 Your Honor.

3 THE COURT: All right. I'll be here at
4 8:30 or before. If y'all need me, just come get
5 me. Okay.

6 MS. HODGE: Thank you.

7 (WHEREUPON, the Court recessed for the day.)

Remarks

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P R O C E E D I N G S

(WHEREUPON, the Court resumed on the 29th day of March, 2011 at approximately 9:03 a.m.)

THE COURT: How y'all doing? All right. We got all the jurors. All right. Y'all ready to bring them in?

MR. CHAMBERS: Yes, sir.

THE COURT: You still working out your technology?

MS. HODGE: Yeah. About two minutes?

THE COURT: Okay.

MS. HODGE: We just shut it down. Two minutes. No pressure, of course.

(WHEREUPON, there is a pause.)

THE COURT: Y'all got it working?

MS. HODGE: Sorta.

THE COURT: Sorta?

MS. HODGE: Thank you.

THE COURT: It's always a dicey prospect, this technology thing. We'll see. Cue it up and see what happens.

Bring them in.

(WHEREUPON, the jury enters at approximately 9:10 a.m.)

THE COURT: Good morning, Ladies and

Karen Lewis - Direct Examination by Ms. Hodge

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1 Gentlemen. I hope everybody's doing well.
2 Thank you for being on time. I do appreciate
3 it. So let's get started.

4 MS. HODGE: Thank you, Your Honor. The
5 State calls Karen Lewis.

6 THE CLERK: Ms. Lewis, if you would, come
7 forward to be sworn in. Place your left hand on
8 the Bible and raise your right.

9 KAREN LEWIS
10 having first been sworn, testifies as follows:

11 THE CLERK: Thank you. Please be seated.
12 Would you please state your full name for the
13 record.

14 THE WITNESS: Karen Lynn Lewis.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MS. HODGE:

18 Q Ms. Lewis, where do you work?

19 A Greenville Memorial ---

20 Q What do you do?

21 A --- at the Emergency Department. I'm a
22 nurse in the Emergency Department.

23 Q What kind of educational background and
24 training do you have?

25 A I have an Associate's Degree in Nursing and

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1 a two-year degree in Nursing.

2 Q How long have you been at the hospital?

3 A About six and a half years.

4 Q All of that has been in the ER?

5 A Yes.

6 Q When you start at the hospital, do you have
7 to go through some kind of training process,
8 orientation?

9 A It's about a three-month process that we
10 are with somebody and we just get the routines of the
11 department that we're going to be working in. During
12 that time, we go through -- we have different areas,
13 chest pain center, trauma. And we are exposed to all
14 of that within that three-month period.

15 Q And were you working in that same capacity
16 as ER nurse back on March the 16th, late into the
17 evening, early morning, March the 17th of 2009?

18 A Yes.

19 Q All right. And in or on that date or
20 dates, did you have an occasion to perform or help
21 perform a rape kit or suspect assault -- sexual
22 assault evidence collection kit? It's a really big
23 word.

24 A Yes. Yes.

25 Q All right. We call it a rape kit

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1 sometimes?

2 A Yes.

3 Q All right. And, uh, what is this box?

4 A It's a kit. It has all the things we would
5 collect for evidence from the victim. Sometimes
6 there's blood. Pubic hairs are collected. Uh,
7 different swabs from different areas of the body.

8 Q Is this something that the hospital
9 generates? This box and this kit? Where does this
10 kit come from?

11 A It comes from SLED. And it -- we have it
12 -- I would get it from the hospital.

13 Q And do you know what SLED stands for? Is
14 it South Carolina Law Enforcement Division?

15 A Yeah. Yeah.

16 Q Or Statewide Law Enforcement? So at the
17 hospital, they have these kits sealed, is that
18 correct?

19 A Yes.

20 Q Everything you need to perform this
21 procedure is inside this kit?

22 A Yes, it is.

23 Q Okay. Now, just as general background, if
24 someone presents to the ER as a rape victim, what
25 happens to them? What's the process for them? I'm

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1 going to put this right here for a second.

2 A They come in and they are spoken with by
3 one of the nurses. They may come through Triad.
4 They come in by ambulance. A nurse initially will
5 see them. The police are called and given a case
6 number based on what they said to the police. From
7 there, we bring them back and start the kit on them.

8 Q Okay. Is there a certain nurse that's
9 assigned to do every sexual assault kit or is it
10 random?

11 A No, it's just whoever.

12 Q Whoever is working in the ER?

13 A That is correct.

14 Q You don't have to have any specialized
15 training at this point?

16 A No, no.

17 Q Okay. And, uh, when the victim comes and
18 presents as a rape victim, is there a special place
19 in the ER that they go?

20 A Yes, we have a room, a sexual assault room
21 that we take them to.

22 Q Is that room different than other rooms?

23 A It's more private and it has all the
24 supplies that we need. We can't -- once we break the
25 seal, we can't leave the kit. So everything we have

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1 is in that room so that we don't have to leave, go in
2 and out.

3 Q Okay. All right. And that kit, I think,
4 is State's number 20. I'm going to show you this.
5 Is your name on this kit?

6 A It is, yes.

7 Q Okay. I'm going to ask you to speak just a
8 little bit up. I don't believe they may be hearing
9 you all the way in the back.

10 A Okay.

11 Q And on the back of this, is there a chain
12 of custody?

13 A There is, yes.

14 Q In this case, can you tell if Ms. Byers
15 came to you through Triad or through an ambulance?

16 A By looking at it, it looks like she would
17 have come through EMS.

18 Q Does an EMS worker sign on this box?

19 A Yes, there is a signature.

20 Q Okay. What would the EMS worker have done
21 in reference to this kit?

22 A They would have -- when they picked her up,
23 they would have collected outside clothing. If there
24 was any debris available, they would have gotten that
25 bagged up.

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1 Q Okay. But they don't break the seal on
2 this?

3 A No.

4 Q They gave you whatever they collected and
5 then you begin the examination with the kits?

6 A Yes.

7 Q Okay. I'm going to ask you to open that up
8 and let's take a look inside. Is there some other
9 packaging now inside of that box that was not there
10 when you broke the seal on that box?

11 A Let me see.

12 Q How about the big plastic bags that you're
13 holding in your hand? Were those in the kit?

14 A This would have been in the kit. Yes, all
15 of this would have been in the kit.

16 Q Except for the plastic part?

17 A Yes, this part would not have been. The
18 paper bags would have been in there.

19 Q Okay. And, excuse me, can you -- is there
20 a protocol that goes along with the kit?

21 A There is. There is directions for it
22 that's in the kit. And it kind of goes down as to
23 how you are supposed to collect the evidence.

24 Q Okay. Let's go to -- do you have a copy of
25 the protocol with you in reference to Crystal Byers

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1 in this sexual assault kit?

2 A No, it's not in the kit.

3 Q Do you have a copy?

4 A No. I have this.

5 Q The copy?

6 A Oh, yes, I have this.

7 Q The copy of, and at the top, does it say

8 Sexual Assault Exam Protocol?

9 A Yes, it does.

10 Q Information and Exam form?

11 A Yes.

12 Q And you filled out that form that you're
13 holding?

14 A I did, yes.

15 Q Can you take us through the sexual assault
16 examination with Crystal Byers? Tell us what you did
17 and what you documented and we'll go from there.

18 A Okay. Well, I would have asked her what
19 happened and written just a brief summary as to what
20 she told me. I also asked what kind of penetration,
21 if any, was done. A condom was used. Uh, were any
22 drugs involved, alcohol involved, what parts of the
23 body were there any injuries to the body, were there
24 any places that ejaculation would have occurred or
25 kissing would have occurred. Then there's a part

Karen Lewis - Direct Examination by Ms. Hodge

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1 where the doctor would come in and do the pelvic exam
2 and the rectal exam. The back page is a part where I
3 check what I've collected.

4 Q And are you allowed to do the pelvic exam
5 or the rectal exam?

6 A No.

7 Q So you do need a physician or nurse
8 practitioner to do that portion?

9 A That is correct.

10 Q But do you stay in there and collect the
11 items from the doctor or the nurse practitioner?

12 A Yes, yes.

13 Q So you collect everything and place your
14 name on everything that's done in this protocol?

15 A Yes.

16 Q Okay. Let's go then specifically to Ms.
17 Byers. What did Ms. Byers tell you happened to her?

18 A She said she was at the [REDACTED]
19 [REDACTED] complex parking lot, was in the back seat
20 of the victim's car. A gun was waved and the victim
21 told to get in the back seat where a black guy put a
22 condom on and vaginal penetration occurred. Victim
23 kissed by guy in mouth and on left breast.
24 Ejaculation in condom and taken by male. Left on
25 foot. He was wearing dark jeans with dark jacket,

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1 fur-lined, bandanna worn with baseball cap.

2 Q So this is your summary?

3 A Yes.

4 Q You are not intending to write every single
5 detail of the entire incident, is that correct?

6 A That is correct.

7 Q That's the important parts for you. Would
8 that be fair to say?

9 A Yes.

10 Q And then you go on to ask the victim some
11 questions in the next part. What is the importance
12 of it? You can just go down to the next part.

13 A Okay. We ask them have they douched or
14 have they urinated or defecated, have they taken a
15 shower, have they eaten, smoked a cigarette. All of
16 these things, any of them done can alter the evidence
17 that's collected. She stated that she did not vomit.
18 She did not bathe or shower, urinate or defecate or
19 douche. Did none of these things. The only thing
20 that she told me that she had done was smoked a
21 cigarette.

22 Q What time did this examination start? Can
23 you tell us that?

24 A 1:50 in the morning.

25 Q 1:50 a.m. on 3/17/09?

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1 A Yes.

2 Q And then the next portion, you are asking
3 more questions for this examination?

4 A Yes.

5 Q Would you go ahead and tell us what you
6 asked or what responses you received.

7 A Did penis penetrate the vagina? There's
8 different areas it can -- different areas that it
9 wants to know. Anus, mouth. The only thing she said
10 that happened was vaginal penetration. She denied
11 any foreign objects being used. She did say that the
12 assailant used a condom. She denied any hand digital
13 penetration. She denied any oral copulation. She
14 denied masturbation. She did say that there was a
15 kiss open mouth and to the left breast. The
16 assailant did fondle her breast and there was no
17 lubricant used. No to vasectomy. No to sexually
18 transmitted diseases. And no to anyone witness this.

19 Q Then we come over to the second page. Uh,
20 your questions take a little different turn but what
21 are you asking about at this point?

22 A Uh, want to know if the victim or the
23 assailant were under the influence of alcohol or
24 drugs. The victim denied alcohol or drugs. Not sure
25 if the assailant did use drugs, stated possibly crack

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1 cocaine.

2 Q And at that time, are you observing her
3 behaviors as well as documenting the answers to these
4 questions?

5 A Yes.

6 Q In your experience, in the last six years
7 in the ER, have you dealt with people who have been
8 on crack cocaine or high on crack cocaine?

9 A Yes.

10 Q And do they have different behaviors?

11 A Yes, they do.

12 Q Are there any medical indicators that would
13 show you that someone may be under the influence of
14 crack or some kind of amphetamine?

15 A Yes.

16 Q And what would that be?

17 A A lot of times, they are nervous, jittery,
18 belligerent. Their heart rate can be elevated.
19 Those types of things.

20 Q Do you recall the victim having any of
21 those ---

22 A No.

23 Q --- indicators?

24 A No.

25 Q Okay. Going down to the next part. I

Karen Lewis - Direct Examination by Ms. Hodge

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1 believe it's about coercion.

2 A Yes. She said a gun was used.

3 Q And how about assailants?

4 A She said there was one, age around 20s,
5 race was black, wearing dark jeans, jacket with fur
6 lining.

7 Q And then you want to just keep on going?

8 A She said the assailant was a stranger.
9 Didn't know who it was. After that, we go into the
10 medical history. She stated that the last time she
11 had had a period was February of 2009 and it was
12 normal. She said no to being pregnant. She does not
13 have any children. Wasn't pregnant at the time. The
14 only surgical procedure she had had done was a
15 surgical biopsy done years ago. She did state that
16 she had had sex within the last seven days, on
17 3/14/09. And that was Saturday. She said at that
18 time, a condom was used but no other type of
19 contraception.

20 Q And does -- do you know if she's married or
21 not? Somewhere on the form in the beginning of the
22 information part, maybe on page 1.

23 A Okay.

24 Q After date of birth?

25 A Yes, yes, it is.

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1 Q Okay. And does she -- was she married at
2 the time?

3 A Yes.

4 Q Then you move on to the actual physical
5 exam. Can you tell what her emotional demeanor was
6 during the exam?

7 A She was crying, upset, but she was
8 cooperative. She was answering the questions.

9 Q Was she -- do you recall if she was
10 hysterically crying? You know some people can get
11 kind of hysterical.

12 A No.

13 Q Fairly controlled?

14 A Yes.

15 Q And then let's move on down. Is this where
16 the doctor might come in to do the pelvic exam?

17 A Yes. And by that time, the doctors come
18 in. We're ready to do the pelvic exam. And they do
19 the Wood's lamp which would show any semen. And that
20 was negative. There weren't any injuries that we saw
21 that day.

22 Q And when you say injuries, are you looking
23 for tears, scratches, contusions?

24 A Bruises, anything.

25 Q Okay. So nothing showed on that area?

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1 A That is correct.

2 Q And let's go to the kit. The doctor does
3 which portion of this kit? Let me move this and put
4 that in this bag and take these out.

5 Q Why don't you -- how about let's back up
6 one step. Tell the jury what's in each of these
7 bags.

8 A Okay. This is for her underwear. This is
9 -- that's the bag for it. This is if she had told us
10 that their was alcohol, drugs involved, the blood
11 would have went in here. She denied it so I didn't
12 collect it, but I still did seal it.

13 Q And that is for toxicology purposes?

14 A Yes.

15 Q Okay. And the panties are collected from
16 everyone?

17 A If they have them.

18 Q If they have panties when they come to the
19 ER, you collect those?

20 A Yes.

21 Q And preserve those. Okay.

22 A Okay. Uh, and this, there are pubic hair
23 combings, known pubic hairs. They have to pluck the
24 pubic hairs to put in the kit. Then we take head
25 hairs from them. And anything else that may have

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1 been on them, leaves or dirt or just anything that
2 would be on them. The red is the bite mark, the
3 vaginal oral, rectal slides. Vaginal slides, oral
4 swabs, rectal swabs and fingernail scrapings for any
5 DNA.

6 Q Is it fair to say you are examining this
7 person from head to toe and every orifice?

8 A Yes.

9 Q Fairly invasive procedure?

10 A It is.

11 Q Does it take a good bit of time?

12 A Yeah, it takes a few hours.

13 Q All right. And if you want to, open up the
14 bag that you have that's labeled with the red items
15 and tell the jury what each of those is and what you
16 did.

17 A These are slides. You have oral, rectal,
18 vaginal. Uh, the doctor, during the pelvic exam,
19 will go in and get the swabs. I will take them and
20 then put them on the slides. And then there's also
21 -- two different swabs are done, the one that we put
22 on the slides and the other one that will go into one
23 of the envelopes. Here's one for the rectal, the
24 vagina and then oral. These three, there are swabs
25 and then there are slides that go with these.

Karen Lewis - Direct Examination by Ms. Hodge

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1 Q You collect those in the presence of the
2 physician?

3 A Yes. Now, the oral ones, I do on my own.
4 The rectal and vaginal, the doctors are present.
5 Then, any kind of bite marks, licks, anything like
6 that, we would get a swab of, allow it to air dry and
7 put it in the kit...

8 Q And I'm going to show you this. Tell the
9 jury about that one.

10 A Miscellaneous body fluids. That's where
11 semen, saliva, anything that -- anywhere on the part
12 of the body that the victim would have said that she
13 had contact, we would have gotten a swab of.

14 Q What did you do in this case?

15 A Saliva, and it says left nipple.

16 Q Did you draw a diagram? Is there a diagram
17 on there as well?

18 A There is, yes.

19 Q When you say a swab, what do you do?

20 A I take a Q-tip, a long Q-tip and swab
21 whatever part of the body, which in this case, it was
22 her left nipple.

23 Q Then you put the swabs in that little
24 envelope?

25 A Leave it out to air dry. Put it in an

Karen Lewis - Direct Examination by Ms. Hodge

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1. envelope and seal it.

2. Q Then there's one more package in here.

3. What is that for?

4. A That would have been blood that we would
5. have gotten.

6. Q Her blood that you take for DNA sample?

7. A Yes.

8. Q Comparison sample?

9. A Yes.

10. Q It's obviously not in there anymore,
11. correct?

12. A That is correct.

13. Q But then you did take her blood?

14. A Yes.

15. Q And how about into the package for the
16. miscellaneous, the trace evidence package? You want
17. to go ahead and talk about what you did in this case
18. with those.

19. A The miscellaneous, there was nothing
20. available, so I didn't get anything from there.
21. Known head hairs, hairs from -- there's like four
22. different areas of the head that we take hairs from.
23. We pluck it from the root. Pubic hairs, pluck those
24. out. And then the known pubic hairs, we can do a
25. combing of them also. That's the combing.

Karen Lewis - Direct Examination by Ms. Hodge

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1 Q And what is the purpose of the combing?

2 A Just to -- if you have any that might not
3 belong to her, it can help with DNA if something
4 doesn't match hers.

5 Q Okay. All right. And then you -- what do
6 you do with all that? What did you do specifically
7 on this case with all these little tiny envelopes?

8 A I sealed each of them. Put either yes or
9 no, did I collect evidence or did I not. And then
10 once all the little envelopes are collected, I put
11 them in a bigger envelope where they are sealed and
12 then put the evidence tape over it.

13 Q And you initial on the seals that you made
14 securing the evidence and those packages?

15 A Yes.

16 Q So on the trace evidence package, did you
17 place all these items in here and then seal this
18 package?

19 A Yes.

20 Q And then you place it where?

21 A It all goes back in the box.

22 Q As far as the, uh, DNA section, all the
23 ones that we just went through, you place all these
24 in here as well?

25 A Yes.

Karen Lewis - Direct Examination by Ms. Hodge

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- 1 Q All right. The slides.
- 2 A Uh-huh.
- 3 Q And then you seal it up and you put the
- 4 initials on it?
- 5 A I do.
- 6 Q And you put that also back in the box?
- 7 A I do.
- 8 Q And is that the end of the examination as
- 9 far as the kit goes?
- 10 A Yes.
- 11 Q Okay.
- 12 A Once the written part is done, once the
- 13 collection is done, uh, everything is put in the box,
- 14 the box is sealed, we call law enforcement and they
- 15 come and pick it up.
- 16 Q And these little red pieces of tape on the
- 17 sides, did you do those as well?
- 18 A Yes.
- 19 Q And your initials are on here as well?
- 20 A Yes.
- 21 Q And who did you give this box to seal?
- 22 A Officer Reece.
- 23 Q With Greenville County?
- 24 A Yes.
- 25 Q What time did he get that box?

Karen Lewis - Direct Examination by Ms. Hodge

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1 A 4:00 in the morning.

2 Q Is there a portion of the exam where you
3 actually administer types of treatment to the victim?

4 A Yes, we give prophylactic antibiotics a lot
5 of times because we don't know if they've been
6 exposed to STDs. So -- and also we offer them Plan B
7 which would prevent pregnancy if that was a concern.

8 Q Is there anything else that you may have
9 done in regard to this case or in regard to Ms. Byers
10 in the sexual assault kit?

11 A Not that I can think of, no.

12 Q Okay. Thank you. Answer any of Mr.
13 Chambers' questions please.

14 MR. CHAMBERS: No questions for this
15 witness, Your Honor.

16 THE COURT: Thank you. Appreciate you
17 being here. Have a great day.

18 MS. HODGE: Thank you, Your Honor. May
19 she be excused?

20 THE COURT: Yes, ma'am.

21 MS. HODGE: The State would call Joyce
22 Callis, Callis. I'm sorry.

23 THE CLERK: Ms. Callis, if you would, come
24 forward and place your left hand on the Bible
25 and raise your right to be sworn in.

Joyce Callis - Direct Examination by Ms. Hodge

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1

JOYCE CALLIS

2

having first been sworn, testifies as follows:

3

THE CLERK: Thank you. You may be seated.

4

Would you please state your full name for the
5 record?

6

THE WITNESS: Joyce Callis-Newland.

7

THE CLERK: Thank you.

8

DIRECT EXAMINATION

9

BY MS. HODGE:

10

Q Do you go by Callis-Newland, a hyphenated
11 last name?

12

A Uh, yes, but professionally, Joyce Callis.

13

Q And where do you work, Ms. Callis?

14

A I work at the Julie Valentine Center which
15 was formally the Greenville Rape Crisis and Child
16 Abuse Center.

17

Q And what do you do at the Julie Valentine
18 Center?

19

A I'm the adult therapist. I work with
20 individuals who have been sexually abused or
21 assaulted.

22

Q And what is the age range of your clients?

23

A I work with adults, usually 17 and older,
24 sometimes a little younger.

25

Q And how long have you been a therapist?

Joyce Callis - Direct Examination by Ms. Hodge

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1 A I been a therapist for 12 years. Ten years
2 at the Julie Valentine Center.

3 Q And do you have any estimate of the number
4 of patients or clients that you may have?

5 A I do. My reports indicate that I see about
6 170 clients a year times 10 years plus would be 1700.

7 Q Do you have a specialty or a special area
8 within your therapy and treatment?

9 A I do. I am a trauma therapist and working
10 specifically with trauma -- of sexual abuse and
11 assault.

12 Q What is trauma?

13 A I'd like to read a definition of trauma
14 that I use that might help to understand.

15 Q Okay.

16 A Traumatic events are extraordinary. Not
17 because they occur rarely, but rather because they
18 overwhelm the ordinary human adaptations to life.
19 That's really an important statement in trauma that
20 they really overwhelm a person and their ordinary way
21 of being able to take in experiences. And like
22 commonplace misfortunes, traumatic events generally
23 evoke threats to life or close personal encounters
24 with violence or with death. They can threaten human
25 beings with the extremities of helplessness and

Joyce Callis - Direct Examination by Ms. Hodge

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1 terror and evoke the responses of catastrophe. The
2 common denominator of trauma is a feeling of intense
3 fear, helplessness, lost of control and threat of
4 annihilation.

5 Q And would a sexual assault or being raped
6 be a traumatic event under that definition?

7 A Yes. Sexual abuse and assault fall under
8 the category of trauma.

9 Q Tell us a little bit about your educational
10 background, any articles you've written or any
11 affiliations you are associated with.

12 A Okay. My education is from Converse. I
13 graduated with a graduate degree. It's 30 hours of a
14 Masters, uh, in Marriage and Family Therapy. Sat for
15 the licenser for Marriage and Family Therapy which
16 equips me to be a therapist. I happened to have done
17 a number of hours in trauma therapy, about 500
18 actually. Beyond that.

19 Q And do you have any other licenses or
20 certifications? You have to be certified to be a
21 therapist? You have to have a license?

22 A You have to have a license to be a
23 therapist. So I'm a licensed Marriage and Family
24 Therapist.

25 Q In the state of South Carolina?

Joyce Callis - Direct Examination by Ms. Hodge

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1 A In the state of South Carolina.

2 Q And prior to working at the Julie Valentine
3 Center, I think you mentioned you worked for
4 Greenville Mental Health, is that correct?

5 A I did. For a year after graduate school, I
6 worked at Greenville Mental Health in a program
7 called Family Preservation.

8 Q And as a therapist, to keep your licenser,
9 do you have to have continuing education credits?

10 A We do. We have to have -- every two years,
11 we have to have 40 hours of continuing education. I
12 averaged yearly about 50 hours of education, beyond
13 the requirement.

14 Q Are you a member of any professional
15 organizations or affiliations?

16 A I am. I'm a member of the American
17 Association of Marriage and Family Therapists which
18 also makes me a member of the South Carolina Marriage
19 and Family Therapists. As well, I am a member of
20 EMDR International Association.

21 Q Have you ever testified in court before?

22 A I have.

23 Q Which court did you testify in?

24 A I testified in court on a case involving
25 one of my clients.

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1 Q Was it Family Court or was it General
2 Sessions? Do you know?

3 A I don't know.

4 Q And, uh, were you -- did you give
5 information and opinion in that testimony?

6 A I gave opinion.

7 Q So were you qualified as an expert in that
8 court proceeding?

9 A I was not.

10 MS. HODGE: At this time though, I would
11 like to offer her as an expert in identification
12 and treatment of trauma as it relates to child
13 and adult victims of sexual assault?

14 THE COURT: Objection?

15 MR. CHAMBERS: May I be heard off the -- I
16 mean, on the record but out of the presence of
17 the jury?

18 THE COURT: Yes, sir. Ladies and
19 Gentlemen, we're going to take a short break.
20 Please don't discuss the case.

21 (WHEREUPON, the jury exits at approximately
22 9:42 a.m.)

23 THE COURT: Yes, sir, Mr. Chambers.

24 MR. CHAMBERS: Your Honor, I looked
25 through my discovery. I was not aware that

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1 there was going to be an expert providing this
2 type of testimony offered. So I am completely
3 surprised at this point that she's up there on
4 the witness stand apparently to give an expert
5 opinion as to whether or not the alleged victim
6 in this case underwent trauma. So on those
7 grounds; I would object to her being allowed to
8 testify.

9 **THE COURT:** All right. The State's
10 position?

11 **MS. HODGE:** Your Honor, I believe that her
12 testimony is going to be as a blind expert.
13 She's never seen the victim, never counseled the
14 victim. So it would be under State versus
15 Weaverling where the court allowed testimony
16 from an expert who had not interviewed or
17 counseled victims to give opinion about
18 responses to properly frame hypotheticals.

19 There's also State versus White which
20 clarified the use of expert rape trauma
21 testimony as being permissible in sexual assault
22 cases with adult and child victims.

23 **THE COURT:** Okay. What's the purpose of
24 the testimony?

25 **MS. HODGE:** The purpose of the testimony

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1 is for this therapist to explain to a jury that
2 there is not one way to respond to trauma. I
3 think the jury is under the impression that the
4 defense at this point is going to be she didn't
5 fight, she didn't scream, she didn't do what you
6 would do and I would do.

7 In fact, an expert in this area can tell
8 you there is no pattern response. Everyone
9 responds differently. I can pose hypotheticals
10 to her as an expert. Would it affect the way
11 someone responded if there was a gun, if there
12 was two assailants, if there was a loved one 10
13 feet away, those types of things to help the
14 jury understand the nature of the victim's
15 response in this case because that's a huge
16 piece of this.

17 THE COURT: All right.

18 MS. HODGE: That's what we're offering her
19 testimony for.

20 THE COURT: Mr. Chambers?

21 MR. CHAMBERS: Your Honor, before we even
22 get to the substance of it, I think the rules of
23 discovery require that --

24 THE COURT: I think that's the salient
25 question. I was curious as to whether you were

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1 going to pose that, and obviously, you have. So
2 Ms. Hodge, the question is is her testimony not
3 subject to disclosure under Rule 5 or Brady?

4 MS. HODGE: Your Honor, I don't have a
5 report. I've only spoken to her verbally. I
6 didn't have anything written to turn over. I
7 don't believe there would be any Brady in her
8 responses. It's not going to be about a crack
9 deal gone bad. She also didn't speak to the
10 victims. It's not going to be any pertinent
11 victim testimony.

12 THE COURT: I understand.

13 MS. HODGE: Inconsistencies or
14 consistencies.

15 THE COURT: Was there disclosure of any
16 expert testimony being offered by the State in
17 this matter?

18 MR. CHAMBERS: No, Your Honor.

19 MS. HODGE: No, Your Honor. There was
20 not. I did not tell them that I was going to
21 call her as an expert witness.

22 THE COURT: Y'all come up here a minute.

23 (WHEREUPON, a bench conference is held off of
24 the record.)

25 THE COURT: All right. Back on the

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1 record. I'm going to grant the defense's motion
2 to allow the expert testimony of Ms. Callis
3 finding that there was no disclosure by the
4 State of its intention to offer expert
5 testimony. Uh, I find that is discoverable.
6 And even if there's an argument to the contrary
7 that it's not discoverable under Rule 5 or
8 Brady, that it violates notions of fundamental
9 fairness so that this defense would not have the
10 opportunity to know of expert witness testimony
11 that was intended to be offered into the record
12 and have the opportunity to respond to the same
13 by and through its introduction of expert
14 testimony which supports its theory in the case.
15 So having said that, we'll bring the jury back
16 in.

17 (WHEREUPON, the jury enters at approximately
18 9:50 a.m.)

19 THE COURT: Thank you for being patient
20 with me. I'm sorry I had to send you out. We
21 had to take up some matters of law. When y'all
22 went back to the jury room, we had a discussion
23 about Ms. Callis' testimony. And the attorneys
24 on the respective sides attempt to put witnesses
25 and testimony into the record that assist you in

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1 your decision-making and try to put in as much
2 as they think you need, as much as you think is
3 necessary to make a fully informed decision.

4 It's my job to look at those witnesses and
5 testimony and evidence and determine whether
6 they are admissible under the rules of law,
7 whether they are necessary, whether they are
8 appropriate. And after having asked several
9 questions, I made the determination that, uh,
10 the testimony of Ms. Callis was inadmissible and
11 wasn't necessary. So that was my determination.
12 So we'll move on with the State's next witness.

13 MS. HODGE: Thank you, Your Honor. The
14 State calls Renee Beauford.

15 THE CLERK: Ms. Beauford, if you'll come
16 forward to be sworn in please. Please place
17 your left hand on the Bible and raise your
18 right.

19 RENEE BEAUFORD
20 having first been sworn, testifies as follows:

21 THE CLERK: Thank you. You may be seated.
22 Would you please state your full name for the
23 record.

24 THE WITNESS: Ronda Renee Beauford.

25 THE CLERK: Thank you.

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DIRECT EXAMINATION

BY MS. HODGE:

Q Ms. Beauford, where do you work?

A Greenville County Sheriff's Office.

Q And what are your duties with the Sheriff's Office?

A I do 911 research, quality assurance and training.

Q How long have you been with the Sheriff's Office?

A I been with Greenville County Sheriff's Office 15 years.

Q How long have been doing the 911 and quality assurance?

A Since June of 2010.

Q And what were you doing with the Sheriff's Office back on March 17th of 2009?

A Uh, dispatch and I was the supervisor over dispatch and doing training.

Q And what does dispatch do?

A Uh, Greenville County Sheriff's Office. Dispatch receives all the 911 calls that come into Greenville county. From there, the dispatcher or the call taker determines the jurisdiction. If it's not our jurisdiction, of course, we transfer it to the

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1 proper jurisdiction. They also determine what is
2 needed, whether it be law enforcement, EMS or Fire.
3 And they transfer that out to the proper agency. If
4 it is for the Sheriff's Office, they gather the
5 information for the call and enter it into our
6 computerated dispatch system which is called CAD
7 where the call is then transferred or immediately
8 sent to a dispatch consol whether they send it out
9 and radio it to the officers.

10 Q Is there communication between the
11 dispatcher and the officer ongoing if it's in the
12 jurisdiction or does that end?

13 A Uh, if it's within jurisdiction, the
14 conversation, yes, we have radio recording between
15 the officer and the dispatcher.

16 Q How about, uh, when someone calls 911? Is
17 that recorded?

18 A Yes.

19 Q When does the recording start?

20 A As soon as the caller calls in, whether or
21 not the Sheriff's Office has picked up or not, the
22 call is being recorded when that caller calls in
23 immediately upon it hitting the tower.

24 Q And when does the recording end?

25 A When the dispatcher hangs up.

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1 Q So the person that called 911 hangs up, it
2 may still keep an open line?

3 A That's correct.

4 Q And as part of your duties now, are you the
5 person that ensures that the 911 calls are recorded
6 and kept and all the equipment is in proper working
7 order?

8 A Yes.

9 Q Is that part of your job?

10 A It is.

11 Q And when and how do you guys check that?

12 A I check it on a daily basis. In my
13 absence, the dispatch supervisors. I just go in to
14 make sure that the lines are recording properly, that
15 they have not for some reason, uh, the server shut
16 down or have a failure, you know, as computers do.
17 But as long as we've got audio coming in, we know
18 that we are recording properly.

19 Q Is that what is done in your normal and
20 ordinary course of business there?

21 A Yes, it is. First thing every morning.

22 Q How long are the recorded 911 calls
23 maintained?

24 A Indefinitely?

25 Q Was there some time in the past where there

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1 was a shorter period of time?

2 A Yes, it was. In the past, it used to be
3 just a matter of months that they were maintained.
4 But now, as of, it was in 2009, I want to say maybe
5 around March or April of 2009, we began keeping them
6 indefinitely as long as we've got the database to
7 hold the storage space.

8 Q Is it common for investigators or law
9 enforcement officers to request a copy of a 911 call?

10 A Oh, yes.

11 Q Who handles that request and how is that
12 done?.

13 A I do. They issue an official request in
14 writing. We have a form. They sign for it. It's
15 given to me. I go from there and research the call
16 and the CAD first and then match to the recordings
17 that correspond with the date and time of the
18 incident and match things that are within the call,
19 like callers' names or locations to verify I've
20 gotten the right call.

21 (WHEREUPON, State's Exhibit's 22 is marked for
22 identification purposes.)

23 BY MS. HODGE:

24 Q I'll show you what's been marked State's
25 number 22. Are you familiar with the top of this,

Renee Beauford - Direct Examination by Ms. Hodge

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1 what these numbers are?

2 A Yes.

3 Q What is that?

4 A That is our jurisdiction number for the
5 sheriff's office, the year, the case number of the
6 call.

7 Q And do you know what those initials are,
8 those letters?

9 A Actually, in this incident, I'm not sure.

10 Q And would MEF be Mike Fortner in the
11 Sheriff's Office?

12 A Yes, it would be his initials on that card.

13 Q And have you listened to the 911 recording
14 in reference to this case?

15 A I did.

16 Q And is the recording a true and accurate
17 copy of the original 911 call?

18 A Yes, it was.

19 Q Any deletions, additions, anything been
20 altered?

21 A No, it was not.

22 MS. HODGE: At this time, we would move to
23 admit State's number 22.

24 MR. CHAMBERS: No objection, Your Honor.

25 THE COURT: All right. Without objection,

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1 the same is entered into evidence as State's
2 Exhibit number 22.

3 (WHEREUPON, State's Exhibit 22 is admitted into
4 the record.)

5 BY MS. HODGE:

6 Q And, uh, did you recall the name of the
7 dispatch or the 911 operator on this?

8 A Uh, yes, it was Dispatcher Jamie Ellis.

9 Q Okay. Thank you, Ms. Beauford. That's all
10 I have.

11 A Thank you.

12 MR. CHAMBERS: I don't have any questions
13 for this witness, Your Honor.

14 THE COURT: Thank you. I appreciate it.

15 THE WITNESS: Thank you.

16 MS. HODGE: Your Honor, may we publish
17 State's number 22.

18 THE COURT: Any objection to that?

19 MR. CHAMBERS: No, Your Honor.

20 THE COURT: All right. You may.

21 MS. HODGE: Since we couldn't get out tech
22 working, we're going back old school.

23 (WHEREUPON, there is a pause.)

24 MS. HODGE: We'll publish in a few
25 minutes. We'll publish after the next break.

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1 THE COURT: Okay. Well, before you close
2 if you can get it working, you can publish it
3 then.

4 MS. HODGE: Sounds good.

5 THE COURT: All right.

6 MS. HODGE: The state would call Mr.
7 Wilkie.

8 THE CLERK: Come around here please, sir.
9 Sir, would you place your left hand on the Bible
10 and raise your right to be sworn in.

11 CURTIS WILKIE

12 having first been sworn, testifies as follows:

13 THE CLERK: Thank you. Have a seat.

14 Would you please state your name for the record?

15 THE WITNESS: Curtis Antonio Wilkie.

16 THE CLERK: Okay.

17 DIRECT EXAMINATION

18 BY MS. HODGE:

19 Q Mr. Wilkie, I'm going to have you speak
20 over in this direction and please speak up loud.
21 enough for everybody in the jury box to hear you.
22 All right?

23 A Yes, ma'am.

24 Q Okay. How old are you, Mr. Wilkie?

25 A 19.

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- 1 Q Are you married?
- 2 A No, ma'am.
- 3 Q Do you have any children?
- 4 A Yes, ma'am.
- 5 Q How many children do you have?
- 6 A Two boys.
- 7 Q How old are they?
- 8 A One of them is one and one of them is three
- 9 months.
- 10 Q And how far did you go in school?
- 11 A To the 10th grade.
- 12 Q Where did you go to school?
- 13 A Greer High.
- 14 Q Have you ever worked?
- 15 A Yes, ma'am.
- 16 Q And what have you done in the past?
- 17 A I worked at Columbia Chicken Farm and I
- 18 worked at Tadpole Fish Camp.
- 19 Q And do you know the defendant in this case,
- 20 Antwan Grayson?
- 21 A Yes.
- 22 Q How do you know him?
- 23 A He's my brother's cousin. That's how I
- 24 know him through my brother -- through my cousin.
- 25 Q Through your cousin? And who is your

Curtis Wilkie - Direct Examination by Ms. Hodge

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1 cousin?

2 A Gernard Grayson.

3 Q How long have you known Mr. Grayson, the
4 defendant?

5 A Not long. Probably a couple of years.
6 Probably about two years at the most.

7 Q Are y'all about the same age?

8 A I don't think so. I think he older than
9 me.

10 Q Did y'all go to school together or anything
11 like that?

12 A No, ma'am.

13 Q Do you call him by his full name or what do
14 you call him?

15 A Antwan.

16 Q Antwan. Okay. Does he have a middle name?

17 A I don't know.

18 Q Do you shorten his name ever?

19 A Twan.

20 Q Twan. All right. So March the 16th, two
21 years ago, were you guys friends?

22 A Yes.

23 Q Were y'all hanging out some?

24 A Yes.

25 Q Where would you guys normally hang out?

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- 1 A Brook Terrace.
- 2 Q Do you know where Brook Terrace is?
- 3 A Off of --
- 4 Q Can you tell us where it is?
- 5 A Off of Brook Glen Road in Taylors.
- 6 Q Do you know what Brook Glen Road comes off
- 7 of?
- 8 A Main Street in Taylors, I think. I think
- 9 it's Main Street in Taylors over by the skating rink.
- 10 Q All right. By the skating rink. Okay. Do
- 11 you also know a Brian Wilkins?
- 12 A Yes.
- 13 Q And how do you know him?
- 14 A That's Antwan brother.
- 15 Q Is that how you met Antwan, through Brian?
- 16 A No.
- 17 Q You met him through Gernard?
- 18 A Yes.
- 19 Q Okay. Did you know anybody that lived over
- 20 at Brook Terrace when you were hanging out over
- 21 there?
- 22 A Yes.
- 23 Q Who lived over there?
- 24 A My baby momma stayed out there and my
- 25 cousin daddy.

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1 Q Okay. And who was the -- what's the name
2 of the mother of your child?

3 A Jasmine Madison.

4 Q So she stayed at ?

5 A Yes.

6 Q You remember what apartment she stayed in?

7 A .

8 Q How about the other person that you said?

9 Who was it --

10 A .

11 Q I'm sorry?

12 A . Apartment .

13 Q Apartment ... And who was that? What's
14 their name?

15 A Alvin Grayson.

16 Q Is he related to the defendant?

17 A Yes.

18 Q How -- do you know how they are related?

19 A No.

20 Q Would you go over there and see Jasmine
21 some?

22 A I was staying there.

23 Q Staying with her?

24 A Yeah.

25 Q And how did you and the defendant get to

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1 hanging out? Would he come to Jasmine's or would you
2 go somewhere else?

3 A He would go down to the other apartment.
4 He had come over there a couple of times too.

5 Q Let's go specifically to the night this
6 incident happened, March the 16th of 2009. Were you
7 at Brook Terrace Apartments that night?

8 A Yes.

9 Q And, uh, do you remember what you were
10 doing that night?

11 A Just sitting out there in Brook Terrace
12 just sitting there and then we had walked to

13 [REDACTED]

14 Q Okay. And is [REDACTED] complex
15 right across the street?

16 A Yeah, it's right across the street.

17 Q I'm going to show you this map here. Can
18 you see that from down there? Can you see that from
19 up there? [REDACTED] Apartments, are they on this
20 map too?

21 A I can't really see.

22 Q You can't really see. Can you see now? Is
23 this Brook Terrace Apartments? Can you see that?
24 Right over here. Brook Glen Road. Is that what you
25 just said?

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1 A Yeah.

2 Q Okay. Some train tracks. And go up.

3 Okay. Are these [REDACTED] that go
4 across?

5 A Yeah.

6 Q Okay. Let me get you a little pointer.

7 Can you show where -- and it may not be on here. But
8 you can take it to the left or up or down okay.

9 Press that little button where Jasmine may have
10 lived.

11 A Up in the front right there. (Inaudible).

12 Q How about the other person that you were
13 saying? Alvin.

14 A All the way in the back.

15 Q All the way in the back?

16 A Yeah.

17 Q So where were y'all hanging and chilling on
18 March the 16th. Which person's?

19 A All the way in the back.

20 Q All the way in the back? Okay. All right.
21 And did y'all -- you said something about [REDACTED],
22 walking over to [REDACTED]?

23 A Yeah, [REDACTED].

24 Q And I'm going to get you to speak up just a
25 little bit. What were you going over to [REDACTED]

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1 apartment for?

2 A To see two guys. One of them name was DaDa
3 and one of them name was Jesuree [phonetically].

4 Q And what were you going to do with these
5 girls?

6 A I had been known them. I went to school
7 with them so I been knowing them for a long time. I
8 was going over there to chill with them.

9 Q Okay. And, uh, what -- do you know what
10 time of night this may have been y'all were heading
11 over to see these girls?

12 A 10:00, 11:00, 12:00, somewhere in between
13 there.

14 Q Okay. And what, uh, -- how did y'all get
15 over there?

16 A Walk.

17 Q Do you -- were you going over there to sell
18 any drugs to the girls?

19 A No, ma'am.

20 Q Were you going to sell drugs to any guys?

21 A No, ma'am.

22 Q You said you had been staying with Jasmine,
23 did Jasmine know you were going to see some girls?

24 A No, ma'am.

25 Q Did you have a cell phone on you that

Curtis Wilkie - Direct Examination by Ms. Hodge

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1 night?

2 A Yes, ma'am.

3 Q How about the defendant? Did he have a
4 phone on him that night?

5 A Yes, ma'am.

6 Q And, uh, you remember what kind of phones
7 either of you had?

8 A I had a Boost Mobile. I think he had an
9 Alltel.

10 Q All right. Did you know each other's
11 numbers?

12 A No. My phone was dead but I ain't know his
13 number though.

14 Q So you didn't need to call him. You didn't
15 know his number?

16 A No.

17 Q What happened when you get over to

18 [REDACTED]?

19 A We are standing in the first building.

20 Q You can use that pointer if you want to use
21 it. If it will help, you can use that. You standing
22 in the first breezeway? I'm going to get you speak
23 up for me, sir.

24 A The first building.

25 Q The first building. You show me.

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1 A (Pointing).

2 Q All right. And is that where the girls
3 were supposed to be, in that building?

4 A They stayed in the top right there on the
5 side.

6 Q The top?

7 A Right there. I guess she stayed at the
8 bottom.

9 Q Okay.

10 A I ain't for sure.

11 Q Okay.

12 A Somewhere along there.

13 Q Okay. And what were y'all doing at the
14 building.

15 A I was standing right there. Antwan was
16 standing right there. Brian was standing somewhere
17 right there.

18 Q What was Brian doing?

19 A I don't know. I couldn't see him.

20 Q He walked over there with y'all?

21 A Yeah.

22 Q Was he going to come and hang with these
23 girls too?

24 A I don't know. He ain't never say nothing.

25 Q Okay. So what happens when you guys are --

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1 Okay. Thank you. Tell us what happens while you are
2 standing out in front of that building.

3 A A car pulled up. It looked like that car
4 right there, that white one.

5 Q Okay.

6 A It pulled up. She parked in one of these
7 parking spots and gets out the car and start walking
8 to an apartment. Antwan ran up behind her and put
9 the gun to her. When she turned around, he put it in
10 her mouth. He told her to give him the money. She
11 said I ain't have any. He said, uh, well, you going
12 to the ATM.

13 So he made her get in the car and go to the
14 ATM. He told me to come on and get in the car. So I
15 gets in the car. We go up the road to go to the ATM
16 to the bank to the right. She says it's one in
17 Greenville. So we goes to the left and pass the
18 Dodger's store to Greenville.

19 So when we get there, she ask how much
20 money he wanted. He said \$500. She said I can't get
21 that much out. She had two bank cards. She said one
22 of them was her mom's bank card and one of them was
23 hers. She stuck her bank card in first. She said it
24 won't let her get it out. She stuck her momma bank
25 card in. She got \$80 out. Then when she was driving

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1 off, she left the bank card, so she backed up and
2 grabbed the bank card. She took off again.
3 We get down the road. Antwan was feeling
4 on her breasts saying is you got money in your bra.
5 So we get on down the road. We right there. We was
6 coming back in over the train tracks. She passed
7 over the first train track, the second train track.
8 The train was coming and the gates was going down.
9 He told her to stop and let me out the car. We
10 stopped. I got out the car. The door was still open
11 and they took off.

12 Q All right. Let's back up a little. So
13 when you say she -- do you know this woman?

14 A No, ma'am.

15 Q Did you know this woman before this night?

16 A No.

17 THE COURT: Would you speak up a little
18 bit. Some of the jurors are having a hard time
19 hearing you. Okay.

20 THE WITNESS: I ain't never seen the woman
21 before.

22 BY MS. HODGE:

23 Q Okay. And you say the car -- what color
24 was the car that she pulled up in?

25 A Look like a white or silver color. I can't

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1 remember.

2 Q Okay. Was she by herself or did she have
3 somebody with her?

4 A She was by herself. She say she just
5 dropped her husband off at work.

6 Q All right. Did she have anything in her
7 hands that you remember?

8 A She had a McDonald's bag and a soda.

9 Q Where were you standing when she came in?

10 A At the -- right there. Right there.
11 Standing right here.

12 Q Are there bushes and stuff around the edge
13 of that building right there?

14 A It's just right there. It's like a walkway
15 there.

16 Q And what about Antwan? Where did he go?

17 A Somewhere back through right there.

18 Q So is there open space in between all these
19 apartments, the breezeway area?

20 A Yeah, it's like you can walk straight
21 through all there.

22 Q And what did Antwan do?

23 A He ran up behind her and put the gun to her
24 and told her to give him the money and he put the gun
25 to her. When she turned around, he put the gun in

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1 her mouth.

2 Q Okay. Tell me about did he have anything
3 covering his face.

4 A A blue bandanna.

5 Q Had he been wearing that when y'all walked
6 over from Brook Terrace?

7 A No.

8 Q Did he have it with him?

9 A I guess he did. He put it on.

10 Q Okay. Did you know he was getting ready to
11 put it on?

12 A No, I was standing over here. He was in
13 the back.

14 Q So y'all was separated a little bit?

15 A Yeah.

16 Q Okay. And do you -- did you see the gun
17 that he pulled out?

18 A I ain't see it until he pulled it out.

19 Q When he pulled it out. Can you tell us
20 what it looked like?

21 A It's small. It's silver, I think. That's
22 all. I don't know what kind it was, but it was small
23 and silver.

24 Q All right. And he put it to the woman's
25 mouth?

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1 A Yeah, he put it in her mouth.

2 Q At this point, is he telling her anything
3 other than he wants her money? Is there any other
4 conversation going on?

5 A He told her to shut up. He told her to
6 come on and get in the car, she going to the ATM.

7 Q All right. Was that -- were you any part
8 of that conversation too?

9 A No, I ain't say nothing.

10 Q No? And so did she get in the car of her
11 own free will to go to the ATM?

12 A Twan like pushed her in the car.

13 Q Did he touch her?

14 A Yeah, he touched her and told her, you know
15 what I'm saying, like pushed her to get in the car.

16 Q Okay. Was the gun still out while he was
17 telling her that?

18 A Yeah, the gun was out the whole time.

19 Q How is she acting?

20 A I mean, she was scared. You can tell she
21 was scared but she wasn't trying to scream or
22 nothing. You could tell how she was acting. She was
23 scared.

24 Q She didn't do anything crazy, did she?

25 A She did everything he told her to do.

1 Q Where did you sit in the car?

2 A In the back seat on the passenger side.

3 Q Where did he go?

4 A In the front seat on the passenger side.

5 Q Did you -- did you have anything on your
6 face?

7 A I had a red sweater on my head. It was on
8 my head but it wasn't nothing on my face. I had a
9 red sweatshirt on with a hoodie over my head.

10 Q How about, uh, Antwan? Did he have any
11 kind of jacket on? Hood on?

12 A I think he had a black jacket on but I
13 don't know if he had a hood on or not.

14 Q But you do know he had a bandanna on?

15 A Yeah.

16 Q Could you see him in the car? The back of
17 his head or any of that?

18 A Yeah.

19 Q You recall if he had anything on his head?

20 A I mean, I don't think he had nothing on his
21 head. I just seen the blue bandanna but I really
22 wasn't paying attention to see if he had anything on
23 the back of his head or not.

24 Q And what's happening in the car ride to the
25 ATM? Is the gun still out?

Curtis Wilkie - Direct Examination by Ms. Hodge

245

1 A Yeah. In the front seat going through the,
2 I guess, the dash and the console, looking for money.

3

4 Q There's some kind of conversation about
5 which bank machine to go to?

6 A Yes, and she said it's the one in
7 Greenville. We was thinking it was the one on Wade
8 Hampton going towards Greer by the Target and Burger
9 King.

10 Q And the point of this was to get money, is
11 that right?

12 A I guess.

13 Q Taking her to the ATM, making her go to the
14 ATM to get money out?

15 A Yes, ma'am.

16 Q All right. Is this a robbery?

17 A I guess it's a robbery.

18 Q You guess?

19 A Yes.

20 Q And y'all get to the ATM. Is there any
21 discussion about cameras at the ATM or anything like
22 that?

23 A I don't know. I wasn't looking at the
24 camera. He was looking. I don't know.

25 Q And you know how much money she end up

Curtis Wilkie - Direct Examination by Ms. Hodge

246

1 being able to get out?

2 A I think it was \$80. \$80.

3 Q All right. Did you get any of that money?

4 A No, ma'am.

5 Q Who got that money?

6 A She gave the money to Antwan.

7 Q And you said something about she had to use
8 a couple of cards?

9 A Well, she say she use -- she say she used
10 her momma card and her card. She say, well, nothing
11 on her card. She had to use her momma card. I don't
12 know whose cards they was.

13 Q But were y'all at the bank machine for a
14 little piece?

15 A Yeah.

16 Q And then she forgot to get her card?

17 A So she took off and she backed up and got
18 her card. Then she took off again.

19 Q Was she told where to go from there?

20 A Yeah. She was told to go back towards
21 Brook Terrace and [REDACTED]

22 Q Okay. On the way back, is there any
23 conversation that you can recall? Anybody say
24 anything?

25 A He just said let me see if you got any

Curtis Wilkie - Direct Examination by Ms. Hodge

247

1 money in your bra and start feeling on her breast.

2 Q And you saw him do that?

3 A Yes.

4 Q Did that give you any cause for concern?

5 A Yes, but I ain't know what he was doing. I
6 didn't think he was going to go that far though.

7 Q But you saw him grabbing her breast?

8 A Yes.

9 Q And do you want to get out of the car or
10 are you told to get out of the car?

11 A He told me to get out of the car. I ain't
12 say nothing. He told her to stop the car and let me
13 out.

14 Q And where did this happen?

15 A Coming across the train track in the middle
16 of the two train tracks right there.

17 Q Was anything happening with the train
18 tracks?

19 A Yeah, the train was coming. The bar gate
20 was coming down. He told her to stop and let me out.
21 I open the door and before I could get out the door
22 good, he told her to go ahead. So she left before
23 the train came. She went in between them and then
24 she left. I don't know where they went after that.

25 Q What did you do after that?

Curtis Wilkie - Direct Examination by Ms. Hodge

248

1 A Went to Terrace.

2 Q And which place in Terrace did you
3 go?

4 A To Apartment

5 Q And how long did Antwan come back to
6 Apartment

7 A Probably about 10 or 15 minutes later.

8 Q He came back?

9 A Yes.

10 Q And did he have anything with him that he
11 did not have before?

12 A A Blackberry cell phone.

13 Q Did he tell you how he got that phone?

14 A Well, she -- he asked what she had at the
15 house. And she told him she had a Blackberry. He
16 said he got to have it. So he went back to the house
17 and got it.

18 Q So there was some talk about that phone in
19 the car?

20 A Yeah, she told him that she had a
21 Blackberry phone. He asked her what she had at home.
22 She said she had a Blackberry cell phone.

23 Q I'm going to show you State's number 19.
24 Does that look like the phone he had when he came
25 back?

Curtis Wilkie - Direct Examination by Ms. Hodge

249

- 1 A Yes.
- 2 Q Did you ask him what happened?
- 3 A I asked him did he rape her. He said no.
- 4 That's all he said. Then he started smiling. So I
- 5 ain't say nothing else about it.
- 6 Q Did you ask him once or twice?
- 7 A I asked him once.
- 8 Q Was anybody else at the apartment number 14
- 9 when you got there?
- 10 A Brian was standing outside.
- 11 Q So 10 minutes later, the defendant comes
- 12 up?
- 13 A 10 or 15 minutes later.
- 14 Q Did he still have the bandanna on his face?
- 15 A Not by the time he came back. He had
- 16 taken it off then.
- 17 Q How about the gun? Did you see the gun
- 18 again?
- 19 A No.
- 20 Q And did Brian get this phone, do you know?
- 21 A Yeah.
- 22 Q Did you see that happen?
- 23 A Yeah.
- 24 Q How did that happen?
- 25 A He gave Antwan a couple of cigarettes and

Curtis Wilkie - Direct Examination by Ms. Hodge

250

- 1 Antwan gave him the phone.
- 2 Q Was he wanting the phone?
- 3 A Yeah.
- 4 Q Brian was?
- 5 A Both of them was wanting it.
- 6 Q Antwan didn't want to give it right away?
- 7 A No.
- 8 Q But he eventually did?
- 9 A Yeah.
- 10 Q Did that woman freely and voluntarily give
- 11 him this phone?
- 12 A I don't know. When they dropped me off,
- 13 that when he went back to the house and got it. She
- 14 said that she had a Blackberry.
- 15 Q How about driving to and from the bank?
- 16 Was she doing that because she wanted to?
- 17 A Doing what?
- 18 Q Driving to the bank machine and back.
- 19 A Cause he made her.
- 20 Q Cause he made her?
- 21 A Yeah.
- 22 Q And that gun was out in the car where she
- 23 could see it?
- 24 A Yeah, it was to her side.
- 25 Q So what happened after you saw Brian get

Curtis Wilkie - Direct Examination by Ms. Hodge

251

1 the phone? What happened?

2 A Brian left.

3 Q All right. How about, uh, the defendant?
4 What did he do?

5 A He went in the house and went to sleep.

6 Q What did you do?

7 A Went to my baby momma house.

8 Q Do you recall if he got a phone call from
9 Jasmine during any of this time?

10 A My phone was dead.

11 Q Oh, your phone's dead. Do you recall a
12 phone call at all?

13 A No.

14 Q In the car ride?

15 A No.

16 Q Nobody getting a call? All right. And
17 when you went back to Jasmine's house, do you have
18 any idea what time it was?

19 A No.

20 Q Do you know how long this whole thing had
21 taken from when y'all set out over to [REDACTED] to
22 when you came back?

23 A Probably about 30 minutes to an hour.

24 Q And did you see the defendant after you
25 left to go to Jasmine's house? Did you see him

Curtis Wilkie - Direct Examination by Ms. Hodge

252

1 again?

2 A I ain't seen him no more until we was in
3 the detention center. That's the last time.

4 Q All right. So let's go there. Uh, you --
5 when were you arrested on this charge? Do you
6 remember?

7 A March 23rd, 2009.

8 Q All right. And when you were arrested, did
9 you also have some other charges that were pending?

10 A Yes.

11 Q So you were arrested on another set of
12 charges and on these charges?

13 A Yes.

14 Q And did Investigator Mike Fortner come to
15 try to talk to you about these charges?

16 A Yes.

17 Q What did you do when he first came to talk
18 to you?

19 A I ain't talk to him when he first came to
20 talk to me. Then he came and talk to me the next day
21 and I told him.

22 Q So the first day, no the 23rd, March 23rd,
23 you didn't want to talk to him?

24 A Yeah.

25 Q Okay. Didn't want to tell him anything

Curtis Wilkie - Direct Examination by Ms. Hodge

253

- 1 about the case?
- 2 A Yeah.
- 3 Q The next day, uh, -- at that point, did you
- 4 tell him you never wanted to talk to him or just you
- 5 didn't know anything?
- 6 A I told him I ain't know anything.
- 7 Q Did he tell you about all your different
- 8 rights that you had at that time?
- 9 A Yes.
- 10 Q So you didn't say I want to stop talking.
- 11 You just said I don't know anything. Is that right?
- 12 A Yeah.
- 13 Q Did you say you wanted a lawyer at that
- 14 time?
- 15 A No.
- 16 Q And the next day, what happened to you from
- 17 that point? Did you go to the detention center?
- 18 A Went to the detention center and he came
- 19 and got me about, I'll say a little bit after 1:00
- 20 the next day.
- 21 Q All right. And while you were in the
- 22 detention center during that night until 1 o'clock
- 23 the next day, did you have any contact with the
- 24 defendant during that time frame?
- 25 A I ain't see him.

Curtis Wilkie - Direct Examination by Ms. Hodge

254

1 Q Okay. Talk to him or anything like that?

2 A I ain't seen him.

3 Q So when Investigator Fortner comes and gets
4 you about 1 o'clock the next day on the 24th, what
5 happens then?

6 A Then I told him everything.

7 Q You freely and voluntarily talk to him?

8 A Yeah.

9 Q And he didn't make you any kind of promises
10 or anything like that to talk to him, did he?

11 A No, ma'am.

12 Q Did he threaten you in any way to talk to
13 him?

14 A No, ma'am.

15 Q When you talked to him, what did you tell
16 him?

17 A I told him everything that we had just
18 talked about.

19 Q And did you ever, uh, -- did he ask you if
20 this was about a drug deal or anything?

21 A Yeah.

22 Q Did you tell him it was?

23 A I told him it wasn't.

24 Q Cause it wasn't, was it?

25 A No.

Curtis Wilkie - Direct Examination by Ms. Hodge

255

1 Q This woman, Crystal Byers, was not buying
2 crack from the defendant, was she?

3 A No.

4 Q She was being robbed, is that right?

5 A Yes.

6 Q Now, you talked to Investigator Fortner and
7 you give him the statement. And, uh, you had to go
8 back into detention after that?

9 A Yeah.

10 Q You had to go back into detention after
11 that?

12 A Yeah.

13 Q After that, were you contacted at all by
14 the defendant?

15 A After my 30 days was over, my custody level
16 dropped. I was moved to another dorm. He was in the
17 dorm across from mine. That's when he was passing
18 letters.

19 Q What was he passing letters saying?

20 A Telling me to keep my mouth closed. We got
21 this beat. I can't remember exactly what it say but
22 I remember it saying that though.

23 Q Was there something about say it's a drug
24 deal?

25 A Yeah, that's the second letter.

Curtis Wilkie - Direct Examination by Ms. Hodge

256

1 Q Okay. What did you do with those letters?
2 Did you happen to save them?

3 A No, I throw them away because I ain't know.

4 Q So you got some letters from him. Did you
5 respond back to him?

6 A No, ma'am.

7 Q Did you get any more, have any more contact
8 from the defendant after you got those letters?

9 A No, ma'am.

10 Q And at some point, you got out on bond?

11 A Yes, ma'am.

12 Q And then you got rearrested, is that right?

13 A Yes, ma'am.

14 Q In Spartanburg county?

15 A Yes, ma'am.

16 Q And do you know what charges you have
17 pending over there?

18 A Yes, ma'am.

19 Q Okay. What do you have over there?

20 A Three armed robberies, two kidnappings,
21 burglary first and attempted burglary.

22 Q And how about here in Greenville, do you
23 know what you got pending, what charges you have here
24 in Greenville?

25 A No.

Curtis Wilkie - Direct Examination by Ms. Hodge

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1 Q The armed robbery and the kidnaping and the
2 conspiracy coming out of this case?

3 A Oh, yeah.

4 Q All right. Do you know how much time you
5 could get for all your charges?

6 A Yes, ma'am.

7 Q Are you looking at a lot of time?

8 A Yes, ma'am.

9 Q All right. Have I made you any promises or
10 anybody from the Solicitor's office made you any
11 promises of what's going to happen to you and all
12 those charges if you testify today?

13 A No, ma'am.

14 Q Any type of a sentence offer made for you?

15 A No, ma'am.

16 Q Any type of charge reduction made for you?

17 A No, ma'am.

18 Q Anybody in Spartanburg told you they would
19 do anything for you on your charges over there?

20 A No, ma'am.

21 Q So you are testifying today because you've
22 been made some kind of a deal of any kind?

23 A No, ma'am.

24 Q Mr. Wilkie, is Antwan Grayson present in
25 the courtroom today, the one that robbed this victim

1 Crystal Byers?

2 A No, ma'am.

3 Q Antwan Grayson, the person you were with in
4 the car?

5 A No, ma'am.

6 Q Are you sure about that?

7 A Yes, he is in here.

8 Q Where is he?

9 A He's sitting right there in the white shirt
10 right there beside the man in the gray.

11 Q All right. Thank you. You're going to
12 have to answer Mr. Chambers' questions now.

13 CROSS-EXAMINATION

14 BY MR. CHAMBERS:

15 Q Okay. Uh, Tony, you said that at the time
16 that Investigator Fortner talked to you the first
17 time, which I believe you said was on March the 23rd,
18 you were facing several charges already, correct?

19 A Yes.

20 Q And that's why you were over there in the
21 detention center?

22 A Yes.

23 Q And these are charges not related to
24 anything in this case, right?

25 A Yes.

Curtis Wilkie - Cross-Examination by Mr. Chambers

259

1 Q Serious charges?

2 A Yes.

3 Q So he comes over while you are there and he
4 wants to talk to you about these events, correct?

5 A Yes.

6 Q So he comes in on the 23rd and he tells you
7 about this robbery and rape and kind of gives you the
8 lowdown about what the facts are in the case, right?

9 A Yes.

10 Q And then he asked you what you know about
11 it?

12 A Yes.

13 Q And you tell him you don't know anything,
14 right?

15 A Yes.

16 Q Then you ponder it overnight and he comes
17 back to see you the next day?

18 A Yes.

19 Q And that's when you say you decided to, uh,
20 tell what happened in this case?

21 A Yes.

22 Q But Investigator Fortner, before you ever
23 got into any of that told you what they suspected
24 happened in this case, gave you details about this
25 case, correct?

Curtis Wilkie - Cross-Examination by Mr. Chambers

260

1 A Not really.

2 Q And, uh, he, uh, -- when -- you gave a
3 statement that day, is that right?

4 A Yes.

5 Q Now, if I understood you correctly, what
6 you said was that y'all were just going over to
7 [REDACTED] to see these girls.

8 A Yes.

9 Q Now, how long had you known Antwan at that
10 point?

11 A I ain't really been knowing Antwan all my
12 life. I just been knowing him a couple of years,
13 probably two years at the most.

14 Q All right. So at least for a couple of
15 years. Y'all hang out together?

16 A Not like that.

17 Q What do you mean not like that?

18 A We didn't hang out, say we hang out like
19 everyday, but we didn't really hang out like that.
20 It's just every blue moon.

21 Q Okay. But you knew him two years, right?

22 A Yeah.

23 Q And y'all were family, is that right?

24 A We ain't no family.

25 Q You don't refer to him as your cousin?

Curtis Wilkie - Cross-Examination by Mr. Chambers

261

1 A No.

2 Q Okay. So you're not his cousin?

3 A No.

4 Q So that evening, how long y'all been
5 together before you decided to go over to [REDACTED]

6 [REDACTED]

7 A Say what now?

8 Q That evening, how long had y'all been
9 together before you decided to go over to [REDACTED]

10 [REDACTED] ?

11 A Not that long.

12 Q And how was he dressed before he left, you
13 remember?

14 A He had some baggy pants on. I can't
15 remember exactly what he had on though.

16 Q You said you don't remember him wearing a
17 ball cap or anything.

18 A Who? Me?

19 Q No, him.

20 A Nah, he didn't have no hat on.

21 Q He didn't have a hat on?

22 A No.

23 Q And y'all were going over there to see
24 these girls?

25 A Yeah.

Curtis Wilkie - Cross-Examination by Mr. Chambers

262

1 Q There wasn't any mention of robbing anybody
2 or anything like that?

3 A No.

4 Q You didn't know anything about anybody
5 having a gun?

6 A No.

7 Q In fact, Brian was with y'all you said. So
8 there was three of you going over there?

9 A Yep.

10 Q So you go over -- all three of you going
11 over to see these three girls?

12 A Nah, just me and Antwan and Brian was
13 walking.

14 Q Did he go to the apartments with you?

15 A No. He stood at the top of the road.

16 Q Why?

17 A I don't know.

18 Q Gotcha. But you were just going over to
19 see girls. No talk about a robbery. Weren't going
20 to do anything like that?

21 A No.

22 Q And you say that just kind of happened on
23 the spur of the moment?

24 A Yes.

25 Q And you didn't want anything to do with

Curtis Wilkie - Cross-Examination by Mr. Chambers

263

1 them?

2 A Yes.

3 Q You didn't want something to do with it?

4 A No.

5 Q Okay. Did you do anything to try to stop
6 it?

7 A No.

8 Q In fact, you went in there and got in the
9 car with them?

10 A Yes.

11 Q Even though there is this robbery going on
12 that you say you didn't want any part of and you told
13 him not to do, right?

14 A Yes.

15 Q So you get in the car and you drive off
16 with them?

17 A Yes.

18 Q Then you got out at the railroad tracks?

19 A Yes.

20 Q And despite all this going on and you say
21 you didn't want any part of, you actually went back
22 to [REDACTED] later looking for Antwan,
23 didn't you?

24 A No, I ain't never go back to [REDACTED]

25 [REDACTED].

Curtis Wilkie - Cross-Examination by Mr. Chambers

264

1 Q You never went back?

2 A I never went back.

3 Q Okay. You remember giving this statement
4 you talked about on the 24th?

5 A No.

6 Q You don't remember it? You just said you
7 gave it.

8 A I gave it, but I can't remember exactly
9 what it say.

10 Q Does that look like your signature right
11 there?

12 A Yes.

13 Q Okay. And those your initials, CW?

14 A Yeah.

15 Q So would that be fair to say that's your
16 statement?

17 A Yeah.

18 Q And right here, it says I went back to
19 [REDACTED] after the train went by to look for
20 Antwan?

21 A No, I went back to Brook Terrace. I ain't
22 never went back to [REDACTED]

23 Q You see right there at the end of that
24 sentence that I just read where you initialed it CW?

25 A The detective was writing all that. He was

Curtis Wilkie - Cross-Examination by Mr. Chambers

265

1 just telling me to mark my signature. I ain't never
2 know what he was writing. He ain't let me read it
3 after that. I ain't never had no motion or none of
4 that.

5 Q Oh, okay. So you're saying the detective
6 just filled that out for you?

7 A The detective was tying it up on the
8 computer and I had signatures. I ain't never read
9 the statement after he wrote it or none of that. He
10 was the one who was typing it.

11 Q You didn't read it even though you
12 initialed right there, CW?

13 A No, he was telling me to initial and sign.
14 So that's what I did. I ain't never read the
15 statement.

16 Q So you just did everything Investigator
17 Fortner told you to do?

18 A Yes.

19 Q He said go ahead and initial right here by
20 this sentence and you did?

21 A Nah. He told me to initial at the top
22 right there and at the end of it and sign it.

23 Q Okay. So you did exactly what he told you
24 to. You didn't read the statement. You initialed
25 and you signed?

Curtis Wilkie - Cross-Examination by Mr. Chambers

266

1 A I ain't never read it.

2 Q Okay. So you're saying this part where it
3 says I went back to [REDACTED] after the train to
4 look for Antwan, Detective Fortner made that up?

5 A I ain't never go back to [REDACTED]

6 Q Okay. So Investigator Fortner made that
7 up?

8 A I guess so because I ain't never go back to
9 [REDACTED]

10 Q You didn't tell him that?

11 A I didn't tell him that.

12 Q Even though you initialed and signed this
13 statement. Did you realize when you put your
14 signature on that that you were vouching for the
15 truthfulness of that?

16 A No.

17 Q You didn't? So you were just doing what
18 you were told by this investigator?

19 A Yes.

20 Q This investigator came over and, uh, told
21 you, hey, I know you already in some trouble, we
22 suspect that you were involved in this offense that
23 happened, told you about it. Then he wrote this
24 statement down and had you sign it. That's what
25 happened?

Curtis Wilkie - Cross-Examination by Mr. Chambers

267

1 A He was asking me and I was telling him and
2 he was typing it up on the computer. When he get
3 done, he tell me to initial the beginning and initial
4 the end and sign it at the bottom. I did that. I
5 ain't never read the statement.

6 Q Okay. Uh, then after you got out on bond
7 on these charges, you went out and got in some more
8 trouble?

9 A Yes.

10 Q And you are hoping that by cooperating you
11 were going to catch a break, aren't you?

12 A No.

13 Q You don't think it's going to help you out
14 by helping out with this case and giving testimony?

15 A No.

16 Q Okay. The, uh, -- you are saying that it
17 was Antwan's idea to go to the ATM? He's the one
18 that said, hey, let's go to the ATM?

19 A Yeah. He told her she going to the ATM
20 when he put the gun to her mouth.

21 Q So as soon as he put it up, he said we're
22 going to the ATM.

23 A When she say she ain't have no money, he
24 said we was going to the ATM.

25 Q Just immediately?

Curtis Wilkie - Redirect Examination by Ms. Hodge

268

1 A Yeah. He didn't know if she had an ATM
2 account or none of that.

3 Q Okay. All right. That's all the questions
4 I have for you. Thank you.

5 REDIRECT EXAMINATION

6 BY MS. HODGE:

7 Q All right. Mr. Wilkie, let's clarify.
8 Investigator Fortner did not make up all this stuff
9 on this paper, did he?

10 A I don't believe he made it up, but I really
11 don't remember saying I went back to [REDACTED]
12 [REDACTED].

13 Q Did you say that you, uh, -- starting off
14 at the beginning and go through it, did you say the
15 part about I don't know how long ago it was but
16 Antwan Grayson and I were at [REDACTED] ---

17 A Yeah.

18 Q --- when he was asking you about this
19 incident? Okay. Me and him and his brother were out
20 there.

21 A Yeah.

22 Q That's what you said? That's true? Okay.
23 His brother's name is Brian, but I don't know what
24 his last name is. Is that true?

25 A I didn't at the time.

Curtis Wilkie - Redirect Examination by Ms. Hodge

269

1 Q Okay. Antwan saw a girl out there and said
2 he was about to rob her?

3 A Yes.

4 Q That's true, you told him that. He didn't
5 make that up?

6 A Nah, he didn't make that up.

7 Q Okay. I told him not to do that and to
8 come on.

9 A Yeah.

10 Q That's what you said. Brian was at the top
11 of the road near the bushes. Is that true? You said
12 that?

13 A Yeah.

14 Q By that time, it was too late.

15 A Yeah.

16 Q These are your words, not Investigator
17 Fortner's words?

18 A Yeah.

19 Q Okay. Antwan put the gun to the girl's
20 mouth and asked where the money was at. That's your
21 words? Did Investigator Fortner tell you about
22 somebody putting a gun to this girl's mouth?

23 A No.

24 Q Okay. You know that because you saw it?

25 A Yes.

Curtis Wilkie - Redirect Examination by Ms. Hodge

270

1 Q He told her she didn't have any money and
2 she aid she had just dropped her husband off at work.
3 You told the investigator that?

4 A Yeah.

5 Q So he didn't make up either?

6 A No.

7 Q You heard that woman say she dropped her
8 husband at work?

9 A Yeah.

10 Q Do you remember where she said she dropped
11 him at work?

12 A McDonald's.

13 Q And then Antwan forced the girl into the
14 car. Did you say that?

15 A Yes.

16 Q Okay. And you put in here Antwan put the
17 gun on me and told me to get in the car.. What does
18 that mean?

19 A He kind of like waved the gun and said come
20 on, get in the car, so I got in the car.

21 Q Okay. So it wasn't like he was pointing it
22 at you like you're now the victim?

23 A Nah.

24 Q Okay. But you said that, right?

25 A Yeah.

Curtis Wilkie - Redirect Examination by Ms. Hodge

271

1 Q Investigator Fortner didn't make that up,
2 did he?

3 A Huh-uh.

4 Q Then when I got in the car, he runs around
5 and gets in the front seat. Did you say that?

6 A Yeah.

7 Q Okay. Did Investigator Fortner tell you
8 about somebody getting in the front seat of this
9 woman's car?

10 A No.

11 Q So you saw that?

12 A Yes.

13 Q Antwan had the gun and was pointing it at
14 the girl. Is that true he said that?

15 A Yeah.

16 Q Investigator didn't make that up?

17 A No.

18 Q And the gun was silver and it wasn't very
19 big?

20 A Yeah.

21 Q You told him that? Did the investigator
22 before he took this statement tell you about what
23 kind of gun there might be?

24 A No.

25 Q You know that because you saw it?

Curtis Wilkie - Redirect Examination by Ms. Hodge

272

1 A Yes.

2 Q All right. And we're moving on. Antwan
3 told her to drive to the bank.

4 A Yes.

5 Q Then she got money out. I don't know how
6 much she had but I could see a 20.

7 A Yes.

8 Q You said that, not Investigator Fortner?

9 A Yes.

10 Q All right. And then she had it folded
11 over, so I didn't know how much there was. Is that
12 right? You say that?

13 A Yes.

14 Q She started to drive off and then she
15 stopped?

16 A Yes.

17 Q The girl said she forgot her card. Did the
18 investigator tell you that little tidbit or did you
19 know that?

20 A I know it.

21 Q So you told him that. He didn't write that
22 in there?

23 A No.

24 Q Then so Antwan told her to back up and get
25 the card. Then we left on the road going towards the

Curtis Wilkie - Redirect Examination by Ms. Hodge

273

1 house. When you say the house, were you saying the
2 house where y'all were --

3 A Yeah, it was a house right there beside it.

4 Q Oh, a house besides the ATM?

5 A Yeah.

6 Q And Antwan told the girl to stop and let me
7 -- wait. No, I skipped a line. I apologize. Yeah.
8 Antwan told the girl to stop and let me out of the
9 car. Is that true?

10 A Yeah.

11 Q You told that to the investigator. He
12 didn't make that up?

13 A No.

14 Q This was near the railroad tracks near
15 [REDACTED] Did you tell him that?

16 A Yeah.

17 Q So he didn't make that part up?

18 A No.

19 Q The lights on the track were blinking and
20 the crossing arms were beginning to come down, is
21 that true?

22 A Yes.

23 Q I got out of the car. She took off as I
24 was getting out of the car. True?

25 A Yes.

Curtis Wilkie - Redirect Examination by Ms. Hodge

274

1 Q You told him that. He didn't write that in
2 there for you.

3 A No.

4 Q She then stopped and Antwan closes the back
5 door that I got out of. Did you see that?

6 A I ain't see him close the back door but the
7 back door was open. When I got out of it, somebody
8 closed it, so it had to be him.

9 Q Okay. So you're just assuming that he
10 closed that door. You left it open is what you're
11 saying?

12 A Yeah.

13 Q You're bailing. You jump out and leave the
14 door open. So the investigator didn't make that up.
15 That's what you said.

16 A No.

17 Q I went back to [REDACTED] after the train
18 went by to look for Antwan. That's the part you
19 disagree with?

20 A Yeah. I don't remember saying that.

21 Q But everything else before that, you said
22 that?

23 A Yeah. Everything else before that.

24 Q And I didn't see Antwan and I went back to
25 Brook Terrace.

Curtis Wilkie - Redirect Examination by Ms. Hodge

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1 A I don't remember saying that. I remember
2 going straight back to Brook Terrace after I got out
3 the car.

4 Q Would you have even glanced back ---

5 A Yeah. I glanced over there.

6 Q --- to see if he was there.

7 A I ain't see the car or nothing. But I
8 ain't never go back into Brook, I mean, [REDACTED]
9 apartments.

10 Q Okay. It says on here, I called Antwan and
11 he didn't pick up. Were you using a different phone?

12 A Brian phone.

13 Q And you had called from Brian's phone to
14 Antwan's phone?

15 A Yeah.

16 Q And then about 10 minutes later, Antwan
17 came and knocked on the back door. Did you say that?

18 A Yeah.

19 Q Okay. The Investigator didn't tell you
20 that?

21 A No. I opened the back door.

22 Q Okay. And you opened the door and you
23 asked him did you rape that girl, is that right?

24 A Yeah.

25 Q Okay. And then you said I asked him this

Curtis Wilkie - Recross Examination by Mr. Chambers

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1 because he was feeling on her before I got out of the
2 car, is that true?

3 A Yeah.

4 Q So you said that, not the investigator.
5 All right. I figured that was what he was going to
6 do when he told me to get out of the car. Is that
7 your statement?

8 A Yeah.

9 Q Then it says Antwan told me that he didn't
10 rape her, is that right?

11 A Yeah.

12 Q Okay. Then we're going to skip down. It
13 says I asked Antwan again if he ever raped that girl.
14 He just smiled at me. Is that true?

15 A Yeah.

16 Q The last line, you said I told him you
17 should never have done that.

18 A Yeah.

19 Q Okay. So you put those words in there, not
20 Investigator Fortner?

21 A Yeah.

22 Q Thank you.

23 RECROSS-EXAMINATION

24 BY MR. CHAMBERS:

25 Q So now that you've had an opportunity to

Curtis Wilkie - Recross Examination by Mr. Chambers

277

1 read the statement that you said you never read, the
2 only part that the investigator made up in your
3 estimation of things is the part where you went back
4 to [REDACTED] apartments?

5 A I ain't saying he made it up. He probably
6 misunderstood me.

7 Q Okay. It wouldn't make sense for somebody
8 that had, uh, supposedly all of a sudden been present
9 at a robbery that they didn't want to be involved in
10 and have somebody hold a gun on them and have them
11 get in a car and ride off, it wouldn't make sense for
12 that person to then go looking for the person that
13 committed that robbery, would it?

14 A No.

15 Q So for you to say that you went back to
16 [REDACTED] apartments looking for him, it wouldn't
17 make sense. You would want to stay as far away from
18 him as you could, right?

19 A I didn't never go back to [REDACTED]
20 apartments?

21 Q Okay. Yeah, the investigator just got that
22 wrong.

23 A I said he might have misunderstood me.

24 Q Okay. But you did go back ---

25 A To Brook Terrace.

1 Q --- to Brook Terrace, again, knowing that
2 he was probably going to show up there, right?

3 A Yeah.

4 Q So you didn't have any problem being around
5 this guy that you said in this statement that you
6 just had read to you apparently for the first time,
7 Antwan put the gun on me and told me to get in the
8 car. Get in the car. Get in the car. Antwan put
9 the gun on me and told me to get in the car, right?

10 MS. HODGE: Objection, is there a
11 question?

12 MR. CHAMBERS: Yeah, I said is that right?

13 THE COURT: All right. Let me rule on the
14 objection. Uh, yeah, he phrased it in the form
15 of a question ultimately, so I'll overrule the
16 objection. But, of course, you have to ask
17 questions.

18 BY MR. CHAMBERS:

19 Q Is that right?

20 A Say that again.

21 Q He holds the gun on you. He says get in
22 the car. That was your statement, right?

23 A Yes.

24 Q Yet, you wanted to go looking for this guy
25 and see him again. No problem with that.

Remarks

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1 A I ain't never go looking for him.

2 Q You say you saw him back at Brook Glen.

3 You knew he'd be there.

4 A Brook Terrace.

5 Q Brook Terrace. You knew he'd be there.

6 A But I was there for -- I ain't go back

7 looking for him.

8 Q Okay. In your statement, you said you went

9 to [REDACTED] looking for him, right? That was in

10 there.

11 A Yeah, it's in the statement. But I said

12 Detective Mike Fortner might have made a mistake.

13 Q All right. That's all the questions I have

14 for you.

15 THE COURT: All right. Thank you, sir.

16 Appreciate you being here. You may step down.

17 All right. Ladies and Gentlemen, we're

18 going to take a break. I know that y'all had a

19 break earlier when we took up some matters, but

20 the court personnel didn't have the opportunity

21 to take a break. So I'm going to take one now.

22 We'll come back on the record in about 10 or 15

23 minutes. Please don't discuss the case.

24 (WHEREUPON, the jury exits at approximately

25 10:48 a.m.)

Mike Fortner - Direct Examination by Ms. Hodge

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1 THE COURT: All right. We'll be in
2 recess.

3 MS. HODGE: Thank you.

4 (WHEREUPON, a short recess is taken.)

5 THE COURT: So y'all want to try to play
6 the audiotape when they come in?

7 MS. HODGE: We'll try.

8 THE COURT: Okay. All right. We'll see.

9 MS. HODGE: Third's a charm.

10 THE COURT: Okay. All right. Hold them
11 for just a second.

12 I know that everybody who has been in the
13 courtroom is not here now. But the jury
14 apparently has just sent me a note and asked
15 that people in the courtroom stop being
16 demonstrative, stop jumping around, stop getting
17 up, stop making faces, comments, stipulations of
18 any sort. It may be that as people come into
19 the courtroom that you may want to advise them
20 about that. I know that not everybody who was
21 in here before is in here now. Okay. All
22 right. Thank you.

23 (WHEREUPON, the jury enters at approximately
24 11:15 a.m.)

25 THE COURT: All right. Ladies and

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1 Gentlemen; I believe at this point we're going
2 to move forward. I believe Ms. Hodge is going
3 to try to play that audiotape that's been giving
4 her trouble. We shall see.

5 MS. HODGE: Thank you, Your Honor.

6 (WHEREUPON, State's Exhibit 22 is played.)

7 MS. HODGE: Your Honor, the State would
8 call Investigator Fortner.

9 THE CLERK: Investigator, if you would,
10 come forward to be sworn in please. Place your
11 left hand on the Bible and raise your right.

12 MIKE FORTNER

13 having first been sworn, testifies as follows:

14 THE CLERK: Thank you. Please be seated.
15 Would you please state your full name for the
16 record.

17 THE WITNESS: Michael Eugene Fortner.

18 DIRECT EXAMINATION

19 BY MS. HODGE:

20 Q Investigator Fortner, who do you work for?

21 A Greenville County Sheriff's Office.

22 Q And how long you been at the Sheriff's
23 Office?

24 A Approximately 17 and a half years.

25 Q What are your duties and responsibilities

Mike Fortner - Direct Examination by Ms. Hodge

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1 as an investigator?

2 A I'm currently assigned to the robbery unit.
3 My job is to investigate robberies that come in from
4 the previous nights. They go to the sergeant and the
5 sergeant assigns them to each individual robbery
6 investigator.

7 Q And have you been a robbery investigator
8 for the whole time at the Sheriff's Office?

9 A No, I have not.

10 Q Tell what you were doing before that.

11 A When I started in 1993, I was assigned to
12 Uniform Patrol. Uniform Patrol for approximately
13 five and a half years. January of '99, I went to
14 Investigations. I started off in Investigations and
15 White Collar Crime. I did that for about two and a
16 half years. From White Collar Crime, I went to
17 Family Violence Unit. Did that for a couple of
18 years. I went to Robbery. Did that for about two
19 years or so. I went back to White Collar Crime for
20 maybe about a year and a half or so. In October of
21 2007, I went back to Robbery. Been in since then.

22 Q And in your experience as a robbery
23 investigator, let me just get this out there. What
24 does hitting a lick mean to you?

25 A That means you going to do a robbery.

Mike Fortner - Direct Examination by Ms. Hodge

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1 That's pretty standard lingo, street lingo for doing
2 a robbery.

3 Q Is that what it's called when someone is
4 going to sell drugs? Do they call that hitting a
5 lick?

6 A I never heard selling drugs referred to as
7 doing a lick, no.

8 Q Now, as the investigator for armed robbery,
9 were you assigned to the case involving Ms. Byers and
10 the case that we're in court today, the State versus
11 Antwan Grayson?

12 A Yes, I was.

13 Q When did you initially receive this case
14 and case information?

15 A The morning of March 17th of 2009 and me
16 coming to work and the sergeant assigned the cases. I
17 got this case.

18 Q So you were not present on the scene the
19 night before?

20 A No, I was not.

21 Q And you did not search for suspects the
22 night prior?

23 A That's correct. I did not.

24 Q Did not respond to the hospital where the
25 victim was the night prior?

Mike Fortner - Direct Examination by Ms. Hodge

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1 A I did not, no.

2 Q And you had not had the opportunity to
3 speak to the victim personally when you received the
4 file, is that correct?

5 A That's correct at that time.

6 Q So what was your first step then in this
7 investigation?

8 A From reading the report, I saw where the
9 victim said that she was taken to the Wachovia Bank
10 there at Wade Hampton, right there at Wade Hampton
11 and Cherokee Drive. I contacted the Wachovia Bank
12 investigator, Tom Hudson and told him what case I was
13 investigating that I would like to have some video
14 from the ATM machine out there. Mr. Hudson, he
15 called Wachovia Bank. I spoke to somebody out there,
16 Mr. Mahler apparently, and requested that he call
17 that video for me. He then called me back and said,
18 look, all you have to do is go by and pick it up.
19 It's ready for you.

20 Q And what did you do after that?

21 A Also from reading the report, I know that
22 she called 911. So I requested a copy of the 911
23 call. I usually do that for cases that look like are
24 going to be pretty complicated. A lot of times
25 victims may say something in the phone call for 911

Mike Fortner - Direct Examination by Ms. Hodge

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1 that they may omit to uniform patrol just because
2 they simply forget to tell them or the uniform patrol
3 deputy just maybe omits it from his report.

4 Q Okay. And so you requested a copy of the
5 call we just heard?

6 A Yes, I did.

7 Q And did you -- what did you do after that?

8 A I also noticed from reading the report that
9 the victim's cell phone was taken. I completed a
10 court order and sent it to Alltel who was her service
11 provider for her cell phone. I sent that off
12 requesting the time. It started on March 16th of
13 2009. I requested from 10 o'clock that night through
14 7 o'clock the following morning on March 17th.

15 Q And why did you do that?

16 A The reason why we do that is a lot of times
17 the victims have their phones taken. Their phones
18 get used to make phone calls, whether it be by the
19 person who actually took the phone or maybe they give
20 it to somebody who then uses it to make phone calls.
21 I wanted to see if anybody had actually used her
22 phone or not.

23 Q What did you do after you prepared that
24 court order for phone records?

25 A I made contact with the victim. I arranged

Mike Fortner - Direct Examination by Ms. Hodge

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1 time for her, 10 o'clock to meet her at her
2 apartment. Myself and Investigator Tracy King, both
3 of us, we went out to her apartment where I
4 interviewed her.

5 Q Where did she live?

6 A She lived at [REDACTED] apartments, there
7 on [REDACTED] Road off of Brook Glen Road in Taylors.

8 Q When you get to the apartment complex, did
9 you go straight to her apartment or what do you do?

10 A The first thing I did was I went to the
11 office. I just wanted to do a little background
12 check on the victim, just general stuff. She told me
13 that she had just previously lived in a two-bedroom
14 apartment and had just moved into a three-bedroom
15 apartment because of her mother. She had her mother
16 live with her so she needed an extra bedroom.

17 I was also checking on a possibility for a
18 subject named Trey. The victim mentioned in the
19 report that one of these individuals called the other
20 one by Trey. I wanted to see if maybe somebody at
21 the apartment complex was familiar with a Trey, also
22 just to see if whether or not maybe there was any
23 kind of suspicious activity going on at the victim's
24 apartment. They told me that she was a good tenant
25 and they had no problems with her.

Mike Fortner - Direct Examination by Ms. Hodge

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1 Q After speaking to management, did you go to
2 the victim's apartment?

3 A Yes, I did.

4 Q And is her apartment -- where is her
5 apartment located within the building?

6 A It's on the lower floor.

7 Q Does it face the parking area or the back
8 side?

9 A If I remember correctly, it's in the back
10 side of the building on the lower floor.

11 Q When you get there, do you take a walk
12 around the building or anything like that? Do you
13 look at the area or do you just go straight to her?

14 A I mean, you can see the area surrounding
15 the building there as you walking up to it, of
16 course. Lots of plants, trees, landscaping type
17 trees.

18 Q And you get to the victim's apartment. Is
19 anybody else in the apartment when you got there?

20 A Yeah, her husband was there and her mother
21 too, I believe, was also there.

22 Q What happened then?

23 A First thing that happened, the victim
24 provided me with a receipt from the ATM withdrawal.
25 Apparently, she still had that on her. It was not in

Mike Fortner - Direct Examination by Ms. Hodge

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1 her vehicle. Forensics, the night before, processed
2 the vehicle. She provided me with that receipt
3 showing the 80-dollar withdrawal.

4 Q I'm going to show you what's been marked
5 State's number 17. What is that?

6 A It's a Wachovia Bank receipt dated March
7 16th of 2009 at 11:29 p.m. It's showing the Wachovia
8 Bank branch located at

9 Q Does it show a withdrawal?

10 A Yeah, it shows an 80-dollar withdrawal. \$80
11 was withdrawn from the account.

12 Q Has this been altered, amended in any way
13 since you collected it?

14 A No, it has not.

15 Q Essentially the same condition?

16 A Yes.

17 MS. HODGE: We would move to admit number
18 17.

19 MR. CHAMBERS: Without objection, Your
20 Honor.

21 THE COURT: All right. Without objection,
22 the same is admitted into evidence.

23 (WHEREUPON, State's Exhibit 17 is admitted into
24 the record.)

25 BY MS. HODGE:

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1 Q After you collect that from her, what
2 happens next?

3 A That's when I, uh, took a statement from
4 the victim, Ms. Byers. I had brought with me my
5 computer and printer with me. Took a statement from
6 her there at her apartment. She told me what
7 happened. I typed as she told me what took place.

8 Q Is that statement what we previously
9 admitted as State's number 21. Is this a copy of the
10 statement?

11 A Yes, it is.

12 Q Okay. I'm going to leave that with you in
13 case you need to refer to it for any reason. So tell
14 us how you conduct an interview with a victim or
15 witness or anyone. What do you do?

16 A I sit down with them. I ask them to go
17 over everything with me real quick, just kind of tell
18 me what took place. I may ask them some questions
19 during this time maybe to clarify some points. Then
20 I have them go over it again with me. At that time,
21 I actually type out the statement with them as they
22 tell me. I don't type too good sometimes. So I have
23 to actually ask them to stop sometimes or slow down
24 or whatever. But I type out the statement.

25 Once I get the statement typed out, I give

Mike Fortner - Direct Examination by Ms. Hodge

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1 them the statement. Ask them to read over the
2 statement carefully. If there's anything in it
3 that's not correct to let me know and we'll go back
4 in there and change it. She indicated everything was
5 fine with the statement. I always have them place
6 their initials at the first and last word of each
7 paragraph. Then I ask them to sign the statement,
8 also to print their name down below their signature.
9 Then I'll sign as a witness. In this case,
10 Investigator Tracy King was also there. He also
11 signed as a witness.

12 Q And, uh, you give a copy. Did you say
13 that? I'm sorry.

14 A Yes, I always give the victim or the
15 suspect, either one, a copy of their statement.

16 Q Is that what you did with Ms. Byers on this
17 day?

18 A Yes, I did.

19 Q Was she able to relay information to you in
20 a fairly logical, fairly coherent way?

21 A Yes, she did.

22 Q And as you are in her apartment taking this
23 statement, are you observing the inside of the
24 apartment, taking note of anything?

25 A Sure. Looking inside the apartment, clean

Mike Fortner - Direct Examination by Ms. Hodge

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1 apartment. Did not notice any kind of sign of drug
2 use of any kind. Nothing like that. Everything
3 seemed to be pretty much in order.

4 Q How about her demeanor? How was she?

5 A Very calm. Very collected. Just very
6 matter of fact.

7 Q Is this a complex, I think we got it on the
8 map, across from [REDACTED]

9 A Yes, there is. It's right across the
10 street from Brook Glen Road from [REDACTED]
11 apartments.

12 Q Is it walking distance between those two?

13 A Yes, it is.

14 Q Railroad tracks. Are those appropriately
15 on the map?

16 A Correct. Yes, ma'am.

17 Q Did the victim describe to you the various
18 areas in Greenville where this crime occurred?

19 A Yes. She told me she got home from
20 dropping her husband off. As she was walking up to
21 her apartment door, that's where she was approached
22 by these two individuals. Pointed the gun at her.
23 Demanded money from her. Of course, she told me that
24 they eventually went down to her car and then went
25 down to the Wachovia Bank where she made the

Mike Fortner - Direct Examination by Ms. Hodge

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1 withdrawal.

2 Then she related to me that as they were
3 approaching the apartment complex there at the
4 railroad tracks, that's where she was told to stop.
5 The other individual got out of the back seat and
6 then proceeded into the apartment complex at which
7 time she was told to go to the third court, which
8 would be furthest from her building. That's where
9 the rape occurred.

10 Q Did she say it occurred in the car, out of
11 the car or somewhere else?

12 A In the back seat of the vehicle, yes.

13 Q And was she able to give you much
14 description of her attackers?

15 A Nothing other than general description.
16 Black males, approximate age and height and weight.
17 That's all she could provide.

18 Q Did she tell you if she saw their faces or
19 not?

20 A She said she could not see their faces.
21 The one that she had most of the face-to-face contact
22 with was wearing the bandanna across his face. She
23 was unable to get any kind of detailed facial
24 description or anything.

25 Q So would you be able to compile any kind of

Mike Fortner - Direct Examination by Ms. Hodge

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1 photo array for this woman?

2 A No, I would not be able to put together a
3 photo array or photo lineup or anything like that.
4 Just did not get a good enough look at either one of
5 the two individuals to be able to do that.

6 Q While you were in the apartment with her
7 after taking the statement or making this report, did
8 you discuss her cell phone and cell phone records and
9 things along that line?

10 A Yes. After we got done with the statement,
11 I let her know that we sent off a court order for her
12 phone records already. Then I asked her, I said, how
13 about you calling your phone company because
14 sometimes court orders can take a while. Weeks,
15 sometimes even a month or so. I was wanting to try
16 to get this rolling as quickly as I could since it
17 just had occurred. I asked her to call. It ended up
18 her husband actually called Alltel.

19 They got me in touch with the emergency
20 people there that could provide you with information
21 immediate. So I actually called another
22 investigator, David Weiner, who was still in the
23 office and I asked him to prepare all the necessary
24 paperwork that they needed for that. And he faxed
25 all that information to them. They eventually

Mike Fortner - Direct Examination by Ms. Hodge

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1 provided us with a listing of phone numbers that were
2 called.

3 Q So you have to get the phone holder's
4 permission to get those records immediately?

5 A Yes.

6 Q And did you discuss, uh, her car and
7 needing to possibly search or process her automobile?

8 A Yes. Her car got towed the night before.
9 The reason for that was it had been raining and the
10 forensic people were only able to process the inside
11 of the car. There was no way to process for latent
12 prints on the outside of the car because it was wet.
13 When they put the powder out there, it just makes a
14 big mess. So they towed the car so it could dry out
15 at the tow place. So, uh, I got the victim to give
16 us consent to go back and do her car and finish
17 processing the vehicle.

18 Q So she wasn't trying to keep you from
19 looking through the car or processing the car
20 further?

21 A No, she was not.

22 Q And she signed a consent form to let you do
23 that?

24 A That's correct. She did.

25 Q After you had that discussion with her,

Mike Fortner - Direct Examination by Ms. Hodge

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1 what did you do?

2 A Once we finished with her there at the
3 apartment and finished with her statement and getting
4 the phone records and everything and getting consent
5 to search, I then went to Eddie's Body Shop which is
6 on Wade Hampton Boulevard. I called our dispatch
7 ahead of time and asked them to have a forensic unit
8 to meet us there as well to process the vehicle. And
9 Sergeant Shaw from forensics responded. He processed
10 the vehicle for latent prints on the outside of the
11 vehicle. I also looked through the inside of the
12 vehicle again just to make sure there wasn't anything
13 that maybe gotten missed from the night before.

14 Q And were any latent prints able to be
15 lifted from the vehicle to be compared to anything?

16 A No, there were no latent prints lifted that
17 were compared or matched to anything. No, there were
18 not.

19 Q And in the car, did you find any evidence
20 of drug use, cocaine, crack cocaine, any of those
21 kind of things?

22 A No. I found nothing. The things that I
23 might look for when I'm doing something like that,
24 common things to look for might be a crack pipe, uh,
25 which could be anything from a crushed, like, soda

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1 can, a metal pipe, short metal pipe or glass pipe.
2 Sometimes, they'll take a small pill bottle and cover
3 the top up with some aluminum foil and put a straw on
4 it. But nothing along those lines that's common with
5 drug use, particularly crack, in the vehicle. You
6 might find corners of a plastic bag. That's how they
7 package the dope in single rocks. They'll put it in
8 plastic baggies and just rip off the corner of it.
9 They tie that up. A lot of times, you'll find little
10 pieces of plastic baggies laying around. Nothing
11 like that in her car.

12 Q Uh, after -- well, did you stay for the
13 entire processing of her vehicle?

14 A Yes, I did.

15 Q And what did you do after that?

16 A After that, we stopped at the Wachovia Bank
17 there on Wade Hampton Boulevard on the way back into
18 the office. I went inside. Spoke to Mr. Mahler who
19 y'all heard from yesterday who works at Wachovia. He
20 provided me with the video tape. I noticed while we
21 were there in the video room that they were on VHS
22 system. They had multiple cameras which meant that
23 there had to be a multiplexer to be able to play this
24 tape and actually be able to watch it anyways. So I
25 asked him to play it there for me, which he did. And

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1 I was able -- I found the victim's vehicle there on
2 video there at the ATM machine.

3 Q And is State's number 18(a) the VHS tape
4 that you collected from Mr. Mahler at Wachovia?

5 A Yes, ma'am. It is.

6 Q Do you have any way of playing that tape in
7 your investigative office or the sheriff's officer?

8 A No, the sheriff's office does not have a
9 multiplexer. Today, there's not really a big need
10 for that anymore. Most places are on digital video
11 systems. However, at this time, Wachovia Bank was
12 not, at least this particular branch. We do not have
13 a multiplexer. I was not able to watch it at the
14 office.

15 Q Did you request something be done with that
16 tape so that it could be viewed?

17 A Yeah. We have a technical services unit.
18 Individuals that are experts or were adept at
19 computers and they got some equipment that they are
20 able to take a VHS tape like this and separate each
21 individual camera out with this computer system that
22 they've got, program that they have. Asked them to
23 make a copy of that particular video, that camera
24 that showed her video at the ATM machine.

25 Q And did you view the copy that, uh, the

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1. technical support made?

2. A Yes, I did.

3. Q Is it a crystal clear image at this point
4 still?

5. A No, unfortunately, it's still not perfect
6 by any means, but it's definitely better than it is
7 on this VHS tape.

8. Q Okay. I'm going to show you just the
9 outside packaging because the inside is in there and
10 I'm scared to take it out at this moment.

11. A Okay.

12. Q What -- did you previously view it before
13 court, State's number 18(b)?

14. A Yes, I did.

15. Q Is it a true and accurate copy of what came
16 from A, aside from the fact that it has been sliced
17 out to an individual camera?

18. A Yes, it is.

19. MS. HODGE: At this point, we would move
20 to admit 18(b).

21. MR. CHAMBERS: Without objection, Your
22 Honor.

23. THE COURT: All right. Without objection,
24 the same is admitted into evidence.

25. (WHEREUPON, State's Exhibit 18(b) is admitted

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1 into the record.)

2 MS. HODGE: At this time, I would attempt
3 to watch that.

4 THE COURT: Good luck.

5 MS. HODGE: Thank you. I need it today.
6 No, no, no. Somebody turned my power.

7 THE COURT: I'm sure Mr. Chambers
8 sabotaged it.

9 MS. HODGE: I'm sure he did. I feel
10 that's what's going on here. Well, let's move
11 forward and come back to this video because this
12 is not my day. This is clearly not my day with
13 the AV equipment.

14 THE COURT: Okay.

15 BY MS. HODGE:

16 Q After you took -- let's go to are there
17 still photographs that are taken from this?

18 A Yes.

19 Q The VHS and subsequent?

20 A Yeah, the technical service unit were able
21 to print out still shots from the videotape for me.

22 Q Okay. I'm going to show you State's 14,
23 15, and 16. Can you tell me what those are?

24 A Yes. These are still shots from the video.
25 It shows the victim in her white vehicle at the ATM

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1 machine. You can also see in the video another
2 individual sitting in the front seat, passenger side
3 of the front seat that appears to be pretty well
4 covered up with his face. He's got something on the
5 top of his head and face, it looks like.

6 Q Did they have a time stamp or date stamp?

7 A Yeah, on the date, it says March 16th of
8 2009. The time says 23:27 hours, which would be
9 11:27 at night. 11:27 p.m.

10 Q Okay. And that would be State's number 14.
11 How about on 15?

12 A 15 has got the same date. March 16th,
13 2009. Now, it says 23:28.

14 Q 16?

15 A 16 has got the same date, but then it's got
16 the time of 23:31.

17 Q So approximately five or six minutes spent
18 between these photographs, would that be accurate?

19 A Yes.

20 Q Are these true and accurate depictions of
21 what's on this video, if we ever see it?

22 A Yes, it is.

23 MS. HODGE: All right. At this time, we
24 move to admit 14, 15, 16.

25 MR. CHAMBERS: No objection, Your Honor.

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1 THE COURT: All right. Without objection,
2 the same are moved into evidence.

3 (WHEREUPON, State's Exhibits 14, 15, and 16 are
4 admitted into the record.)

5 MS. HODGE: Thank you, Your Honor. May I
6 publish these the old-fashioned way?

7 THE COURT: Yes, ma'am.

8 MS. HODGE: Thank you.

9 BY MS. HODGE:

10 Q Investigator Fortner, after you obtained
11 the VHS tape and took it back to your office or to
12 the LEC, what did you do next in this case?

13 A That's when we got the listing of phone
14 numbers from Alltel to their emergency services
15 department. One of the first phone numbers on there
16 that was called using the victim's phone was called
17 at, or the time they had anyways, was 2:37 in the
18 morning. That phone number was

19 Investigator Weiner then actually called
20 that phone number for me. An individual answered the
21 phone. Investigator Weiner explained to him why we
22 were calling. This individual, which turned out to
23 be Brian Wilkins who y'all heard from yesterday,
24 indicated to us that he had gotten this phone from
25 his brother, Antwan Grayson, the defendant. We asked

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1 Mr. Wilkins to come down to the Law Enforcement
2 Center so we could speak with him which he agreed to
3 do. He did come down.

4 When he came down to the Law Enforcement
5 Center, we sat down with him. Interviewed him.
6 Actually took his statement from him just like I did
7 with the witness. And, uh, I asked him if he still
8 had this phone. He told me that his girlfriend
9 actually had it at the time and she was upstairs in
10 the lobby of the Law Enforcement Center. I asked
11 Investigator Weiner to go upstairs and meet with her.
12 And he did.

13 She agreed to turn the phone over to him.
14 Of course, he brought the phone back down to where we
15 were at. We're located down in the basement. He
16 brought the phone back down to me. It was, in fact,
17 the phone that was taken from the victim.

18 Q And that phone is the phone that we have
19 over here as State's number 19, this Blackberry
20 Pearl?

21 A That is it, yes, ma'am.

22 Q Okay. Did Mr. Wilkins, uh, tell you that
23 Antwan hit a lick and got that phone?

24 A Uh, yes. What Mr. Wilkins told me was, uh,
25 that the defendant was possibly in the company of Mr.

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1 Wilkie who y'all heard from a little earlier today:
2 And he told me he had spoke to him earlier that night
3 and he told them that he was going to go do a lick.
4 I actually asked Mr. Wilkins cause I know what that
5 means to me when I hear that. I said what does that
6 mean when you tell me that that you are going to go
7 do a lick?

8 MR. CHAMBERS: Objection, Your Honor.
9 That's hearsay.

10 MS. HODGE: Your Honor, that's prior
11 inconsistent statement of Mr. Wilkins.

12 THE COURT: Mr. Wilkins?

13 MS. HODGE: Mr. Wilkins.

14 MR. CHAMBERS: Yeah, of Brian Wilkins,
15 correct?

16 MS. HODGE: Correct.

17 THE COURT: Okay. I'm going to sustain
18 the objection.

19 BY MS. HODGE:

20 Q You asked and the answer that you got was
21 consistent with you and your thoughts of what a lick
22 was?

23 MR. CHAMBERS: Objection, Your Honor.
24 She's still eliciting hearsay.

25 MS. HODGE: Your Honor, that is based on

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1 -- he is responding to what the witness says to
2 him, his responses. Consistent or inconsistent?

3 THE COURT: I understand. I'm going to
4 sustain the objection.

5 BY MS. HODGE:

6 Q But in your opinion, in your 12 years at
7 the Sheriff's Office, hitting a lick means doing a
8 robbery?

9 A Correct, yes, ma'am.

10 Q Now, you -- did you ask Mr. Wilkins about
11 the identity of the people that he was with, who he
12 received the phone from and who was around at that
13 time?

14 A Yes. I asked him who it was that he had
15 gotten it from. Of course, he told me Antwan
16 Grayson, his brother and, uh, I think he said the
17 other one was his cousin. That would have been Mr.
18 Wilkie. What I did was I pulled up photos of these
19 two individuals and just showed them to Mr. Wilkins
20 to make sure that these were, in fact, the two
21 individuals that he was speaking of. And he said
22 that they were. I asked him to sign his name down
23 underneath each individual picture just so that I
24 would know. That was my way of him telling me these
25 are, in fact, Antwan Grayson and Curtis Wilkie.

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1 Q Did you charge Mr. Wilkins with anything in
2 this case?

3 A No. No, ma'am. At the time, I just didn't
4 have anything to charge him with. I did not charge
5 him with anything.

6 Q Did anything else happen while you were
7 interviewing Mr. Brian Wilkins?

8 A Yes, while I was talking to Mr. Wilkins,
9 uh, I actually got a phone call from, uh, Ms.
10 Grayson, who is the mother of Antwan, the defendant.
11 She asked me what was going on. Exactly how she knew
12 this was going on, I don't know. Maybe Mr. Wilkins
13 had called her after we spoke to him or what. And I
14 kind of explained to her a little bit of what was
15 going on that I was investigating and that I would
16 like to speak to her son Antwan. She said I'll talk
17 to him in a little bit. She hung up with me. She
18 then called me back a few minutes later and told me
19 over the phone that her son had told her that he did,
20 in fact, have sex with this lady but --

21 MR. CHAMBERS: Objection, Your Honor.

22 Hearsay.

23 BY MS. HODGE:

24 Q We don't have to go into what Ms. Grayson
25 said. As a result of your conversation with the

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1 Defendant's mom, did the defendant come and talk to
2 you?

3 A Yes, he did.

4 Q Okay. And when -- what day are we
5 operating, all these activities are happening on what
6 day?

7 A This is still the 17th, the same day.

8 Q All right.

9 A The first day afterwards.

10 Q All right. Within 24 hours?

11 A Yes, we're still within the first 24 hours,
12 yes.

13 Q All right. So what time did -- did the
14 defendant come down on his own?

15 A Yes, he did.

16 Q Not in a police car?

17 A Not in a police car, no, ma'am. I guess he
18 drove himself down. I'm not sure.

19 Q Okay. He comes to you at your office?

20 A That's correct. He comes into the front
21 lobby of the law enforcement center. I got a call
22 that he was upstairs waiting on me. I went upstairs
23 to get him. I brought him back down to my office and
24 my desk.

25 Q At this point, had you -- was the defendant

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1 under arrest for anything?

2 A No, he was not under arrest for anything at
3 this point.

4 Q Was he free to stop talking and leave at
5 any point?

6 A Yes, he was.

7 Q Even though he was not in custody, not
8 under arrest, did you advise him of his Miranda
9 rights?

10 A Yes, I did. I still read and explained to
11 him his rights.

12 Q What are those rights?

13 A We actually have a form at the sheriff's
14 office that we use. Don't know if you want to see it
15 but this is what it looks like right here. The list
16 of rights right here, which I read out loud to the
17 individual one-by-one. I always have them place
18 their initials out to the side after I read each line
19 one-by-one to them.

20 Q And did you do that for the defendant?

21 A Yes, I did.

22 Q And this is still on March 17th of 2009?

23 A Correct.

24 Q And did he, uh, waive his rights and say he
25 wanted to talk to you?

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1 A Yes, he did.

2 Q Did he do that freely and voluntarily?

3 A Yes, ma'am. He did.

4 Q Do you think he understood what y'all's
5 conversation was and understood what was going on?

6 A Yes, he did.

7 Q Did he appear to be under the influence of
8 any drugs or alcohol that may have impaired his
9 ability to understand?

10 A No, he wasn't.

11 Q Could he read, write, speak English?

12 A Yes. As a matter of fact, I always have
13 him read one of the lines out loud to me so that I
14 know that he can, in fact, read.

15 Q And did you make him any promises of any
16 kind to get him to talk to you or waive his rights?

17 A No, I did not.

18 Q Did you force him, threaten him, coerce him
19 in any way to try to get him to talk to you about
20 this case?

21 A No, I did not.

22 Q So he freely and voluntarily, knowingly and
23 willfully talked to you about this case?

24 A Yes, he did.

25 Q After he gave you his version of events in

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1 this case -- let me stop there. At any point, did he
2 ever tell you that he didn't want to talk to you
3 anymore?

4 A No, he did not.

5 Q At any point, did he ask for a lawyer in
6 that process?

7 A No, ma'am. He did not.

8 Q After he gave you his version of events,
9 did you then confront him about some things that were
10 different from the victim's statement?

11 A Yes, I did.

12 Q Did you place him under arrest at this
13 time?

14 A Yes, ma'am. I did.

15 Q And what did you charge him with?

16 A I charged him with, uh, Armed Robbery,
17 Criminal Sexual Conduct First Degree, Kidnaping and
18 Possession of a Weapon during the Commission of a
19 Violent Crime and Conspiracy.

20 Q Once you made that arrest, uh, did you
21 contact the victim about making an arrest in the
22 case?

23 A Yes, we did.

24 Q Is there some type of arraignment
25 proceeding after this?

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1 A Yes. In South Carolina, victims have the
2 right to be at the bond arraignment of individuals
3 arrested in their cases. She chose to be there.
4 Back when this case took place, arraignments happen
5 immediately after the arrest. Once they were ready
6 to go, you went directly before a magistrate for a
7 bond arraignment and have the bond set. And the
8 victim did indicate that she wanted to be there and
9 was there.

10 Q During that time, does the judge ask just
11 the basic questions of the defendant and the
12 defendant answered some basic questions?

13 A Yes, ma'am. They do.

14 Q The victim heard the defendant speaking?

15 A Yes, she did.

16 Q Was the room small? Was this a small area?

17 A Yes, it's much smaller than this courtroom,
18 yes.

19 Q And after that arraignment, did the
20 defendant have to go into the detention center
21 because of the bond. ---

22 A Yes.

23 Q --- no bond issue?

24 A Yes, ma'am. He did.

25 Q So what happened next in your investigation

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1 then?

2 A After that, uh, on March 18th, the next
3 day, it was actually two days after the incident took
4 place, uh, I got a phone call from management over at
5 the apartment complex. They had advised me that they
6 had found a used discarded condom out in the parking
7 lot. I responded out there to the [REDACTED]
8 Apartments and collected this condom as potential
9 evidence.

10 Q Did you have any idea if this was the
11 condom or not?

12 A No, I did not.

13 (WHEREUPON, State's Exhibit 23 is marked for
14 identification purposes.)

15 BY MS. HODGE:

16 Q I'm showing you State's number 23. First
17 of all, can you explain what this packaging on the
18 outside is?

19 A The plastic packaging here, this is what --
20 once it goes down to SLED, SLED will package it in
21 this type of packaging material here. This actually
22 packaging that SLED put this envelope inside of once
23 it got delivered down to there.

24 Q All right. And it's still sealed, is that
25 correct, from SLED?

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1 A Yes.

2 Q Okay. And if you turn it over, does it
3 have some kind of identifying mark so that you know
4 what's in that package?

5 A Yes, it's got my -- it's got the case
6 number written across the top of it up here. It's
7 got my initials, MES. Then it's got the letter E,
8 which is item number which I list on my Property and
9 Evidence sheets. That just indicates -- that's my
10 way of keeping everything individualized so I know
11 which items I'm looking at when I look at the P&E
12 when I reference in my reports.

13 Q And what would Item E be?

14 A Item E, according to my P&E sheet here is
15 the used condom that was in a plastic baggy that was
16 found near apartments number 9 through 24 there in
17 [REDACTED] Apartments.

18 Q And once you collected that, what did you
19 do with it?

20 A Once I collected it, I placed it in our
21 Property and Evidence room. Then I completed a what
22 we call laboratory analysis form, paperwork I've got
23 to fill out to have items sent down to SLED for
24 examination.

25 Q Who is SLED and what do they do? What did

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1 they do in regards to this case?

2 A SLED is the South Carolina Law Enforcement
3 Division. SLED offers lots of forensic services to
4 agencies. At the time of this incident, Greenville
5 County did not have their own DNA lab. So if you
6 needed DNA testing, you sent items down to SLED.
7 This item was sent down to SLED eventually for DNA
8 testing.

9 Q And after you collected that item, what was
10 your next step in this investigation?

11 A That was on the 18th. On March 23rd, I got
12 a call from Deputy Johnny Brown. He's on the U.S.
13 Marshals Task Force. They work with us in
14 apprehending individuals. They had located Mr.
15 Wilkie, the individual that you heard from earlier
16 today. He already had some preexisting warrants for
17 his arrest out.

18 Once I got the information about Mr.
19 Wilkie, I did some background on him and found out
20 that he had these warrants. So I contacted
21 Investigator Johnny Brown and explained to him this
22 case that I had and that I would like to speak to Mr.
23 Wilkie as soon as we could. As soon as he got picked
24 up, let me know. So on the 23rd, I got a call from
25 Johnny Brown. He indicated to me that they had

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1 arrested Mr. Wilkie.

2 Q Did you ask to speak to Mr. Wilkie at that
3 time?

4 A Yes, I did. Mr. Wilkie was transported
5 from the Law Enforcement Center and taken to my
6 office where I sat down with him and read his rights
7 to him like I did Mr. Grayson. And at that time, he
8 told me he didn't know anything about the incident,
9 did not want to speak to me.

10 Q Did you end your interview with him at that
11 point?

12 A Correct. At that point, our interview was
13 done. He was taken over to the detention center and
14 arraigned on those preexisting charges, nothing to do
15 with this case at that time.

16 Q So you did not charge Mr. Wilkie when he
17 was in front of you and said he did not know any
18 anything about the incident?

19 A That's correct. He did not get charged.

20 Q And why is that at this point?

21 A At that point, I just didn't have enough --
22 any evidence -- enough evidence to charge Mr. Wilkie
23 with anything.

24 Q And did you place him into the detention
25 center or take him over there because of his prior

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1 charges?

2 A Correct. He was placed in the detention
3 center.

4 Q Tell us what happened next. I'm sorry.
5 Let me back up. At that time, did you attempt to get
6 a DNA sample from Mr. Wilkie?

7 A Yes, I did.

8 Q How do you do that?

9 A We use what's called a buccal swab, which
10 is basically like a really long Q-tip on a wooden-
11 type stick. It's got a like a Q-tip on the end of
12 it. And it comes in a package. You open up the
13 package and take that item out. You just rub it
14 inside the individual's mouth, like you see on CSI or
15 something on TV. Just rub it inside the individual's
16 mouth. It picks up DNA, skin cells from inside the
17 mouth, lips, tongue area.

18 Q And did he agree to give you that
19 voluntarily?

20 A Yes, he did. I went over a consent form
21 with him to do that. Actually, it's a consent form
22 that we use. I used one for this -- to get this
23 buccal swab from him.

24 Q After you got the buccal swab or at any
25 point during this time, did he ever say he didn't

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1 want to talk to you ever anymore or he didn't -- he
2 wanted a lawyer or anything like that, Mr. Wilkie?

3 A No, ma'am. He did not.

4 Q Did you, uh, then have -- tell me the next
5 thing that happened.

6 A All right. The next thing that happened in
7 the case was on, uh, March 24th of 2009. Uh, I got a
8 call from Anna Grayson, the mother to the defendant
9 Antwan Grayson. She said that --

10 Q Okay. Don't tell me what she said. Just
11 as a result of speaking with her, what did you do?

12 A I went and got Mr. Grayson out of the
13 detention center and took him back to my office for a
14 second interview.

15 Q At this time, did you advise him of his
16 Miranda rights again?

17 A Yes, I did. Again, went over that form,
18 explained each right to him, read over it and had him
19 initial everything. He signed it then I signed as a
20 witness.

21 Q Did he freely, voluntarily, knowingly and
22 intelligently waive his rights and talk to you a
23 second time?

24 A Yes, ma'am. He did.

25 Q What was the date on this?

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1 A This is March 24th, 2009.

2 Q Do you have a time?

3 A Yep. March 24th, waiver. Time's got 10:40
4 in the morning.

5 Q Mr. Wilkie had been put in the detention
6 center on the 23rd, the night before or the date
7 before?

8 A That's correct. Yes, ma'am.

9 Q So this was the next day after Wilkie was
10 in the detention center, you go back to speak to Mr.
11 Grayson again?

12 A That's correct. Yes, ma'am.

13 Q And at this point, did you promise him
14 anything if he would talk to you again or give him
15 any, uh, promise of any kind of bond or a lesser
16 charge or anything like that?

17 A No, I did not.

18 Q Did you force him or threaten him in any
19 way to talk to you this second time?

20 A No, I did not.

21 Q After you talked to him a second time, was
22 his statement consistent with his first statement?

23 A No, ma'am. It was not.

24 Q Was his statement consistent with the
25 victim's statement?

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1 A No, it was not.

2 Q After you took his second statement, did
3 you then return him back to the detention center?

4 A Yes, I did.

5 Q What was the next thing that happened after
6 that?

7 A I then went back and signed Mr. Wilkie out
8 of the detention center at that time.

9 Q Is this on the same date, still on the 24th
10 of March 2009?

11 A Yes, this would be the same day. Took Mr.
12 Wilkie back over to my -- actually I spoke to him
13 shortly there at the detention center, not going into
14 any details with him. One thing you don't do, you
15 don't share details with anybody you are going to
16 interview. If they provide you with information, you
17 want to know they do, in fact, know this firsthand.
18 Either they know it firsthand or they got the
19 information from somebody who was there.

20 I just basically explained to him that I
21 spoke to Mr. Grayson, Mr. Grayson had provided me
22 with a statement and this is what he had to say in
23 that statement. Mr. Wilkie's response to me at that
24 point in time was this had nothing to do with crack.
25 I said, well, you want to tell me your side of it.

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1 He said, yes, I do. And I took him back over to the
2 detention, uh, my office at that time.

3 Q And, uh, did you take a statement from him
4 that we went over with Mr. Wilkie in court while he
5 was on the stand? Was that your statement?

6 A Yes, it was.

7 Q Did you make up any parts of that statement
8 with Mr. Wilkie?

9 A No, ma'am. I did not. Uh, like I said
10 earlier, whenever I take a statement from somebody,
11 once I take the statement, I always give it to the
12 individuals to read over it, which I did with him.
13 As I'm sitting there at my desk typing, he may have
14 been watching me type on my computer, may have been
15 reading it as I was going along so when I gave it to
16 him to read, he may have just skimmed through it.
17 I'm not sure what he did. But he indicated to me
18 that he did read it and everything was okay with it.
19 Again, I had him initial the first and last word of
20 each individual paragraph and sign their name at the
21 bottom.

22 Q And did Mr. Wilkie give you that statement
23 freely and voluntarily?

24 A Yes, he did.

25 Q That he understood the nature of everything

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1 that was going on?

2 A Yes, he did.

3 Q And he still wanted to give you that
4 statement?

5 A Yes, he did.

6 Q After Mr. Wilkie gave you that statement,
7 did you end up charging him?

8 A Yes, ma'am. I did.

9 Q What did you charge him with?

10 A I charged Mr. Wilkie with Armed Robbery,
11 Kidnaping and I believe it was Conspiracy. Yes.

12 Q Did he have an arraignment also?

13 A Yes, he did.

14 Q Was there a bond set for him on that?

15 A He got a no bond set.

16 Q Did he go back to the detention center?

17 A Yes, ma'am. He did.

18 Q Tell me what the next step in your
19 investigation was.

20 A My next step was I went back and got Mr.
21 Grayson, signed him out at the detention center. I
22 asked him if he would be willing to give me a buccal
23 swab as well. Again, I went over the consent form
24 that would be used. He voluntarily signed it and
25 agreed to give me the buccal swab. So I swabbed him

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1 from inside his mouth and again packaged this buccal
2 swab and placed it in Property and Evidence and, uh,
3 eventually completed a slip form, a SLED lab analysis
4 form to have this DNA compared from the sexual
5 assault kit at the time.

6 Q Investigator Fortner, do you have the
7 original copy of the consent form with you for the
8 buccal swab?

9 A I believe all I've got is copies.

10 Q All right. What do you do with the
11 original forms? Where do they go?

12 A The original forms, original statements,
13 uh, consent forms, whatever they may be all go to our
14 records department.

15 (WHEREUPON, State's Exhibit 24 is marked for
16 identification purposes.)

17 BY MS. HODGE:

18 Q Let me show you State's number 24. Is this
19 a copy of the consent form, the original consent form
20 that you took from Mr. Grayson about getting his DNA
21 buccal swab?

22 A Uh, looks like it is a copy of it, yes.

23 Q Okay. And can you explain or read to the
24 jury what it says and what you did?

25 A Yes, it starts off with I, and then I write

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1 in, in this case, Antwan Dominique Grayson's name. I
2 always place the birthdate, Social Security number
3 also with the name so we do know, in fact, that it is
4 this particular Antwan Grayson and not somebody else.
5 It says after being advised I have the right to have
6 an attorney present, uh, if I can not afford an
7 attorney, the court will appoint one for me.

8 Anything which I say can do -- or say or do
9 can and will be used against me in a court of law, do
10 freely and voluntarily give Greenville County
11 Sheriff's Office permission to take, in this case, a
12 buccal swab from me for investigative purposes. I
13 give this permission freely and voluntarily. There
14 have been no threats made against me. I have not
15 been coerced in any way. I have not been promised
16 anything in return for giving permission.

17 And normally, which in this case I did as
18 well, the word "coerce", a lot of people aren't
19 familiar with that word. So I always explain that
20 word to them and have them initial, which he did
21 here, and then he signed his name. I asked him to
22 put his name underneath his signature and date it and
23 I signed as a witness.

24 Q Did he sign this form freely and
25 voluntarily?

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1 A Yes, he did.

2 Q And he knew and understood what you were
3 asking of him and what was going to happen?

4 A Yes, he did.

5 MS. HODGE: We would move to admit State's
6 number 24.

7 MR. CHAMBERS: No objection, Your Honor.

8 THE COURT: All right. Without objection,
9 the same is admitted into evidence.

10 (WHEREUPON, State's Exhibit 24 is admitted into
11 the record.)

12 BY MS. HODGE:

13 Q And did you collect, uh, the buccal swab
14 from the defendant?

15 A Yes, I did.

16 (WHEREUPON, State's Exhibit 24 and 25 are marked
17 for identification purposes.)

18 BY MS. HODGE:

19 Q I'm showing you what's been marked as
20 State's number 25. What is State's number 25?

21 A Uh, it's Item number NEFH which, according
22 to my Property and Evidence sheet is the empty
23 package that the buccal swab itself was contained in
24 prior to me opening it. This is what it comes in
25 right here. It's a single buccal swab that was

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1 contained within this package here. You just open it
2 up up here and pull it out and you use it to swab the
3 inside of the mouth. With the kits, also comes a
4 cardboard box, a small cardboard box. Once you take
5 the buccal swab, let it air dry for five minutes or
6 so and then place it in that cardboard packaging to
7 keep it secure.

8 Q Let me show you State's number 26. What is
9 that?

10 A This would be the packaging that comes with
11 the buccal swab that you put it in once you take the
12 swab and you seal it up and place it into Property
13 and Evidence.

14 Q And that's what -- one thing you request to
15 go to SLED for DNA analysis?

16 A Yes, it is.

17 Q Are your initials on that somewhere?

18 A Yes, if I take it down to Property and
19 Evidence, I, uh, seal up the ends of it so it can't
20 be opened and write my initials across the box and
21 the tape and the date as well right here of the case
22 number on the box.

23 Q Thank you. All right. After you collected
24 that buccal swab from the defendant, what, if
25 anything, else did you do in this case?

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1 A All right. On March 30th of 2009, I got a
2 phone call from the detention center from Mr. Wilkie.
3 They have a payphone system over there that they can
4 use. They can call people. In this case, he called
5 me. He said that he wanted to speak with me. I said
6 all right. I went over to the detention center,
7 signed him out of the detention center and spoke with
8 him outside of the detention center, actually take
9 him to my desk at this time. I wanted to see what it
10 was that he wanted to speak about before we went all
11 the way back over to the office and everything and
12 sat down. He told me that he had been contacted by
13 Mr. Grayson and that Mr. Grayson told him to tell me
14 that this whole incident was over the selling of
15 crack. And he told me that. I then placed him back
16 in the detention center.

17 Q Was that the last time you talked to Mr.
18 Wilkie in this case?

19 A Yes, it was.

20 Q Did you ever talk to the defendant again in
21 this case?

22 A No, I have not.

23 Q What were the last things that you did in
24 this case?

25 A The last thing I did was prepared all the

1 items to be sent down to SLED, completed all the
2 paperwork and everything for it and then asked the
3 people in Property and Evidence -- every so often,
4 they make a run down to SLED and take items that have
5 been placed in there for processing. I'd ask them
6 the next time they go to take the used condom, the
7 sexual assault kit and the buccal swab for Mr.
8 Grayson down to SLED for DNA testing.

9 Q And does the test result come right back
10 for you?

11 A Not immediately, no. It takes months.

12 Q So in the interim, you won't know what the
13 results are?

14 A Correct.

15 Q Is that actually the last step in your
16 investigation then?

17 A That was the last thing I did, yes.

18 Q Thank you, Investigator. Please answer any
19 of Mr. Chambers' questions.

20 CROSS-EXAMINATION

21 BY MR. CHAMBERS:

22 Q Investigator Fortner, you, uh, in part of
23 your training, are trained, among other things, how
24 to do an interrogation, is that correct?

25 A I been to a couple of interviewing schools,

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1 yes.

2 Q Because as an investigator, it's important
3 if you can get a statement from somebody. In fact,
4 if you can get a confession out of somebody, you want
5 to do that in a case, correct?

6 A Sure.

7 Q So you learn interviewing skills and how to
8 approach people and how to get information from them?

9 A That's correct, yes.

10 Q In fact, when you interview somebody, you
11 don't have to be completely open and honest with them
12 in the information that you give them, do you?

13 A Legally, no, you do not have to be, no.

14 Q In other words, you can say we've got this
15 evidence or we've got that evidence even though you
16 don't have any evidence in order to try and get
17 somebody to talk to you. You can do those sorts of
18 things, correct?

19 A That's true. You can use that.

20 Q And, uh, so when you question somebody, all
21 of this training and all of this knowledge that you
22 have comes into play, correct?

23 A Sure. You draw on what you learn from your
24 classes, yes, sir.

25 Q Now, you said when you bring somebody in

1 and you're going to talk to them, you have them go
2 over their rights and then they initial by those.
3 And assuming they agree to talk to you, they start to
4 talk, correct?

5 A That's correct. Yes, sir.

6 Q Uh, do you ever video record these
7 interviews?

8 A No, I've never done a video recorded
9 interview, no.

10 Q If you wanted to, certainly you could do
11 that, correct?

12 A We do have the capabilities now. They have
13 provided us with these little miniature, uh, -- I
14 can't remember what they are called -- video
15 recorders now, yes.

16 Q In fact, I mean, it's pretty common in law
17 enforcement now, almost every patrol car has a camera
18 on the dash, correct?

19 A They do have in-car cameras, yes, sir.

20 Q And the reason for that is to, uh, preserve
21 evidence, to be able to say this is what happened
22 when I made a stop and also for the safety of the
23 officer, correct?

24 A That's correct, yes.

25 Q So it's there. And any stop that's made in

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1 this day and age is recorded and we can look at it.

2 A That's correct.

3 Q And it's even true that when people are
4 brought to the Law Enforcement Center, say for a DUI,
5 that there are cameras in the room that record
6 everything that's said and done, correct?

7 A In the BA rooms, yes, sir.

8 Q Yeah. And the reason for that is you want
9 to preserve, you want to be able to show the steps
10 you went through, what was discussed and that
11 everything went just the way that it was supposed to
12 go, correct?

13 A Correct.

14 Q Uh, do you not think that that would be a
15 good thing to do in a case where you're going to
16 interview somebody in a way that they were
17 interrogated and the things that were discussed might
18 come into question?

19 A If you've got the capabilities of doing it,
20 yes.

21 Q Well, the capabilities are not very
22 difficult to come by. I mean, most people can even
23 take out a cell phone, if they want to, and video
24 record what's going on at any time, right?

25 A It would be kind of impractical to conduct

1 an investigation over the cell phone, but yes, I
2 guess you could.

3 Q Well, of course, it would be. But again,
4 knowing that you're going to be bringing people into
5 your office and you're going to interrogate them, you
6 could very easily have recording equipment there so
7 that when you come to court, we can all sit right
8 here and we could hear what you told, we could hear
9 what the responses were. We would know everything
10 that happened during that encounter.

11 A If we were provided with the equipment, we
12 would. Unfortunately, at the sheriff's office, we do
13 not have interview rooms per say. We conduct
14 interviews at our desks.

15 Q Oh, okay. So you're just saying that the
16 sheriff's office, they are not going to provide the
17 equipment and you are just not able to do that
18 because of it?

19 A That's correct. Yes, sir.

20 Q Okay. Now, in this particular case, if I
21 heard your testimony correctly, you did not have to
22 contact Antwan Grayson. He got in touch with you
23 through his mother?

24 A That is correct. His mom did call me, yes.

25 Q So he came and just voluntarily came in and

1 sat down and talked to you?

2 A Yes, he did.

3 Q Waived his rights to a lawyer, gave a
4 statement without any prompting from you?

5 A Well, I read the statement of rights to him
6 and asked him for a statement, yes.

7 Q Well, I understand but, I mean, he
8 initiated the whole thing. He came in.

9 A Correct, sir. He came down on his own.
10 Yes, sir.

11 Q Okay. And then when he gave his subsequent
12 statement, again, that was -- he contacted you
13 through his mother and said that he wanted to talk to
14 you again?

15 A Yes, that's correct. Yes, sir.

16 Q And he talked to you without the benefit of
17 a lawyer, waived his rights and gave his statement to
18 you, correct?

19 A Yes, sir. He did.

20 Q And then when you asked him to submit to a
21 DNA sample, he did that as well. He cooperated with
22 you fully?

23 A Yes, he did.

24 Q Now, the Solicitor went into some detail
25 with you about these statements and talked about how

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1 it conflicted with this and conflicted with that.
2 What I'm going to ask you is -- I'm going to hand you
3 that. Is that the first statement that the defendant
4 gave?

5 A Yes, it is.

6 Q Okay. And that's where you read him his
7 rights and he signed it ---

8 A Yes, sir.

9 Q --- and you took that statement? Would you
10 read that statement to the jury please?

11 MS. HODGE: Objection, Your Honor. That
12 is hearsay, self-serving. The defendant is not
13 allowed to admit --

14 MR. CHAMBERS: Your Honor, our position
15 would be that the Solicitor asked a lot of very
16 specific questions about it and opened the door.
17 She talked about did it differ with the, uh,
18 alleged victim's account, did it differ with Mr.
19 Wilkie's account. Based on that, our position
20 would be that she opened the door.

21 THE COURT: I understand. I'm going to
22 sustain the objection.

23 BY MR. CHAMBERS:

24 Q And, uh, is this the second statement that
25 he gave?

1 A Yes, sir. It is.

2 Q And would you read that statement?

3 MS. HODGE: Objection, Your Honor. Same
4 grounds.

5 THE COURT: I sustain on the same grounds.
6 We'll note just for purposes of the record that
7 there is a remedy available to the defendant for
8 clarification of that statement should he elect
9 to avail himself of that remedy.

10 MR. CHAMBERS: And just note for the
11 record, Your Honor, that our position for
12 introducing the second statement as well as the
13 first statement is that the Solicitor opened the
14 door based on the previous questions.

15 THE COURT: Yes, sir. I understand.

16 BY MR. CHAMBERS:

17 Q So the second statement that you got from
18 Antwan Grayson came before the statement that you got
19 from Mr. Wilkie, right?

20 A Yes, sir.

21 Q Cause he initially said he wasn't going to
22 talk to you.

23 A Mr. Wilkie, that's correct. Yes, sir.

24 Q And this was after -- he didn't volunteer
25 to come in. He got picked up some other charges and

1 you brought him in to talk to him?

2 A Yes, sir.

3 Q And so after this statement from Antwan
4 Grayson, you go back and talk to him. At that point,
5 he knows that Antwan Grayson is giving a statement?

6 A That's correct. Yes, sir.

7 Q And that's when he decides to talk to you,
8 right?

9 A Yes, sir. It is.

10 Q And then you said that he later contacted
11 you again and you went over and talked to him at the
12 Law Enforcement Center and you bring him to your
13 office. That's when he said that he had been
14 contacted by Antwan and Antwan told him to tell this
15 story about drugs, correct?

16 A That is correct, yes.

17 Q And he indicated earlier, and I think you
18 were probably here in the courtroom, that that was
19 done by letter?

20 A Correct. Yes, sir.

21 Q Did he produce those letters for you?

22 A No, sir. He did not.

23 Q Yet, this supposedly had just happened. He
24 was in the jail and had received this letter, but he
25 didn't produce those letters?

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1 A That's correct. He did not.

2 MR. CHAMBERS: All right. That's all the
3 questions I have.

4 THE COURT: Any redirect?

5 MS. HODGE: No, sir.

6 THE COURT: All right. Thank you, sir. I
7 appreciate you being here.

8 All right. Ms. Hodge, I believe you
9 indicated to me earlier that you want to take a
10 break now for lunch?

11 MS. HODGE: I think that would be great.

12 THE COURT: How many more witnesses do you
13 anticipate the State will offer?

14 MS. HODGE: I believe we have one more.

15 THE COURT: One more.

16 MS. HODGE: Possibly two.

17 THE COURT: All right. Uh, Ladies and
18 Gentlemen, you heard that. Maybe one or two
19 witnesses and the defense then will have the
20 opportunity to put evidence in the record should
21 he elect to. So please break for lunch. Let's
22 take an hour and 15 minutes. We're at 12:30
23 now, let's be back at 1:45. Please don't
24 discuss the case. Y'all have a great lunch.
25 (WHEREUPON, the jury exits at approximately

Remarks

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1 12:30. p.m.)

2 THE COURT: Okay. Uh, I know that -- is
3 it Ms. Grayson who is sitting there as well?
4 Has she taken off? Tell her to come on in real
5 quick. I don't want to get onto her. I just
6 want to have a talk with everybody who is in the
7 courtroom, okay?

8 (WHEREUPON, there is a pause.)

9 THE COURT: Have a seat. You're okay. I
10 didn't bring you back in here to get on you
11 about anything. Uh, what I wanted to do is make
12 sure that you heard what I said when we came
13 back from the break previously, okay. The jury
14 sent me a note through the bailiff asking me to
15 ask everyone in the audience to stop making
16 notions and faces and being demonstrative. I
17 just want to make sure that you have heard that.

18 Now, understand that I do understand that
19 this is a very trying ordeal for you. I would
20 hate to be in your position of having somebody
21 that I care for on trial and having to watch
22 that and it would be hard. So I sympathize with
23 you. But you need to exercise constraint and
24 self-control when you are in the courtroom.

25 I'm sure that Mr. Chambers will talk to you

Remarks

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1 about juries. The jury is seeing it. If the
2 jury sends me a note, it means they may not like
3 it very much. It may not be helpful. I don't
4 know what goes into a jury deliberation because
5 I'm not allowed to go in there with them. But
6 just know that the more restraint that you
7 exercise, the better off Mr. Grayson is going to
8 be. Okay. All right.

9 UNIDENTIFIED SPEAKER: I can't speak on
10 what we have. I'm unable to (inaudible).

11 THE COURT: You need to talk with Mr.
12 Chambers.

13 UNIDENTIFIED SPEAKER: Okay.

14 THE COURT: Certainly, he can call you to
15 the stand. If y'all collectively decide that
16 that's appropriate and it's in the Mr. Grayson's
17 best interest, I don't know that it is, but
18 you're going to have to make a calculated
19 tactical decision. I would recommend that you
20 talk to Mr. Chambers about it and listen to any
21 advice that he gives you in that regard, all
22 right? All right. We'll be back at -- what did
23 I say, 1:45?

24 (WHEREUPON, a lunch recess is taken.)

25 THE COURT: All right. Y'all ready for

Remarks

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1 the jury?

2 MS. HODGE: One second, Your Honor. We do
3 have some stipulations as to the chain of
4 evidence and I wasn't sure how Your Honor wanted
5 to handle that. Do you want to publish them or
6 you just want to summarize what I prepared?

7 THE COURT: It depends on how long it is.

8 MS. HODGE: It's really long. So you
9 might want to summarize.

10 THE COURT: It is? Yeah.

11 MS. HODGE: I'm just offering that as a
12 suggestion?

13 THE COURT: Okay.

14 MS. HODGE: I would, you know, person by
15 person, point by point, but I believe Mr.
16 Chambers and I are in agreement or he has
17 stipulated the fact that the chain has not been
18 tampered with, the evidence is still --

19 THE COURT: Okay.

20 MR. CHAMBERS: Yeah, essentially, Your
21 Honor, I said that we're okay with the DNA
22 evidence coming in.

23 THE COURT: Okay. All right. You want to
24 make this a Court's Exhibit to give to the jury
25 in their deliberations or you want to make it a

Remarks

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1 State's Exhibit and I will give it to them in
2 stipulations and explain to them exactly what
3 that is essentially to summarize what the
4 stipulation is?

5 MS. HODGE: That would be great.

6 THE COURT: Okay.

7 MS. HODGE: Option B, whatever that was.
8 That sounded like three options maybe.

9 THE COURT: Let's make this Court's
10 Exhibit one.

11 COURT REPORTER: It won't go back.

12 THE COURT: It will. You want to make it
13 a State's Exhibit? Make it a State's Exhibit.

14 (WHEREUPON, State's Exhibit 27 is marked for
15 identification purposes.)

16 (WHEREUPON, the jury enters at approximately
17 1:50 p.m.)

18 THE COURT: All right. Ladies and
19 Gentlemen, I hope you had a good lunch. I need
20 to advise you of a stipulation that the parties
21 entered into over the lunch hour. Uh, and the
22 first thing that I need to tell you is what a
23 stipulation is. That is an agreement between
24 the parties which you can accept as fact.
25 Therefore, if the parties come to a stipulated

Remarks

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1 agreement, then that is a fact that you do not
2 have to deliberate over that you can accept as
3 fact in your deliberations and move on in
4 analyzing other evidence that you need to
5 analyze in coming to a decision in this case.

6 And the stipulation that the parties have
7 come to is that the chain of custody is reliable
8 and that DNA evidence that was submitted in this
9 trial did comply with rules regarding the chain
10 of custody, that is that they are reliable and
11 you can rely upon them. That is the swabs that
12 were taken at the time were the same swabs that
13 were tested and the same swabs that were
14 introduced into the evidence today. And the
15 same is true, if I'm not mistaken, for the other
16 evidence upon which the State relies in
17 establishing DNA evidence. As I suggested to
18 you, you can accept that evidence, the
19 reliability and the chain of custody of that
20 evidence as fact in your deliberation room.

21 And marked as an exhibit is the chain of
22 custody document that the State just prepared in
23 conjunction with the defendant setting forth the
24 chain of custody of that evidence. All right.

25 Having said that, Ms. Hodge.

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1 MS. HODGE: Thank you, Your Honor. The
2 final attempt for the video. We got it up. We
3 got it running. We'll play that and then we'll
4 call our next witness. Thank you.

5 (WHEREUPON, there is a pause.)

6 MS. HODGE: The State would call Mary Ann
7 Boehme.

8 THE CLERK: Ms. Boehme, would you please
9 place your left hand on the Bible and raise your
10 right to be sworn.

11 MARY BOEHME

12 having first been sworn, testifies as follows:

13 THE CLERK: Thank you. You may be seated.
14 Would you please state your full name for the
15 record.

16 THE WITNESS: My name is Mary Ann Boehme.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MS. HODGE:

20 Q I apologize, Ms. Boehme. Where are you
21 employed?

22 A I am employed at the South Carolina Law
23 Enforcement Division, commonly known as SLED.

24 Q How long have you been with SLED?

25 A Presently five years.

1 Q What are your duties at SLED?

2 A I'm assigned to the DNA department at SLED.

3 Q What kind of educational background do you
4 have with that job?

5 A I received a Bachelor of Science in
6 Integrated Science and Technology with a
7 concentration in Biotechnology from James Madison
8 University in Harrisburg, Virginia.

9 Q What type of other professional experience
10 do you have in this area?

11 A Upon graduation from James Madison
12 University, I worked for a private forensic DNA
13 laboratory for approximately two and a half years.

14 Q And was there something that happened with
15 that company that brought you then to SLED?

16 A They decided to consolidate to one lab they
17 had in the D.C. area, which is where I worked and
18 then one in Texas. I had the opportunity to move to
19 Texas and continue working with them, but instead I
20 found employment at SLED instead.

21 Q What type of specialized training do you
22 have in the area of forensics?

23 A I have been trained by a court-qualified
24 analyst on the proper techniques and procedures used
25 in our laboratory. I've also attended outside

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1 training in specific instrumentation and statistics.

2 Q Have you testified in court before in the
3 area of forensic serology and DNA analysis?

4 A Yes, I have.

5 Q Have you been qualified as an expert in
6 those areas before?

7 A Yes, I have.

8 Q How many times?

9 A Approximately 15 times.

10 MS. HODGE: At this time, Your Honor, the
11 State would move to admit Ms. Boehme as an
12 expert in the field of forensic serology and DNA
13 analysis.

14 MR. CHAMBERS: No objection, Your Honor.

15 THE COURT: All right. She is so admitted
16 without objection. Ladies and Gentlemen, this
17 witness has been admitted as an expert witness.
18 The reason a party would want to admit a witness
19 as an expert witness is to assist you in your
20 factfinding role.

21 A party can -- excuse me -- a witness can
22 be qualified as an expert witness by virtue of
23 specialized education, experience or training.
24 And when you consider an expert witness'
25 testimony, you consider it in the same manner,

1 in the same vein that you consider anyone else's
2 testimony. That is, you put whatever weight on
3 that testimony that you think is appropriate.
4 You determine whether in your analysis you think
5 the witness' testimony is credible and what
6 value you should give it in your deliberations
7 just like any other piece of evidence that you
8 may receive in this trial.

9 Ms. Hodge.

10 MS. HODGE: Thank you, Your Honor.

11 BY MS. HODGE:

12 Q Ma'am, tell the jury a little bit about
13 DNA. What is DNA?

14 A DNA stands for deoxyribonucleic acid. It
15 is a chemical found within all of our cells of our
16 body except for red blood cells. It is important for
17 giving us our physical features such as our hair
18 color, height. It is also responsible for passing on
19 traits from generation to generation. We get half of
20 our DNA from our mother, half from our father. With
21 the exception of identical twins, no two individuals
22 have the same DNA.

23 In forensic science, we are interested in
24 the portion of DNA that differ between individuals.
25 We test 15 different locations of the DNA. The

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1 results of the 15 tests make up what we call a DNA
2 profile.

3 Q What is forensic serology?

4 A Forensic serology is the identification and
5 characterization of human biological fluid such as
6 semen, saliva and blood.

7 Q What type of DNA analysis do you perform at
8 SLED?

9 A STR, which stands for Short Tandem Repeat.
10 PCR, which is Polymerase Chain Reaction analysis.

11 Q Did you do DNA analysis in this case, in
12 the State versus Antwan Grayson?

13 A Yes, I did.

14 Q I want to show you what's been marked
15 State's number 20. If you could, look at that and
16 tell me if you are familiar with State's number 20
17 and its contents.

18 A Yes. This is the sexual assault kit that
19 we received. It's our lab number 1.

20 Q And show you what has been marked as
21 State's number 26. Are you familiar with that?

22 A This is a buccal swab from Antwan Grayson.
23 Our lab number 2.

24 Q And showing you what has been marked as
25 State's number 23.

1 A This is a condom. Our lab number 3.

2 Q And did you have an occasion to examine
3 each of those items of evidence?

4 A Yes, I did.

5 Q And what did you do with those items of
6 evidence?

7 A First, I performed serology on the sexual
8 assault kit and the condom. I'm looking for semen in
9 this case. So I did some little serology tests to
10 see if there is semen present or not on this case.
11 Actually, I tested vaginal swabs, oral swabs, rectal
12 swabs and the condom for semen and they all were
13 negative. I then performed DNA analysis on
14 miscellaneous body fluid, which was a swab from the
15 left nipple, and finger scrapings, as well as known
16 standards from Crystal Byers and Antwan Grayson. I
17 extract and purify the DNA using specific chemicals
18 and instruments. I then perform the tests, the 15
19 different locations on the evidence and standards.
20 And then make a report based on those results.

21 Q You say you have the standards from Crystal
22 Byers who is our victim in this case. Where did her
23 DNA standard come from?

24 A It came from blood that was submitted in
25 the sexual assault kit.

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1 Q And then where did the standard for the
2 defendant, Mr. Grayson, come from?

3 A It was a buccal swab or an oral swab
4 submitted as our item number 2, State Exhibit item
5 26.

6 Q And what were your findings or results of
7 these DNA analysis?

8 A I'm going to read directly from my report.
9 The DNA obtained from item 1.6, which is that
10 miscellaneous body fluids, is a mixture of at least
11 two individuals. The DNA profile foreign to the
12 victim, Crystal Byers, matches the DNA profile of
13 Antwan Grayson. The probability of randomly
14 selecting an unrelated individual having a DNA
15 profile matching this profile is approximately 1 in
16 400 billion. No DNA profile foreign to the victim
17 was the result in 1.7.1 and 1.7.2, which were the
18 fingernail scrapings, right and left hand.

19 Q So you found a DNA match to the victim and
20 the defendant on the swabbing of the left breast of
21 the victim, correct?

22 A Yes, ma'am.

23 Q That was the only area that you found a DNA
24 match of the items that were submitted?

25 A That's correct.

1 Q And your number 3, but the State's item
2 that was the condom, what was the result of testing
3 that?

4 A No semen was identified on the condom.

5 Q And what is the world's population
6 currently?

7 A Approximately six and a half billion.

8 Q And what were the odds of finding someone
9 that matched this combination according to world
10 population?

11 A Approximately 61 times the world's
12 population.

13 Q To find one other DNA match that would
14 match what was found on that swabbing of the breast?

15 A That's correct.

16 Q Thank you. Please answer any of Mr.
17 Chambers' questions.

18 MR. CHAMBERS: I don't have any questions
19 for this witness, Your Honor.

20 THE COURT: All right. Thank you for
21 being here. Appreciate it.

22 MS. HODGE: Your Honor, at this time, we
23 would move to admit the rape kit, the condom,
24 the buccal swab and the packaging.

25 MR. CHAMBERS: No objection, Your Honor.

Remarks

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1 THE COURT: All right. Without objection,
2 the same is admitted into evidence.

3 (WHEREUPON, State's Exhibits 23, 25, and 26 are
4 admitted into the record.)

5 MS. HODGE: And may this witness be
6 excused, Your Honor?

7 THE COURT: Yes, ma'am.

8 MS. HODGE: Thank you. If I can confer
9 with Madam Court Reporter one more time.

10 THE COURT: Sure.

11 (WHEREUPON, there is a pause.)

12 MS. HODGE: The State rests at this time.

13 THE COURT: Okay. All right. Ladies and
14 Gentlemen, the State has rested which means that
15 the State has put all the evidence into the
16 record that she intends to put into the record
17 at this point. So, there are several matters of
18 law that I need to take up with the attorneys at
19 this stage of the trial. What I would ask you
20 to do is retire to the jury room. Please don't
21 discuss the case and we'll resume fairly
22 shortly. Thank you.

23 (WHEREUPON, the jury exits at approximately
24 2:09 p.m.)

25 THE COURT: All right. Motions?

Motions

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1 MR. CHAMBERS: I make a motion for
2 directed verdict as to all indictments, Your
3 Honor.

4 THE COURT: Okay. All right. In viewing
5 the evidence in the light most favorable to the
6 non-moving party, I will respectfully deny the
7 same. Uh, Mr. Chambers, do you intend to offer
8 any evidence into the record, sir?

9 MR. CHAMBERS: We are pondering that right
10 now, Your Honor. Can I have a short break?

11 THE COURT: Sure. Absolutely.
12 Absolutely. I'll come back on the record in
13 about five or ten minutes.

14 MR. CHAMBERS: Your Honor, could I have
15 possibly 15 minutes?

16 THE COURT: Sure. 15 is fine. Now in
17 anticipation of argument and charge, I know all
18 of that is kind of dependant on whether you put
19 something into the record or not. So y'all have
20 any request for charge or do you want to just
21 convene a short charge conference after we take
22 that up.

23 MR. CHAMBERS: We can have a short
24 conference, Your Honor.

25 THE COURT: Okay. Good enough. All

Court Remarks to Defendant

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1 right. We'll be in recess 15 minutes.

2 (WHEREUPON, a short recess is taken.)

3 THE COURT: Okay. All right. Mr.
4 Chambers, Mr. Grayson intend to testify?

5 MR. CHAMBERS: He does, Your Honor.
6 Obviously, I've gone over his rights with him
7 and indicated to him that he has a
8 constitutional right not to testify and nobody
9 can compel him to do that. After advising him
10 of his rights, he's indicated to me that he, in
11 fact, does want to testify in this case.

12 THE COURT: All right. Good enough.
13 Would you like me to ask him any questions on
14 the record with respect to his right to remain
15 silent?

16 MR. CHAMBERS: Yes, sir.

17 THE COURT: Okay. Mr. Grayson, I know
18 that you had this conversation with Mr.
19 Chambers. But you do recognize that you are not
20 compelled to testify. Under the Constitution,
21 you have the right to remain silent, which means
22 you don't have to do, say or prove anything in
23 this trial. Do you understand that, sir?

24 MR. GRAYSON: Yes, sir.

25 THE COURT: You understand that you do

Court Remarks to Defendant

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1 have a right to testify if you want to. You can
2 take the stand and tell the jury your side of
3 the story, but you do recognize that when you do
4 that, you will be subject to cross-examination.
5 You recognize that?

6 MR. GRAYSON: Yes, sir.

7 THE COURT: And I have no clue whether you
8 have any prior criminal history or not. I
9 really don't know. But you may -- the State may
10 be able to offer evidence of your prior record,
11 if, in fact, you have one and that's admissible
12 under the rules. You understand that?

13 MR. GRAYSON: Yes, sir.

14 THE COURT: Having been fully advised of
15 your right to remain silent, you want to testify
16 here today, sir?

17 MR. GRAYSON: Yes, sir.

18 THE COURT: And you know that if you
19 didn't testify, I would tell the jury that they
20 could not hold that against you. That is your
21 constitutional right and you can't be penalized
22 for exercising your constitutional right. You
23 recognize that?

24 MR. GRAYSON: Yes, sir.

25 THE COURT: Okay. All right. You made up

Court Remarks to Defendant

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1 your mind?

2 MR. GRAYSON: Yes, sir.

3 THE COURT: Good enough, Mr. Grayson.

4 Thank you.

5 MR. GRAYSON: Thank you.

6 THE COURT: All right. You ready for the
7 jury?

8 MR. CHAMBERS: Yes, sir.

9 MS. HODGE: Your Honor, for the record,
10 the priors that we would seek to introduce, just
11 so no one is taken by surprise.

12 THE COURT: Yes, ma'am.

13 MS. HODGE: 2008, Possession of Crack
14 Cocaine, Burglary Second Violent and 2009,
15 Shoplifting.

16 MR. CHAMBERS: That's what I anticipated,
17 Your Honor. We don't obviously, you know, ---

18 THE COURT: Okay.

19 MR. CHAMBERS: --- object.

20 THE COURT: Do what?

21 MR. CHAMBERS: We don't object.

22 THE COURT: Oh, okay. I thought you said
23 we obviously object.

24 MR. CHAMBERS: No. She's entitled under
25 the rules to ask about that.

1 THE COURT: Okay. Good enough. Thank
2 you. All right. Bring the jury in.

3 (WHEREUPON, the jury enters at approximately
4 2:37 p.m.)

5 THE COURT: All right. Mr. Chambers?

6 MR. CHAMBERS: Your Honor, I call Antwan
7 Dominique Grayson.

8 THE CLERK: Mr. Grayson, if you would come
9 forward to be sworn in. Please place your left
10 hand on the Bible and raise your right.

11 ANTWAN GRAYSON

12 having first been sworn, testifies as follows:

13 THE CLERK: Thank you. You may be seated.
14 Please state your name for the record.

15 THE WITNESS: Antwan Dominique Grayson.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION

18 BY MR. CHAMBERS:

19 Q Antwan, so far, you're doing a good job.
20 Just continue to keep your voice up and speak into
21 the mic so that everybody can hear what you have to
22 say. Okay?

23 A Yes, sir.

24 Q Antwan, how old are you?

25 A I'm 21.

Antwan Grayson - Direct Examination by Mr. Chambers

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1 Q And how old were you back when these events
2 occurred in 2009?

3 A I was 19, sir.

4 Q And where do you live?

5 A Right now, uh, --

6 Q Well, where have you lived? Are you from
7 Greenville?

8 A I'm from Greer city.

9 Q Greer city. Grow up there, lived there all
10 your life?

11 A Greer and Taylors, yes, sir.

12 Q And do you remember this date that we're
13 talking about, March 16 of 2009?

14 A Absolutely, sir.

15 Q What had you been doing that day?

16 A Well, I was at my uncle house because he
17 called me a couple of days earlier to spend a couple
18 of nights with him.

19 Q So you were staying over there?

20 A Yes, sir.

21 Q When you say your uncle, who is this uncle?

22 A Alvin Gernard Grayson.

23 Q And is that -- is he somehow related to
24 Tony Wilkie?

25 A As my knowledge, that's his father.

1 Q Biological father?

2 A Yes, sir.

3 Q So he had called you and said you could
4 come over and stay with him. So you were staying
5 there on March 16th?

6 A Yes, sir.

7 Q So you get up that day. Just tell me about
8 your day. Tell me what you were doing.

9 A I get up. Me and Tony, we might just ride
10 around with a girl and go see --

11 Q Specifically, what were you doing that day?
12 I don't want you just say, like, on an average day.
13 If you remember, what were you doing that day?

14 A Oh, on that day, at that point in time, me
15 and him was outside of [REDACTED] Apartments at the
16 sign right there waiting on --

17 Q Okay. Again, you're getting ahead of me.
18 I'm backing up to when you got up that morning and
19 just kind of walk us through your day. You remember
20 what you did all day?

21 A I don't remember what I did all that day,
22 sir.

23 Q Okay. So but at some point, you were with
24 Tony?

25 A Yes, sir.

Antwan Grayson - Direct Examination by Mr. Chambers

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1 Q You remember when that occurred?

2 A He stayed with me.

3 Q So at some point, y'all did go over to

4 [REDACTED] Apartments?

5 A Yes, sir.

6 Q And that's in Taylors?

7 A Yes, sir.

8 Q All right. How did that come about? Just
9 walk us through and tell us why you were going over
10 there and what you were doing? Just tell us the
11 whole story.

12 A All right. Well, I got the phone call from
13 one of my clients, one of my -- somebody I sell drugs
14 to. He was telling me that he wanted to buy some
15 drugs, telling me that he was going to meet me at
16 [REDACTED] Apartments and he had to keep going. So --

17 Q What kind of drugs are you talking about?

18 A Some crack cocaine.

19 Q And you had been doing that for some time?

20 A Yes, sir.

21 Q So this person called you and he said he
22 wanted to buy something from you at [REDACTED]
23 Apartments?

24 A Yes, sir.

25 Q So just walk us through it.

25 | So we go to her bank. She pulled out one

Antwan Grayson - Direct Examination by Mr. Chambers

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1 card. Couldn't take out nothing but like \$8 or \$9.
2 So she tried another card and took out \$80. So when
3 she took out \$80, she asked me what I can get for
4 \$80. I said I'll give you four rocks for it. So I
5 gave her four rocks for it. They was little small
6 ones.

7 She had this little silver, this little
8 clear see-through, the pipe you get from the
9 convenience store. They had little roses in there.
10 She broke it off and stuff it in there. On her way,
11 when we got to a red light, she would smoke. When we
12 were driving, she was driving with her knee and
13 stuff. You know what I mean? Hitting it right when
14 nobody beside us. So she got her window down. Me
15 and my cousin got all the windows up so when she blow
16 the smoke out. It will go straight out her window,
17 not to us.

18 So we get back to her apartment. She act
19 like she wanted some more. She like -- I'm like
20 where your money at. She said I don't got no more
21 money. I got a Blackberry phone. Before then, I had
22 a Blackberry phone but it got stolen out of my uncle
23 house. I was like alright cause that sound good.
24 I'll give you two. Alright. So she go in, get it,
25 come back out. She smoke. I sit in the car waiting

1 on her. After that, she was like how about issue
2 this car.

3 Q When you say issue this car, what does that
4 mean?

5 A Issue a car to somebody that sells drugs
6 is, alright, you give me a couple of pieces of cracks
7 and I'll let you hold my car for a couple of hours,
8 as long as you bring it back, you don't destroy my
9 car. So she said issue my car. I said nah, I ain't
10 want that because I was on probation. I ain't want
11 to issue the car because if you report it stolen, I
12 could be on I-85 and the cop get behind me and pull
13 me over and I go to jail for violating probation. I
14 was on probation at that time for Possession of Crack
15 Cocaine with Intent to Distribute and Second degree
16 Burglary and, uh, I think it was, if I'm not
17 mistaken, it was for the Shoplifting.

18 So she said alright, how about I give you
19 some vagina, some sex. I said alright. She said you
20 got protection? I said yeah. I pulled out a condom.
21 She said alright. So she put the car in reverse and
22 pulled out the driveway. She had done pulled in.
23 She pulled out her driveway and went to the third
24 court in front of this building. We facing this
25 building now. The police car, like three or four

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1 spaces down. And we in front of somebody living room
2 with they lights on. So we get out the car. My
3 cousin get out the back seat. He go sit in the
4 breezeway.

5 Me and her moved them pillows out the back
6 seat and put them in the front seat so when we get
7 in, she pull her left leg, not all her clothes off,
8 the whole thing. She pulled her left leg out. She
9 put her right leg on top of the back window and her
10 left leg by the passenger seat.

11 So I was putting the condom on and then
12 we started having intercourse. After that, I
13 ejaculated. Then we got out. She was like don't
14 tell my boyfriend. I'm like why I'm going to tell
15 your boyfriend. We can do this again. I was like
16 alright. So we went back. He got back in the car.

17 Q You say who got back in the car?

18 A My cousin Tony.

19 Q Okay.

20 A Antonio Curtis Wilkie. So we go back to
21 the first court. We get out. She about to lock the
22 door. I tell her don't you forget your McDonald's.
23 She alright, thank you. And I think she grabbed it
24 because she bend back down and I turned around and
25 walked off. After that, I went home. I got on the

1 phone with this girl I met on Urban Chat. And then I
2 went to sleep. I never knew if he left or not. The
3 door was still locked. He was sleep when I woke up.

4 The next morning, me, him and my cousin, we
5 go to the mall. I brought me a \$50 chain, you know
6 what I mean. We came back. Me and my cousin
7 watching this car. About this time, I get a call
8 from my -- one of my friend girls I was talking to,
9 one of my caucasian friends I was talking to. She
10 was asking me do I want to come spend a weekend with
11 her and her mama in Anderson. Her mama stay in
12 Anderson. I said, yeah, I wouldn't mind doing that.
13 So they came and picked me up. Her mama talked to my
14 uncle for a little bit. After that, we went to
15 Anderson.

16 All right. So now, I'm in their house,
17 chilling, playing with her little son. She playing
18 in my hair and stuff. I get a call from my mama.
19 What's going on? What's going on? They got your
20 brother. They got your brother for armed robbery,
21 kidnap, rape and all this. And I'm like, whoa, whoa,
22 mama, what's going on. I said me and this woman had
23 sexual intercourse, but it was consensual. I never
24 raped her or robbed her. She was like, well, they
25 got him for robbery and all that. I'm like I ain't

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1 do that. I said what's his number. I'll call them.

2 I was like this --

3 Q Hold on. We'll get back to that in a
4 minute. At some point, did you, in fact, give that
5 Blackberry phone to your brother Brian?

6 A See, at first, I wasn't, right, because I
7 wanted that Blackberry. He was like let me get it,
8 let me get it. I'm like, nah, bro, I like this. I
9 can go on the internet on this. I'm like, nah, I
10 like this. He said, bro, I'll give you \$50 and I'll
11 give you my old phone. But his old phone was a
12 razor. I said all right. I gave him the phone. He
13 gave me \$50. After that, he was with his baby mama,
14 Marika Woodruff. It was like, I was talking to her
15 last -- how I missed her and all. And then they
16 left.

17 Q Did you tell him how you got the phone?

18 A No, I told him I was going to hit a lick.
19 And I came back with it.

20 Q With you say "hit a lick", what does that
21 mean?

22 A Selling drugs.

23 Q Does it mean robbing somebody?

24 A No, when I say -- if I was saying I was
25 going to rob somebody, I would say I'm going to pull

1 a caper. A caper is when you are going to rob
2 somebody. I say a lick is you going to sell some
3 dope. I got this lick up the street. He waiting on
4 me. He got \$50 up the street, man. Huh, go take
5 this to him. That's how I look at a lick.

6 Q So you told Brian that you hit a lick and
7 you had that phone and that's when you all started
8 talking. He said he wanted it and you ended up
9 selling it to him.

10 A Yes, sir.

11 Q And so then later, when your mom calls you
12 and tells you the police are looking for you, you got
13 the detective's number?

14 A Yes, sir.

15 Q So what did you do?

16 A I called them up. I was like, yeah, can I
17 speak to the detective. He's like this is Mike
18 Fortner or something like that. I'm like, well, uh,
19 my name is Antwan Dominique Grayson. I heard y'all
20 was looking for me. He said yes, sir. You think you
21 can turn yourself in tomorrow? I said no, sir. I'll
22 turn myself in now. He said I'll wait a little bit
23 longer for you. I said all right. I told her, I
24 told the people who I was with, told them what was
25 going on. They took me down there. We waiting in

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1 the LEC for him to come out to see us.

2 Q You say "LEC", you talking about what?

3 A The front of the building where you come in
4 and ask for the detectives.

5 Q Okay.

6 A So he come up, get me. He -- I tell her to
7 hold on, I'll be back. Not thinking I'm getting
8 arrested cause I didn't do nothing. So he pulled me
9 back and put the handcuffs on me and then read my
10 rights. I tell them -- that's when I give my
11 statement and tell them I ain't want no lawyer.

12 Q So you went in and you gave the statement.
13 I'm going to show you this. Is this is, uh, -- is
14 that the statement that you gave when you went in?

15 A Yes, sir.

16 Q What was the date? Is it right there,
17 March 17th?

18 A Yes, sir.

19 Q And that was after you had heard that Mike
20 Fortner was looking for you?

21 A Yes, sir. Correct.

22 Q So he went over your rights with you and
23 told you you didn't have to talk to him and you
24 waived your rights and you gave that statement?

25 A Yes, sir.

1 Q What I want you to do now is just read the
2 statement that you gave to the jury.

3 A It says last night I saw a white lady
4 sitting in a white Nissan in the parking lot next
5 door to the Dodger's store. I do not remember what
6 time it was. It was dark. I was a little drunk at
7 the time. I walked up to her and asked her how was
8 she doing. She said she was doing good. I told her
9 that she was cute. I asked her where her man was.
10 She said she had just took -- she had to take him to
11 McDonald's. She told me that she stayed at
12 [REDACTED] in the first court. She asked me if I
13 knew where that was. I told her yeah.

14 I went over there and met her there. I
15 hopped in the car. We talked for a little while. We
16 then went to third court. I asked her if she was
17 going to give me some. We went to the back seat and
18 moved the pillows out of the way. There were two
19 pillows. We put them in the front seat. She took
20 her pants and shoes off by herself. She opened her
21 legs by herself. We had sex together and I nuttled.

22 She took me to the first court. And we
23 went into her house. I don't remember how it really
24 looked, but her mom was laying on the couch. She was
25 supposed to be sick. While inside her apartment, I

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1 saw her Blackberry Pearl phone sitting on a table in
2 the living room. I grabbed the phone and I put it in
3 my pocket. I asked her if it was good. She said
4 yeah, I can't complain. She asked me not to tell her
5 boyfriend because he would kill her. I told her okay
6 and then I left.

7 I walked out by myself. I went to Brook
8 Terrace Apartment at the time because I was spending
9 the night with my uncle. I just stayed there and
10 went to sleep. I never put a gun on her. I don't
11 have a gun. I was by myself. I never made her go to
12 the bank and withdraw any money. This was the first
13 time I ever saw this woman -- this girl.

14 Q Was that statement the complete truth?

15 A No, sir. It wasn't.

16 Q There are things in here that aren't true?

17 A Absolutely.

18 Q What's not true about it?

19 A The part when I approached her at the
20 store.

21 Q Okay. Uh, why did you tell the detectives
22 something that wasn't true?

23 A Because once again, I'm on probation for
24 Possession of Crack Cocaine with Intent to Distribute
25 and Second Degree Burglary. So I ain't want to

1 violate it. They gave me 15 years suspended to one
2 year with four years probation. So I ain't want to
3 violate. So I said if I tell them I sold some dope,
4 they will try to lock me up for it. Then my
5 probation officer will come and violate me. I went
6 ahead and told him that, you know what I mean.

7 Q Uh, the part about her having been to
8 McDonald's, is that part true as far as you know?

9 A Yes, sir.

10 Q The part about her mother being in the
11 apartment, is that part true as far as you know?

12 A Yes, sir.

13 Q Did you see her in the apartment?

14 A No, sir.

15 Q After you gave that statement, were you
16 allowed to leave?

17 A No, sir. He locked me up.

18 Q He locked you up. Did he charge you with
19 anything?

20 A Yes, sir.

21 Q He charged you with what you're charged
22 with now?

23 A Yes, sir.

24 Q And were you ever released after that
25 point?

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1 A No, sir.

2 Q Uh, did you later contact Investigator
3 Fortner again?

4 A Yes, sir. I told him that I wanted to talk
5 to him.

6 Q Did you send word through your mother?

7 A Yes, sir.

8 Q And once you did that, after you told your
9 mom to get in touch with Investigator Fortner, did he
10 ever come see you again?

11 A Yes, he came to see me the next day.

12 Q Did he talk to you at the jail or did he
13 take you to his office?

14 A He took me down in his office.

15 Q That's where you gave the other statement?

16 A Absolutely.

17 Q I want you to look at this two-page
18 statement. Is that dated March 24th of 2009?

19 A Yes, sir.

20 Q Just look it over, is that the statement
21 that you gave?

22 A Yes, sir.

23 Q Did you waive your right to counsel?

24 A Yes, sir.

25 Q And you voluntarily gave that statement?

1 A Yes, sir.

2 Q What I'd like for you to do now is read
3 that statement that you gave on March 24th to the
4 jury please.

5 A The day before I got arrested, I was at
6 [REDACTED] Apartment with Tony. He is my cousin. We
7 were there at the time to meet somebody to sell them.
8 But by that I mean dope. We were selling crack. The
9 person never showed up. We were about to leave when
10 this woman, this white woman in a Nissan pulled up.
11 She asked us if we had -- we knew where to get some
12 work at. I asked her what she was talking about.
13 She said some crack. I asked her if she was a
14 police. She said no and lift her shirt up all the
15 way. I could see that she was not wearing a wire. I
16 told her that I had some. Then she said that she
17 didn't have any money. I told her that if she don't
18 have no -- then I told her that she had no dope. She
19 asked us if we would ride to the bank with her to get
20 it out the ATM.

21 We went to the bank. We went to Wachovia
22 Bank on Wade Hampton. She tried one card. It only
23 had like \$9 on it or something like that. She tried
24 another card. It had like \$86 on it. She wanted
25 100, but I told her -- she was only going to get 80

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1. worth. I told her that I would give her four rocks
2. for it. She took that and wanted more. She told me
3. that she had a Blackberry Pearl at home. I asked --
4. I told her that I would give her two for that.

5. We went back to her place and got her
6. phone. I stayed outside the door and she went inside
7. and got the phone. She said something about her mom
8. being sick. So she gave me that and smoked it in the
9. car with me. What I mean with me is when I was in
10. the car together. She said she wanted some more.
11. She wanted to issue me her car for three rocks. I
12. told her I didn't want that because she might call
13. the police and report it stolen. She said how about
14. some pussy. Pardon my language. So I gave up two
15. more rocks for it.

16. We went to the third court because there
17. was too much light in the first court. We had sex.
18. She told me to put on a condom. I pulled out a
19. Magnum. We had sexual intercourse. After that, I
20. went back to the first court and we left.

21. Tony got out of the car before we had sex.
22. Tony went to a breezeway in the third court and
23. waited while we had sex. After we got done, I called
24. for Tony and he got back in the car. When we went
25. back to the first court, I went to Brook Terrace. As

1 we were walking away, I told her not to forget her
2 McDonald's that was in the car.

3 When she first pulled up to us, she told us
4 that she had just dropped her boyfriend off at
5 McDonald's. That was before I asked her if she was
6 with the police. Tony had a little chrome 22. It
7 was a semi-automatic. It had a clip that hold six.
8 He had a gun with him when this happened. He was in
9 the back seat playing with it. It was probably how
10 she saw the gun. Tony never pointed the gun at her.
11 I never pointed it at her either. She gave us the
12 money voluntarily. She agreed to take us to the bank
13 before she saw the gun.

14 The Blackberry that the girl gave me was
15 for payment. She was not expecting it back. My
16 brother Brian Wilkins kept begging me for the phone.
17 I gave him the phone. I gave the phone to him
18 because he said he was going to give me his old phone
19 that had a camera. He kept begging for it so I
20 finally just gave it to him. I didn't tell you the
21 truth the first time about it because people kept
22 telling me that I was going to get life. I didn't
23 want a crack charge either.

24 Before the incident happened with the white
25 girl, Tony and I went to [REDACTED] Apartment. We

1 went to the second court. We went there because Tony
2 told me that he know a guy that want a 40 -- he
3 wanted \$40 worth of crack. Tony didn't have it on
4 him. So he asked me to go with him because I had it.
5 We knocked on the door. The guy daughter answer the
6 door. She was like maybe 16 or 17. Tony asked where
7 her daddy was. She said in the bed. Told her to go
8 to the back and get her daddy. Went back outside.
9 About two minutes later, Tony came back with a guy.
10 They went outside with me.

11 He gave me \$40. I gave him two crack
12 rocks. We then left and went to Brook Terrace. I
13 don't know how the guy know about the gun that Tony
14 carries. When Tony and the guy came outside, they
15 didn't look like they were in a disagreement. There
16 is a little boy -- there was a little boy on the
17 floor. The boy may be about the same age of the girl
18 that opened the door. Nobody ever made anybody lay
19 down on the floor. The pictures you showed me of
20 Curtis Antonio Wilkie is my cousin I known as Tony.
21 That is my signature.

22 Q Is that statement the truth?

23 A Yes, sir.

24 Q You heard Curtis Antonio Wilkie testify a
25 little bit earlier?

1 A Absolutely.

2 Q Is what he said the truth?

3 A No, sir.

4 Q Is that how it happened?

5 A No, sir.

6 Q Did you rob anybody at [REDACTED] Court?

7 A No, sir.

8 Q Did you rape anybody?

9 A No, sir.

10 Q Did you kidnap anybody?

11 A No, sir.

12 Q Did you have sex with anybody?

13 A Yes, sir.

14 Q And was it consensual?

15 A Yes, sir.

16 Q That's all the questions I have for you.

17 Please answer any the Solicitor has.

18 **CROSS-EXAMINATION**

19 **BY MS. HODGE:**

20 Q So Mr. Grayson, you were 19 years old back
21 on March 16th of 2009?

22 A Yes, ma'am.

23 Q And you were convicted of Possession of
24 Crack and Burglary Second, uh, violent on July the
25 14th of '08. So just, let's see, nine months or so

Antwan Grayson - Cross-Examination by Ms. Hodge

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1 before this incident where you are supposed to be out
2 selling crack?

3 A Yes, ma'am, which I admitted to.

4 Q Yeah, you were on probation. You weren't
5 supposed to be doing any criminal activity, yet you
6 are out selling crack. Is that your testimony?

7 MR. CHAMBERS: Objection, Your Honor. She
8 can bring up his prior convictions as far as the
9 impeachment goes, but he's admitted that he has
10 those convictions.

11 THE COURT: Okay. I sustain. You can use
12 them for impeachment purposes.

13 MS. HODGE: Your Honor, I believe the
14 whole basis of his statement is he's stating is
15 because he didn't want to get picked up on a
16 probation violation. I'm just furthering those
17 questions for the record.

18 THE COURT: I understand. You can ask
19 questions based on what he asked, but with
20 respect to those specific charges, they are
21 limited to impeachment purposes.

22 MS. HODGE: Correct. Yes, Your Honor.

23 THE COURT: All right.

24 BY MS. HODGE:

25 Q And you have a shoplifting charge from

1 January 17th of '09. So that's prior to this
2 incident we're talking about today?

3 A Yes, ma'am.

4 Q Shoplifting charges are in magistrate's
5 court, is that right?

6 A I think so.

7 Q And General Sessions court is the
8 Possession of Crack or Burglary charge?

9 A Yes, ma'am.

10 Q And where we are today is General Sessions,
11 correct?

12 A Yes, ma'am.

13 Q All right. So you were, uh, -- according
14 to your testimony, you were out selling crack on
15 March 16th of 2009?

16 A Yes, ma'am.

17 Q Who was your client?

18 A My client?

19 Q Who was the client?

20 A Was a dude name, uh, Brian.

21 Q Brian what?

22 A Brian McAbee.

23 Q Did you tell that to Investigator Fortner?

24 A No, cause that wasn't his business.

25 Q It's not his business who's buying illegal

Antwan Grayson - Cross-Examination by Ms. Hodge

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1 drugs out in the community?

2 A No.

3 Q Okay. Did you sell a lot?

4 A Yes.

5 Q How many other clients did you have and
6 what are their names?

7 A Do I have to answer that?

8 Q Yes, you do.

9 A I don't know all their names.

10 Q Give me one more.

11 A All right. You got one name Tracy.

12 Q Tracy who?

13 A I don't know her last name. I know her by
14 Tracy. She be in the hood sometimes.

15 Q What's the hood?

16 A Sometime I see her in Oakview.

17 Q So what do you do with the money when you
18 get it?

19 A I save it or I go shopping and spend it on
20 me or my girlfriend.

21 Q Do you smoke some too?

22 A No, I don't smoke crack.

23 Q Where do you get the crack?

24 A I buy it.

25 Q From who?

1 A From a dude name Renard.

2 Q Who?

3 A Renard.

4 Q Renard?

5 A Yeah.

6 Q Is this the cousin you were hanging out
7 with the next day?

8 A No, that's Gernard. I said Renard.

9 Q What's Renard's last name?

10 A I don't know his last name. I met him
11 while I was in the group home.

12 Q Where do you go to buy it?

13 A To his house.

14 Q Where does he live?

15 A He live in Greenville on White Horse Road
16 in River Breeze.

17 Q You have a car?

18 A No.

19 Q White Horse Road is kind of far from Brook
20 Terrace Apartments, isn't it?

21 A Yes, sir. Yes, ma'am.

22 Q Okay. On this night, how much crack did
23 you have on you?

24 A I had a bottle full.

25 Q What does that mean?

Antwan Grayson - Cross-Examination by Ms. Hodge

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1 A A pile bottle. The brown with a white
2 top ---

3 Q Uh-huh.

4 A --- that you get from the pharmacy, I had a
5 bottle full. I had like an ounce.

6 Q How many rocks is that?

7 A He might -- depending on how you cut it,
8 you might get 250, 300, depending on how you cut it,
9 how big or how small.

10 Q So 10, 12 rocks? 14 rocks?

11 A Way more than that. I just told you.

12 Q I'm not doing the math. You tell me how
13 many.

14 A I just told you. About 250, 300 if you cut
15 them --

16 Q 250 rocks?

17 A Yeah.

18 Q Okay. I thought you meant dollars.

19 A No.

20 Q 250 rocks in there.

21 A You pay 750 for it.

22 Q Then you go out and try to sell it and make
23 some money off of it?

24 A Yes, ma'am.

25 Q Uh, you know people that smoke crack? You

1 been around them when they are smoking it?

2 A Yes, ma'am.

3 Q They get little excited, a little up?

4 A Not all the time. If you got good dope,
5 they'll probably start geeking. If they got bad
6 dope, ain't nothing going to happen.

7 Q What's geeking mean?

8 A Probably -- you got some people that like
9 to look out the blinds continually. Some people like
10 to pick in their eye. Some people like to look on
11 the floor and see if they could find some water.
12 That's geeking.

13 Q They get a little antsy or a little jittery
14 or a little paranoid or something like that?

15 A Yes, ma'am.

16 Q And in your statement that you gave to
17 Investigator Fortner, the second statement that you
18 gave, the one talking about crack, you said -- you
19 call that doing work or selling work, is that right?

20 A Yes, ma'am.

21 Q And you were with Mr. Wilkie on this night,
22 correct?

23 A Yes, ma'am.

24 Q And y'all were hanging with each other for
25 the day?

Antwan Grayson - Cross-Examination by Ms. Hodge

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1 A No, we stay together.

2 Q Stay together. So y'all were cool. Y'all
3 were cool with each other.

4 A We together all the time.

5 Q Okay. Y'all don't have any problems,
6 right? Y'all were cool with each other?

7 A No, no.

8 Q And you were hanging some with your brother
9 Brian also?

10 A Yeah, I go to his house. We would go in
11 the studio and rap.

12 Q At Brian's house?

13 A Yes, ma'am.

14 Q All right. And you did sell Brian this
15 Blackberry Pearl right here. You did sell him that
16 that night, correct? Where'd it go?

17 A Yes, ma'am.

18 Q And when you sold it to him, it was a
19 little bit after midnight on March 17th? Would that
20 be about right?

21 A Probably. I think so.

22 Q Okay. And this is the phone we're talking
23 about?

24 A Yes, ma'am.

25 Q Okay. You say you got this phone from

1 Crystal Byers?

2 A Yes, ma'am.

3 Q And you were in Crystal Byers' car, isn't
4 that true?

5 A Yes, ma'am.

6 Q And you were in there when y'all went to
7 the ATM, is that correct?

8 A Yes, ma'am.

9 Q And that's you right there, is that
10 correct?

11 A Absolutely.

12 Q Can you show me your face?

13 A Actually, you can't.

14 Q Are you covering your face?

15 A No.

16 Q No? That's just you --

17 A This just a hoodie. I mean, you got people
18 that get in cars, they got a hoodie on. They could
19 keep their hoodie on. That don't mean just cause
20 they get in the car they got to take a hoodie off.
21 That's how people who -- if it go with your clothing,
22 that's your swag.

23 Q So you wearing a hoodie?

24 A Yes, ma'am.

25 Q All right. Something covering your head?

Antwan Grayson - Cross-Examination by Ms. Hodge

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1 A There's nothing covering my face.

2 Q But it's covering your head?

3 A Absolutely.

4 Q All right. It's dark, a dark hoodie?

5 A I say it's blue.

6 Q Did it have a fur liner on the hood?

7 A No, ma'am. It's a regular blue pullover
8 hoodie.

9 Q All right. This is on -- do you know what
10 day of the week March the 16th of 2009 was?

11 A No, ma'am.

12 Q Wasn't the weekend, was it?

13 A Not that I know of.

14 Q It was a Monday night?

15 A No, it wasn't no Monday night. I think it
16 was like around Thursday or Friday. I don't know the
17 exact time, being incarcerated.

18 Q It was a Monday night, correct, 3/16/09?

19 A Like I said, I ain't know that night.

20 Q All right. So you are saying that you
21 heard you were wanted by Investigator Fortner because
22 Brian got busted using that phone.

23 A Yes, ma'am.

24 Q And that phone was reported stolen?

25 A Yes, ma'am.

1 Q And he was using it so they questioned him,
2 correct?

3 A Yes, ma'am.

4 Q And then he turned -- basically, turned you
5 in, gave your name --- and said that's where he got
6 the phone. He was not down with any robbery or any
7 rape. He got the phone from you?

8 A Yes, ma'am.

9 Q All right. And so you have your
10 opportunity to come clean and come to Investigator
11 Fortner and tell him what happened and how you got
12 that phone, correct?

13 A Yes, ma'am.

14 Q All right. So the first thing you tell
15 them is not the truth, is it?

16 A No, ma'am. Not absolutely. Not all of it.

17 Q The part about seeing this woman at the
18 Dodge store, that's a lie, isn't it?

19 A Yes, ma'am.

20 Q All right. The part about going inside her
21 apartment and taking the phone off the table, that's
22 a lie, isn't it?

23 A Yes, ma'am.

24 Q The part about being by yourself, that's a
25 lie, wasn't it?

Antwan Grayson - Cross-Examination by Ms. Hodge

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1 A Yes, ma'am.

2 Q The part about never going to the bank and
3 withdrawing money, that's a lie, wasn't it?

4 A I ain't say I never went to the bank.

5 Q Said I never made her go to the bank and
6 withdraw money?

7 A I never made her go. She went on
8 willingly.

9 Q Okay. So we got one, two, three, four,
10 four lies in here.

11 A All right.

12 Q Is that correct?

13 A Yes, ma'am.

14 Q However, you do state there are two pillows
15 in her car, is that correct?

16 A Yes, ma'am.

17 Q So you were in the car and you did see the
18 pillows?

19 A Yes, ma'am.

20 Q And you did handle the pillows?

21 A Me and her.

22 Q All right. And you did know and were told
23 that she had a sick, elderly mom, correct?

24 A Yes, ma'am. That's the only reason we
25 ain't go in her house.

1 Q You said this when you didn't go in her
2 house?

3 A I told you that I lied.

4 Q Okay. So you lied. And then you decide --
5 well, you get arrested, correct?

6 A Yes, ma'am.

7 Q And then you are charged with the armed
8 robbery, the rape, the kidnaping and the possession
9 of a weapon charge, correct?

10 A Yes, ma'am. Plus conspiracy.

11 Q And conspiracy. And you decide you want to
12 give another story, correct?

13 A I wanted to come clean because my mom told
14 me to stop lying.

15 Q All right. And so you then change your
16 story a pretty good bit, correct?

17 A Absolutely.

18 Q All right. So you didn't just change a
19 couple of details, minor descriptive details. You
20 changed a chunk, correct?

21 A I'll say that. I'll agree with that.

22 Q Cause this one didn't talk about selling
23 dope or any of that kind of stuff, correct?

24 A No, ma'am.

25 Q So this one is all about selling dope,

Antwan Grayson - Cross-Examination by Ms. Hodge

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- 1 correct?
- 2 A Yes, ma'am. That's what really happened.
- 3 Q And that's how you are explaining how you
- 4 got this phone?
- 5 A Yes, ma'am.
- 6 Q How your DNA is in that rape kit?
- 7 A Yes, ma'am.
- 8 Q And that's how you are explaining how you
- 9 are in this car?
- 10 A Yes, ma'am.
- 11 Q At this ATM?
- 12 A Yes, ma'am.
- 13 Q That's how you figured out to explain all
- 14 this, correct?
- 15 A That's the truth. That's what I told him.
- 16 Q So you lied then but then you are telling
- 17 the truth now?
- 18 A I told you I lied because I didn't want to
- 19 get violated for probation. If I knew I couldn't
- 20 caught no crack charge, I would have told him off the
- 21 top that it was all over dope -- drugs.
- 22 Q Would you have any motivation to lie to get
- 23 out of a rape charge or an armed robbery charge?
- 24 Wouldn't you want to lie and get out of that? That's
- 25 pretty serious.

1 A I mean, it's serious, but I'm going to go
2 ahead and tell the truth. What happened is what
3 happened. I'm not going to lie.

4 Q All right. But you are going to lie,
5 because you lied right here.

6 A All right. That was when I was 19. I'm 21
7 now. I done grew up.

8 Q You've grown up now that you're 21?

9 A Yes, ma'am. I had time to do some self-
10 elevation.

11 Q Okay. All right. Let's go back to your
12 second statement. You finally come clean that there
13 was a gun, correct?

14 A Yes.

15 Q So Ms. Byers didn't make up the thing about
16 a gun. There was a gun, correct?

17 A Yes, ma'am. But she never -- nobody never
18 pointed it at her.

19 Q Okay. But there was a gun, correct? It
20 was a 22, a chrome 22, correct?

21 A Yes, ma'am.

22 Q And all the bottom part of this statement
23 that you're talking about this other person selling
24 some crack to a different apartment, that has nothing
25 to do with this night, does it?

Antwan Grayson - Cross-Examination by Ms. Hodge

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- 1 A About what?
- 2 Q The bottom of your statement where you
- 3 started talking about going to another apartment
- 4 and --
- 5 A No.
- 6 Q That wasn't about this night, was it?
- 7 A No, ma'am.
- 8 Q That's something else, correct?
- 9 A Yes, ma'am.
- 10 Q Okay. That's dealing with another burglary
- 11 charge.
- 12 A Yes, ma'am.
- 13 Q And you had never seen Crystal Byers before
- 14 this night, is that true?
- 15 A No, ma'am.
- 16 Q You just pick up a woman, sell her some
- 17 crack and have sex with her and you never seen her
- 18 before, that's your story?
- 19 A I mean, it happened -- if you sell drugs,
- 20 it happen. A lot of drug dealers, anybody that sell
- 21 drugs, they'll tell that, uh, -- well, we call it --
- 22 we call it tricking for money. Anybody that sell
- 23 drugs done did that. A girl will come and she want
- 24 credit. I ain't about to give you no credit. You
- 25 might say, nah, you playing with money. All right.

1 Give me some -- how we say, head or some vagina.

2 We'll accept that. That what I did.

3 Q Do you say vagina? You say give me some
4 vagina on the street?

5 A No.

6 Q What do you say?

7 A I say give me some pussy.

8 Q That's what I thought. I don't have any
9 further questions.

10 THE COURT: Any questions?

11 MR. CHAMBERS: No, Your Honor.

12 THE COURT: Thank you, sir.

13 THE WITNESS: Thank you.

14 THE COURT: You can step down.

15 All right. Anything further from the
16 defense?

17 MR. CHAMBERS: Your Honor, call Brian
18 Wilkins.

19 THE CLERK: Mr. Wilkins, if you will come
20 forward.

21 BRIAN WILKINS

22 having first been sworn, testifies as follows:

23 THE CLERK: Thank you. You may be seated.
24 Would you state your full name for the record?

25 THE WITNESS: Brian Sanchez Wilkins.

Brian Wilkins - Direct Examination by Mr. Chambers

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1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. CHAMBERS:

4 Q Brian, were you in the courtroom earlier
5 when Curtis Antonio Wilkie testified?

6 A Yes, sir. I was.

7 Q Did you hear testimony that you --

8 MS. HODGE: Your Honor, I'm going object
9 to pitting the witnesses. He's going from
10 testimony that was previously said and asking
11 him about that. That's pitting the witnesses.

12 THE COURT: Okay. You couldn't pit the
13 witnesses, but you could certainly ask him
14 questions relative to the evidence of facts that
15 might come up.

16 BY MR. CHAMBERS:

17 Q On March 16th of 2009, did you walk to the
18 [REDACTED] Apartments with Antwan Grayson and with
19 Tony Wilkie?

20 A No, sir. I didn't.

21 Q Did you in any way travel to the [REDACTED]
22 Apartments on that night?

23 A No, sir. I didn't.

24 Q All right. That's all the questions I
25 have.

1 THE COURT: Any cross-examination?

2 MS. HODGE: No, sir.

3 THE COURT: Thank you, sir. Appreciate
4 it.

5 MR. CHAMBERS: Your Honor, the defense
6 rests.

7 THE COURT: All right. Good enough. All
8 right. Anything in reply from the State?

9 MS. HODGE: No reply, Your Honor.

10 THE COURT: Okay. All right. Ladies and
11 Gentlemen, let's take a brief break. We may be
12 at a point where I'm going to release you for
13 the day, but I need to take up some matters with
14 the attorneys. It may be that we'll reconvene
15 tomorrow morning for argument and charge. But I
16 need to talk with them real quick, handle a few
17 legal matters and see exactly, uh, where we
18 stand as far as our procedure is concerned. So
19 please retire to your jury room.

20 (WHEREUPON, the jury exits at approximately
21 3:15 p.m.)

22 THE COURT: All right. Any motions?

23 MR. CHAMBERS: Renew my motion for
24 directed verdict, Your Honor.

25 THE COURT: All right. I respectfully

1 deny the same on the same grounds as previous.

2 All right. You have any requests for charge?

3 MR. CHAMBERS: Just, you know, Your Honor,
4 the usual. Burden of proof. I assume you're
5 going to charge the relevant statutes. I don't
6 have any special charge.

7 THE COURT: All right.

8 MS. HODGE: Your Honor, what is your
9 burden of proof charge? Which one do you use?

10 THE COURT: Firmly convinced.

11 MS. HODGE: Firmly convinced?

12 THE COURT: Yes, ma'am. Firmly convinced.

13 MS. HODGE: Your Honor, I don't believe
14 there will be any lesser includes. I think it's
15 either it happened or it didn't happen.

16 MR. CHAMBERS: I agree with that, Your
17 Honor.

18 THE COURT: Okay. Good enough. All
19 right. Well, let's do this. Uh, I don't --
20 it's 3:15 now, which means that probably if we
21 start now, we will not finish with argument and
22 charge until getting very close to five o'clock,
23 which means that when they go out, they could be
24 out for potentially a considerable amount of
25 time depending on how long your deliberations

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1 go. I didn't advise them to make arrangements
2 to stay late. So out of consideration for them,
3 I'm not going to argue and charge today. We'll
4 come back tomorrow morning. Because we're going
5 to go straight into argument and charge, is 9:30
6 a problem? Anybody have an objection to that
7 start time?

8 MR. CHAMBERS: Sounds good to me, Your
9 Honor.

10 THE COURT: Okay. All right. Any issues
11 that y'all need to take up with me today with
12 respect to charges or anything else that you
13 need to talk to me about in chambers?

14 MR. CHAMBERS: No, sir.

15 THE COURT: All right. Good enough. Well
16 then, what I'm going to do is I'm just going to
17 have the bailiff release the jury. I've already
18 advised them not to discuss the case any number
19 of times. Advise them to be back at 9:30
20 tomorrow morning.

21 Will you just ask them to be back at 9:30?
22 All right. Good enough. All right.

23 If y'all want to -- we can go off the
24 record.

25 (WHEREUPON, the proceedings conclude at

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1 approximately 3:20 p.m..)

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P R O C E E D I N G S

(WHEREUPON, the Court resumes on the 30th day of March, 2011 at approximately 9:35 a.m.)

THE COURT: Okay. All right. You ready for the jury?

MS. HODGE: Yes, sir.

THE COURT: All right. The State elect to open and close or you waive opening?

MS. HODGE: We're going to waive opening, Your Honor.

THE COURT: All right. Good enough. If you would please, Mr. Fuller, have Mr. Harvey sit in the foreperson's chair.

THE BAILIFF: Harvey?

THE COURT: Yes, sir. Mr. Harvey.

(WHEREUPON, the jury enters at approximately 9:39 a.m.)

THE COURT: All right. Ladies and Gentlemen, good morning. Thanks for being timely. I do appreciate it. We're in the final throws of the trial, that is, we're going to proceed to closing arguments and do a charge on the law. Now, as I suggested to you earlier in the case, argument from counsel is just that, argument from counsel. Each attorney is

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1 advocating his or her respective position. All
2 of the evidence that you will receive in this
3 trial has already been received. Understand
4 that arguments are not evidence to be considered
5 by you, but simply that, arguments. So please
6 consider it in the context in which it's
7 offered.

8 Mr. Harvey, I am asking you to be foreman
9 of the jury please.

10 **THE JUROR:** Yes, sir.

11 **THE COURT:** And your role as foreman of
12 the jury is fairly ill-defined under the law.
13 But I can tell you that your job, primarily is
14 to ensure that everybody has the opportunity to
15 be heard in the jury room when you conduct your
16 deliberations, that everyone has a voice. Also,
17 sometimes the jury has questions. And I'm
18 hopeful that you won't, but sometimes you do.
19 And if you do, you can write that down, Mr.
20 Harvey, on a sheet of paper and give it to the
21 bailiff. He'll bring it to me. I may be able
22 to answer some of your questions. Maybe.
23 Sometimes I can't. But in any event, you can
24 write those down and deliver them to the bailiff
25 when you get into the -- into your deliberation

Closing Argument by Mr. Chambers

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1 room. So having said that, we'll proceed to the
2 closing arguments. (Pause.)

3 Do you need any of the exhibits to argue?

4 MR. CHAMBERS: No, Your Honor.

5 THE COURT: You want to go ahead and go?

6 MR. CHAMBERS: Yes, sir.

7 THE COURT: Okay. All right. You can
8 start -- unless you want to wait and have Joelle
9 to pull that out.

10 MR. CHAMBERS: Well, I'll just wait.

11 THE COURT: That will be fine. That will
12 be fine. Just trying to make her a little less
13 conspicuous over there going into her closet.

14 THE CLERK: Appreciate that.

15 (WHEREUPON, there is a pause.)

16 THE COURT: Thank you.

17 THE CLERK: Thanks.

18 THE COURT: Mr. Chambers.

19 MR. CHAMBERS: May it please the Court,
20 Your Honor, Solicitor.

21 Ladies and Gentlemen, it's been a long two
22 days, or at least it seemed that way to me. I
23 know it probably seemed that way to you as well.
24 But we finally reached that point where y'all
25 are about to go back and deliberate this case

Closing Argument by Mr. Chambers

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1 and deliberate over the evidence in this case
2 and come to a decision. So this is going to be
3 my last opportunity to talk to you. The
4 Solicitor's going to get to get up after I'm
5 done and talk to you, but this is my last
6 opportunity.

7 This is one of those cases that you have
8 sometimes where you got two primary people
9 involved. They are talking about the facts and
10 they are giving two different accounts of the
11 facts. So you have to sort through that and
12 determine the truth in the case. In doing that,
13 it's not just to determine whose story sounds
14 more plausible, who you believe the most, but
15 you do that keeping in mind the burden of proof
16 the state has, beyond a reasonable doubt. So in
17 other words, have they proven every element of
18 every offense to your satisfaction beyond a
19 reasonable doubt. As you listen to all the
20 evidence that was presented, do you believe the
21 alleged victim in this case beyond a reasonable
22 doubt or is there a real possibility that what
23 she told you was not true and, in fact, what the
24 defendant told you is true.

25 Now, I learned a long time ago through

Closing Argument by Mr. Chambers

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1 experience, which I think is the best way to
2 learn anything, that the truth most often lies
3 in the details. And it's real easy to get sort
4 of a general story down and tell a general
5 story, but the truth lies in the details. If
6 somebody's going to get tripped up, that's
7 generally where it's going to happen.

8 The first time that really hit home with
9 me, I was working here in the Solicitor's
10 office, as a matter of fact, back in 1992. I
11 had to try a case in magistrate's court. We
12 used to just go out there. Whatever they had,
13 we tried it. Not a whole lot of preparation.

14 When I got out there, there was a little
15 old lady that looked like anybody's grandma that
16 had been charged with shoplifting at a K-Mart.
17 She had a sweet little husband with her. They
18 both testified. I didn't believe there was any
19 way in the world that she had committed that
20 crime. I even asked the man from K-Mart, are you
21 sure they didn't have any video or anything. It
22 was just his testimony that he saw her take some
23 items, put some in her purse, go through the
24 line and pay for some other things.

25 She gets up on the stand and she testifies

Closing Argument by Mr. Chambers

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1 that -- one of the things that she supposedly
2 had taken was a bottle of lotion. She said I
3 got that lotion when I went down to visit my
4 daughter in Florida. I had it. I been using
5 it. She says, as a matter of fact, on my way
6 over, I had put some on my hands. I had got too
7 much on my hands, so I reached over and I wiped
8 some on my husband's hands. And then she took
9 like a lace handkerchief she had out and she
10 started crying. And I'm thinking, you know,
11 this poor lady. Why are you doing this to me?

12 Then it dawned on me to pick up the lotion
13 that she was talking about. And I unscrewed the
14 lid and I looked at it and it was slap full. In
15 fact, you could see the little indentation, you
16 know, where it had gone through the production
17 line. You know, it had gone in and come back
18 out. And I knew right then that that little old
19 lady, despite everything that I thought was
20 right after that point was not telling the
21 truth. It was a detail that tripped her up. A
22 detail.

23 That's important in this case, folks,
24 because as you listen to what you heard from the
25 defendant, you have to see are there -- is there

1 evidence that corroborates that. Is what she's
2 saying make sense? Does it make sense to me?
3 So I want you to take a look at that. The one
4 thing I want you to think about above all else.

5 You know, the great thing about going to
6 trial is this, unlike when somebody asks you a
7 question, say the police asks you a question or
8 you just talking to somebody on the street. And
9 you take the witness stand. First of all, we
10 make a production out of it. We have you come
11 up here, put your hand on the Holy Bible, raise
12 your right hand and take an oath to tell the
13 truth. Now, I wish that that ensured that
14 everybody that got up there was going to tell
15 the truth, but it doesn't. The reason we do
16 that is to stress the importance of what's going
17 on and also because it has legal ramifications
18 if you don't tell the truth. You are under
19 oath.

20 But the other great thing about having to
21 take that witness stand is your story doesn't
22 stand alone. You have to answer questions about
23 what happened. And it's always been my view
24 that if somebody lies to you and you know
25 they've lied to you, then you can't really rely

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1 on anything that they've got to tell you. I
2 found that to be true with juries over the
3 years. Once they figure out they've been lied
4 to, then they tend to discount anything else
5 that's said. That's important in this case.

6 When the alleged victim took the witness
7 stand, one of the things that I said to her, in
8 fact, I think it was one of the last things I
9 talked to her about, I said, you recently had a
10 shoplifting conviction, didn't you. She said
11 yeah. Then she started to qualify. She
12 immediately said something along the lines of "I
13 didn't do it. I was just with this girl and I
14 was taking responsibility because I didn't want
15 her to get in trouble."

16 So then I said to her, I said, what you are
17 telling me is you lied to the court and you lied
18 to the police. And a light goes on in her head.
19 She says oh, no, no, no, no, no, no, I only took
20 responsibility for what I did. Cause she
21 realized then that she was admitting to you that
22 she lied to the court and she lied to the
23 police.

24 So in one manner or another, she gets on
25 this witness stand after putting her hand on the

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1 Holy Bible and taking an oath if she tells a
2 lie. Both of those things can't be the truth.
3 That let's you know that her credibility is
4 seriously in question.

5 All right. So now with that in mind, we go
6 and we look at the events that are said to have
7 occurred back on March 16th of 2009. This is --
8 I want you to look at this as you go through. I
9 want you to remember, and I'm not going to hit
10 every one of them. I couldn't do that. You
11 folks sat here through all of the evidence. You
12 heard it. You heard the examination, cross-
13 examination. You heard the answers. I'm only
14 going to hit some things that are -- that I
15 believe are important in this case.

16 Uh, first of all, she says that she took
17 her husband to work and then she stopped at
18 McDonald's on the way back and she comes home.
19 According to her, she drives into this parking
20 lot, where she lives, cars all around, lots of
21 people live in this apartment complex. There
22 are lights in the parking lot. She says that
23 she gets out of her car and she starts to walk
24 up and go back into her house.

25 She has -- you know, it may seem

1 insignificant, but again, these are the details
2 that I talked about when you are trying to
3 figure out the truth. She has two milkshakes
4 under her left arm. You can even see the cups
5 -- I don't know if those are the cups from the
6 milkshake she had, but you know, McDonald's
7 cups, if you get a milkshake, I think we all
8 know, at least are about that big. If you ever
9 bought a milkshake, you kind of know what that
10 feels like. If you got that in your arm there,
11 that's kind of precarious. That's not the ideal
12 way to be carrying two milkshakes.

13 She's got two milkshakes under her left arm
14 and a bag of nuggets in her left hand and her
15 keys in her right hand, which she says she's
16 fumbling with or playing with that she walks up
17 there. Then she says -- now imagine this folks,
18 she's completely taken by surprise by somebody
19 coming up behind her. Not only is she taken by
20 surprise by them coming up behind her, she says
21 she turns to find a gun in her mouth.

22 I don't know what everybody's reaction
23 would be, but I can not imagine in that
24 situation that I would continue to hold on to
25 two milkshakes and some nuggets in my left

1 armpit. I would think at the very least; you
2 would go (demonstrating) or something. But she
3 never loses those.

4 Then, as you listen to her story as it
5 unfolds, she says they have this discussion
6 where he says that he wants some money. And she
7 says I don't have any money. And then, rather
8 than, you know, like, please leave me alone, I
9 don't have any money. He says I'm going in your
10 apartment. She says you can't go. You know,
11 he's got a gun. And from that point forward, he
12 she's willing to do everything else in the
13 world. He's not somehow willing to force her
14 into her apartment. She says on her own, and
15 remember this, I can take you to the ATM.

16 Again, you got to think about common sense.
17 Here is somebody that is apparently there to
18 commit a robbery. You would think that they
19 would want to get it over and done with as
20 quickly as possible, because again, remember,
21 there are apartments all around here. It's not
22 like the wee hours of the morning. It's 11
23 o'clock. It's a time when people would normally
24 be coming and going in an apartment complex.
25 There are cars all around.

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1 If you are a masked gunman, you are not
2 going to want to linger too long. She says I
3 invited them to go to the ATM with me and they
4 go. Also keep in mind that she's saying that
5 the second guy is continuing to say "Shoot her.
6 Shoot her", which would indicate that he's
7 really antsy. This is not a guy, again, that's
8 going to want to linger and hang out with
9 somebody. They end up spending the better part
10 of an hour together based on her testimony.
11 Somewhere just after 11 o'clock up until about
12 11:54, okay.

13 So then she says they go and get the money.
14 They start to go back. The guy in the back seat
15 gets out and goes to the, uh, -- goes somewhere.
16 She doesn't know where. Then she says that's
17 when he decided he tells her to pull off in
18 another part of the apartment complex. Now,
19 remember, he's supposedly at this point going to
20 rape her, against her will. Where is the spot
21 that he chooses? Again, back in this parking
22 lot. Not in the same place where she got picked
23 up, but further on down where the office is.
24 And, very importantly, where apparently there
25 was a police car. She saw a police car.

Closing Argument by Mr. Chambers

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1 Keep in mind all of this is going on. She
2 says she was doing this because she was trying
3 to survive. People respond differently in
4 different ways, you know. Her demeanor seemed
5 to remain just unusually calm through this whole
6 thing. Bear in mind, not only is the person,
7 according to her, holding a gun on her, but
8 another guy, who keeps yelling shoot her. I
9 think most people at that point would take every
10 opportunity -- you got to figure when these guys
11 get what they want, I'm done for. Okay. I'm
12 going to do everything I can to call attention
13 to myself. She never blows the horn, yells,
14 tries to run away. Doesn't do any of that.

15 So here's what she says. She says she has
16 pulled into a parking space, in this parking
17 lot, after they've already seen a police car.
18 It's lighted. Close to the office. Then he has
19 her, she says, get in the back seat. Now, there
20 are two pillows in the back seat that we see
21 that are there. She says they must have been
22 stuck down on the floor. I don't know.

23 But easily, there were pillows in the back,
24 which, if you remember the statement that the
25 defendant gave. When Antwan talked, he said --

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1 talked about how the pillows were back there and
2 she laid down on the pillows. She took her
3 pants off, she took her panties off and she got
4 in the back.

5 Now, this is just one of those things you
6 kind of have to imagine. You have to go back
7 and look at it. This is a very small back seat.
8 It is not the idea place if you were wanting to
9 rape somebody or were raping somebody. He has
10 to, while this is going on, somehow get in
11 there.

12 She said they had sex. He puts on a
13 condom. He takes the time to put on a condom.
14 She was all over the place about the condom. I
15 wasn't sure if he had a condom. Several times,
16 she states that he put on a condom. She knew he
17 had a condom.

18 So at no point did she put up a fuss, try
19 to get away, while he is engaged in putting on a
20 condom. He then has to get in the back seat,
21 somehow keep his balance to perform this act in
22 this very small space. You know, again, if you
23 look at it from a commonsense standpoint, if
24 somebody's doing this forcefully, it doesn't
25 make sense. He was at no point able to hold a

1 gun on her at that point. She doesn't even know
2 where the gun was or if he, in fact, had this
3 gun.

4 Then, when it's all over and done, she gets
5 out -- oh, she even said at one point, it was
6 getting too rough. That's when she said that he
7 kissed her and sucked on her left nipple.
8 That's where they got the DNA swab. He's
9 supposedly wearing a bandanna when he's doing
10 that. He kisses her and sucks on her left
11 nipple wearing a bandanna.

12 Does that make sense to you? She never saw
13 his face because when he didn't have the
14 bandanna, he put a cap over her head. Well,
15 first of all, if he had a bandanna and she had a
16 cap over her head, how would she know that if he
17 pulled it back? There's no evidence that he had
18 a cap. She said it was a cap. The person that
19 is supposed to be corroborating what she had to
20 say, Wilkie, he said there was no cap.

21 If you look at the picture they provided
22 you from the bank, you can see that Antwan's
23 sitting in the front seat. He's wearing a
24 hoodie, which, you know, frankly a lot of kids
25 do. I see these kids walking around with

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1 hoodies on when it's 90 degrees outside. But
2 there's no ball cap. You don't see a cap.
3 There's not much you can make out in the
4 picture, but you can make that out. So again,
5 that sort of belies common sense.

6 And then they get out. So at this point,
7 he's supposedly gotten money. He's gotten sex.
8 Now, he's going to go get this telephone.. They
9 just walk back over to where her apartment is
10 and they get up to where the apartment is. This
11 is where, to me, the story really I have
12 problems with. It doesn't make sense to me.
13 She says she's been keeping it together because
14 she doesn't want to get killed. The guy's been
15 holding a gun on her the whole time, except for,
16 of course, when they were in the back seat of
17 the car.

18 They get up to her apartment and she goes
19 in. This guy who has been forceful with her
20 this whole time still does not go into the
21 apartment. You would think that if he was the
22 kind of guy that would hold a gun and force you
23 to do things, he's not going to let you out of
24 his sight. There's no way she could keep him
25 from doing that. If he wanted to walk into the

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1 apartment, what's she going to do to stop him.
2 I mean seriously. And why would he let her go
3 in there? But she goes in the apartment and she
4 says he waits by the door. Just calmly out
5 there waiting by the door. She goes in and gets
6 the phone.

7 Now, what she could have done and didn't do
8 is she could have shut the door and locked it,
9 called the police. Shut the door, locked it and
10 started piling stuff up in front of the door.
11 Anything to get something between her and the
12 man with the gun. She didn't do it. So on two
13 counts, that absolutely doesn't make sense. It
14 doesn't make sense that she would try to put
15 some space between her and the person with the
16 gun that she had every reason to believe was
17 going to kill her because according to her, this
18 other guy kept yelling "Shoot her. Shoot her."
19 But it also doesn't make sense from the
20 standpoint of somebody that is trying to steal
21 from you that he would just let you waltz on
22 into the apartment while he just calmly waits by
23 the door. It doesn't make sense. It does not
24 make sense.

25 The other thing, listen to the 911 call.

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1 First of all, her demeanor is very calm. She
2 doesn't get even a little bit upset until they
3 keep asking her questions. Now, why would you
4 get upset about somebody asking questions? Bare
5 in mind, the police were on the way. You get
6 upset about answering questions because it's the
7 details, details, details.

8 One of the things that she says on the 911
9 tape that we never hear again is he threatened
10 to shoot my mother. Never heard that. Never
11 heard that. So there are a lot of
12 inconsistencies and it just doesn't add up. You
13 may say to yourself, why would she lie? Cause
14 that's -- that is a good question to ponder and
15 I think it is one that most of you have thought
16 of that you would have come to eventually. Why
17 would she lie?

18 Well, first of all, sometimes people just
19 lie for no reason. I had a case not to long ago
20 where a guy called 911 and claimed he had been
21 kidnaped. Drove all over Greenville.

22 MS. HODGE: Your Honor, I'm going to
23 object at this point. This is not into
24 evidence. These are separate cases.

25 THE COURT: I understand. I'm going to

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1 overrule the objection. I will remind the jury
2 that closing arguments from counsel is not to be
3 considered evidence by you. It is simply
4 commentary from the attorneys. You may proceed.

5 **MR. CHAMBERS:** There was all -- police,
6 fire, all kind of people. In this case, there
7 are reasons. First of all, we know that she was
8 a person who was having problems. She talked
9 about the problems she had. She -- if you are
10 using crack, you probably don't want friends and
11 family to know everything. You would try to
12 keep it a secret. We all know people that have
13 these secret lives, things they don't want
14 people to know about. Demons that they struggle
15 against.

16 In this particular case, she would have to
17 worry about her husband knowing that something
18 had gone on. First of all, she couldn't -- or
19 her mother for that matter. We know she took
20 money out of her mother's account. She first
21 tried one account. There was no money in there.
22 Then she tried her mother's account and she got
23 \$80 out of there that she, according to Antwan,
24 used to buy four crack rocks.

25 So that money's gone. Apparently, that was

Closing Argument by Mr. Chambers

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1 the only money that was in that account. So how
2 do you account for that. Then, there's also the
3 possibility that the phone -- remember the phone
4 was in her husband's name. She's got to worry
5 about him worrying where the phone is.

6 And another thing. Remember, her mother
7 was there. Her mother was on the couch. She
8 said my mother never saw anybody. My mother
9 didn't know anybody was there. How could she
10 not? She had to hear voices out in the hallway.
11 According to her, Antwan was right by the door.
12 There was discussion as they were going to the
13 door.

14 Then the other thing is her mother actually
15 leaves the apartment. One of the few times that
16 she gets upset is when she tells her mother to
17 get back in the apartment. So her mother knew
18 that there was a man there. Again, something
19 you probably wouldn't want your husband to find
20 out. So there are reasons for her to lie in this
21 case.

22 When you couple that with the fact that her
23 story doesn't add up and it's full of these
24 inconsistencies and, most importantly, these
25 important facts doesn't make sense. Again, I'm

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1 going to talk about how she's got these two cups
2 in her arm that never drop, that make it back to
3 the car undisturbed. The fact that he's
4 supposed to just patiently wait outside while
5 she goes in, these are all things to think
6 about. It really casts doubt on what she had to
7 tell you. We already know that she will lie
8 based on the response that she gave to my
9 question when I asked her about the shoplifting
10 conviction.

11 Then, you get to Tony Wilkie. Curtis
12 Antonio Wilkie who came in here and took the
13 stand and corroborated what this woman said.
14 Here's how that statement they came to get it in
15 the first place. Unlike Antwan, when he found
16 out the very next day that the police were
17 looking for him and he contacted them and turned
18 himself in, they didn't catch up with Tony
19 Wilkie until he was arrested on other charges.

20 This is a guy that has a whole -- he's
21 looking at a whole lot of trouble. He's got,
22 not only charges in this case, but charges in
23 other cases. This is a guy that's looking to
24 help himself out. Of course, there's some
25 testimony that there are no deals and blah,

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1 blah, blah, but he hadn't been sentenced on
2 anything yet. The only thing this guy can do is
3 help himself. He's dug a big hole with all these
4 other charges.

5 They don't talk to him until the 23rd. He
6 first says that, uh, he's not talking to
7 anybody. When does he talk? He talks after
8 Antwan gives a statement. Now, all he knows is
9 Antwan gave a statement. He doesn't know
10 anything about what Antwan has to say.

11 He's worked and he's looking to cut some
12 kind of deal for himself. We don't have any way
13 of knowing what the detective told him. The
14 detective told you, and this is fair game, they
15 are allowed to do this. When they bring you in
16 and talk to you, they can lie to you about what
17 the evidence in the case is because they are
18 trying to get you to do a statement.

19 The thing that is significant to me, and I
20 wondered about this in just about every case is
21 why not videotape so we can see. It would be a
22 very decent thing to do. They never do it.
23 They have cameras in their police cars that film
24 everything that goes on. Statutes mandate that
25 if you go in and you are arrested for DUI and

1 you go in and take a Breathalyzer that you are
2 on video. The reason is because there are
3 certain steps that the police have to go
4 through. The statute is written to insure that
5 they go through those statements.

6 Yet, something as important as getting a
7 statement from somebody in a case, they don't
8 videotape it. The excuse that I got yesterday
9 was, well, we just don't have that kind of
10 equipment. It's not like it's going to cause
11 thousands upon thousands of dollars. I mean,
12 it's probably the most readily available
13 technology that there is. It would not be very
14 difficult at all.

15 Think how nice that would be if you, as a
16 jury, could sit here and see and hear everything
17 that went on in that interrogation. It's
18 important to judge the demeanor. That's one of
19 the things you get to do on the witness stand.
20 You just to judge demeanor. Okay.

21 So Tony Wilkie finally gives a statement.
22 There's a lot of inconsistencies in his story
23 too. A lot of things that don't make sense.
24 Keep in mind, he says that they were just going
25 over there to see two girls. That's why they

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1 were going over there. Didn't know anything
2 about a robbery, anything that was going to go
3 on. And low and behold, out of the blue, he
4 turns around and Antwan is wearing a blue
5 bandanna and got a gun and is robbing some girl.
6 And Tony is going no, don't do that. Stop.
7 Why? He wants to say something bad about Antwan
8 because he knows that he's trying to help
9 himself out with the police. The police believe
10 that Antwan and he are involved in this. He
11 doesn't want to make himself look too guilty.
12 Okay. And so that's what he tells you.

13 And yet -- and then he says that Antwan
14 even holds a gun on him and tells him to get in
15 the car. And yet, after he goes with them in
16 the car and sit in the back seat and gets out in
17 the railroad tracks, what does he say in his
18 statement? He says I then went back to
19 [REDACTED] looking for Antwan.

20 Now he denied it. He denied it and said I
21 didn't say that, the police officers wrote that
22 in there. I didn't even read that, despite the
23 fact that he initialed and he signed.
24 Investigator Fortner said he had an opportunity
25 to look it over. I don't know. But it's in the

1 statement. And you know it was in the
2 statement. He said he went back looking for it.
3 If somebody had just committed a robbery that I
4 didn't want any part of and held a gun on me,
5 that's the last person I would be looking for.
6 In fact, I would have gone and picked up the
7 phone and called the police and said, hey, let
8 me tell you about what went down. I didn't have
9 anything to do with it.

10 Then he hooks back up with him later over
11 there at, uh, the person who may or may not be
12 his father's house. He disagreed with that. I
13 don't know and it's irrelevant. But he hooked
14 back up with Antwan, this person that he was
15 afraid of. But probably the most significant
16 thing about Mr. Wilkie is this, and this is
17 where demeanor comes into play, and this is
18 where you, as people, you know, we judge people
19 every day on whether they are telling us the
20 truth or not. It's something we have to do.

21 He comes in here. He takes the witness
22 stand. He never, never looked over there at
23 Antwan. I never seen a witness do this. He sat
24 like this the whole time. You remember this.
25 This is how he answered questions.

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1 (Demonstrating). Finally, when the Solicitor
2 asks him do you see Antwan Grayson, he kind of
3 reluctantly looks like this. He says twice no.
4 She says are you sure. Finally, he looks over
5 there and he goes, yeah, he's sitting over there
6 by the dude in the gray suit. Why would you
7 look at the wall? You don't want to face
8 somebody when you are lying about them.
9 Demeanor. It's important. It tells you when
10 somebody is telling the truth and when they are
11 not.

12 Now, I want you to judge all of that
13 against Antwan. Now, Antwan did not have to
14 take the stand. His Honor told you the defense
15 doesn't have anything to prove. Doesn't have to
16 put up any evidence at all. The burden of proof
17 is squarely here.

18 He took the witness stand. He testified.
19 He is, to say the least, sort of a colorful
20 character, the kind of person most of us don't
21 come into contact with. I do, just by nature of
22 what I do, so I know a little bit about it.
23 He's a guy that is on the street. He selling
24 some dope and he's doing some things that most
25 of you probably wouldn't approve of. It's

1 against the law, but he was very honest with you
2 about that.

3 He talked about how they went over there
4 that night to sell dope. The guy wasn't there.
5 They were getting ready to leave. That's when
6 he says that the alleged victim in this case
7 pulled up. She stopped and she inquired. You
8 heard the conversation went back and forth. He
9 even said that she pulled her shirt up. He
10 could see that she didn't have a wire. All
11 right.

12 At that point is when, you know, the
13 transactions started. She's going to go to the
14 ATM. That was perfectly -- that's something
15 that makes sense. Ride with me to the ATM and I
16 will get some money to buy crack from you. \$80
17 for four rocks of crack. Trade the phone for
18 three rocks of crack. Then she wants to issue
19 him the car. He explained to you what an issue
20 car is. He don't want that. That's when she
21 said she'd have sex with him. As he said,
22 that's common. That happens a lot.

23 As you listen to the details of the story
24 as he told it, he's consistent. It adds up.
25 Now, he did tell you that he gave that first

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1 statement and it wasn't completely true. He did
2 say he had consensual sex. But he told you that
3 he didn't to get in trouble. Then his mom told
4 him to tell the truth and he gave a statement
5 before Tony Wilkie gave it. He didn't have any
6 -- it's not like they could get in there and
7 say, although they probably told him. Who knows
8 what they told him? Because again, it wasn't
9 videotaped.

10 The thing is, think about his demeanor as
11 he answered questions. He looked the prosecutor
12 in the eye. He is forthright. She's very good.
13 She went at him hard, as she should. And he
14 held up. He was consistent. You can judge the
15 witnesses and their demeanor and the way that
16 they testified.

17 You know, I know that I'm going to go sit
18 down over there. I'm going to think of a lot of
19 stuff that I wish I had said. It always bothers
20 me. I am Antwan's advocate. Something I take
21 very seriously. This is his day in court. This
22 is the only opportunity that I get to talk to
23 you.

24 The Solicitor, because she has the burden
25 of proof, gets to go last. She gets to respond

1 to everything that I just told you and I don't
2 get to respond. And that bothers me probably
3 more than anything else. But I am confident
4 that y'all observed these witnesses as they
5 testified. You saw how they answered questions.
6 You saw and heard the inconsistencies and you
7 know that there is responsible doubt in this
8 case.

9 It's a natural tendency, if somebody comes
10 into court and says that they have been violated
11 in a way that she says she was and she want to
12 reach out to you. In this case, there's every
13 reason in the world to doubt that. Every reason
14 in the world to doubt that. Again, we know
15 she's not above lying to you. She did that on
16 the witness stand. That's the absolute truth.
17 You saw it. You heard it.

18 We know of all the inconsistencies in her
19 story. We know the things that just don't make
20 sense, again, the details, the McDonald's cups,
21 the bag, the -- where the thing was supposed to
22 have taken place, fairly public place. The fact
23 that he didn't go into the apartment even though
24 he forced you to do all these other things.

25 Things just don't make sense. And those

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1 are the things you have to think about. Those
2 are the things that when you go back there and
3 you want to decide if there's reasonable doubt
4 in this case, that's when you look and yes,
5 there is reasonable doubt in this case. And you
6 think about Tony Wilkie who was supposed to
7 cooperate and just the fact that he couldn't
8 even face the person he was telling lies about.
9 That's what is important in this case, folks.

10 They haven't proven their case beyond a
11 reasonable doubt. When you go back there and
12 deliberate, we'd ask you to keep that in mind.
13 I thank you. Antwan thanks you. We look
14 forward to your decision in this case.

15 MS. HODGE: Mr. Chambers.

16 Your Honor, may it please the Court.

17 THE COURT: Yes, ma'am.

18 MS. HODGE: Ladies and Gentlemen of the
19 jury, it's pretty clear Mr. Chambers and I, the
20 defense and the state, are on totally opposite
21 sides. There are two totally separate factual
22 stories for you to decide. What it comes down
23 to is, you simply decide who's telling you the
24 truth and who is lying about this, this case.
25 That is what you're going to need to reach a

1 verdict. If you believe the State and the
2 State's evidence, then it will be a verdict of
3 guilty on all counts. If you believe the
4 defendant, then it will be a verdict of not
5 guilty on all counts. You have got to reach a
6 verdict and you need some tools to help you
7 reach that verdict.

8 Number one, you need to know what the law
9 is in South Carolina. The judge is going to
10 tell you what the law is because you need to
11 know the laws that have been broken before you
12 can render a verdict. The judge is going to
13 tell you about armed robbery, which is the
14 taking of one's goods without their permission,
15 by force, threat or intimidation with the use of
16 a weapon.

17 He's going to tell you about Criminal
18 Sexual Conduct in the first degree, what we've
19 been calling rape. There's a technical term,
20 Criminal Sexual Conduct first degree. A sexual
21 battery, which is again vaginal intercourse,
22 accomplished by aggravated force which could be
23 physical violence, beating someone to a pulp or
24 by sticking a gun in their face, threatening to
25 kill them and that is forcing them to perform

1 the sex act.

2 Lastly, kidnaping, where somebody's held
3 against their will or moved against their will
4 from one place to another. As I said at the
5 beginning, it's not your traditional time of
6 holding them for ransom and hope somebody pays
7 the ransom and they get to release you. It's
8 simply confining a person against their will,
9 moving them from one place to another, not where
10 they are able to get free.

11 So you need to know the law. Judge
12 Stilwell is going to instruct you on that when I
13 finish. And anything that he says that differs
14 from what I just told you, of course, throw what
15 I said out the window. The judge will tell you
16 what the law is.

17 You need to know the facts. And that is
18 what you've been listening to the last two days.
19 You've been trying to decide the facts, what
20 happened. You're going to take those facts and
21 you're going to plug them into the law. If
22 something, the law, has been broken -- if you
23 determine the facts that a law has been broken,
24 that is when you will find verdicts of guilty.
25 If you determine the law has not been broken in

1 the facts presented, not guilty. Simple enough.

2 So now how do you know what the facts are?

3 That's the real crux of this. Mr. Chambers made
4 some comments towards it and I'm going to echo
5 those things. He told you in the beginning what
6 makes sense. Common sense is your third tool.
7 It's the tool each of you came in here with.

8 All of you have common sense. Each one of us
9 does. That's why we have juries that are made
10 of citizens of the county. We don't have
11 professional jurors who study jury trials and
12 the law and figure out all the nuances of court.
13 No, we have people, normal ordinary people who
14 are sitting here deciding what's the truth,
15 what's really going on here. And they do it
16 from their own personal experiences.

17 So, yes, as Mr. Chambers did say, we have
18 all been lied to. Clearly, we have all been
19 lied to at some point in our life. It could be
20 a teeny-tiny lie. It could be a really big lie.
21 If we're all honest with ourselves, we've
22 probably told a lie before in some way, shape or
23 form. So we know that there are certain things
24 about lying that we can look to or certain
25 characteristics, what people may say to us, what

1 things they may do where we can judge if they
2 are telling the truth or lying.

3 There's three things I'd like you to think
4 about when you are going through the analysis in
5 this case. First thing is content. Thinking
6 about what someone tells you, the content, the
7 story. What did they just say? When you are
8 thinking about the content, say, Does it make
9 sense? Is it rational? Is it logical? Does it
10 flow logically? Is it cohesive? Does it fit
11 together? Is it consistent? Is it consistent,
12 not only in and of itself? What this witness is
13 saying? Is this witness being consistent with
14 every other piece of the puzzle? So as you
15 think about the content of what people are
16 saying, those are things to listen for and look
17 for in your deliberations.

18 The second is demeanor. What someone says
19 is part of it, the content. How they say it is
20 another big piece. Are they saying it with
21 confidence or are they looking around and
22 shuffling around and looking and rolling their
23 eyes or those kinds of things? Their body
24 language and their confidence in what they are
25 saying, also their emotional content, is it

1 appropriate? Are they getting really loud and
2 excited and there's really not a need for that?
3 Those are things for you to judge if someone's
4 telling you the truth or not. Content and
5 demeanor.

6 Finally, and this, I think, is the biggest
7 piece of when you can tell if someone's telling
8 you the truth or lying, motivation. What is
9 motivating this person to tell you what they are
10 telling you? I submit to you the only person in
11 this case that has real motivation about your
12 verdict is the defendant. His life is the only
13 life that's going to be different tomorrow.

14 The victim's life is not going to change.
15 What's been done to her was done to her two
16 years ago. The damage was done. Your verdict
17 today is not changing that for her. She can't
18 walk out of here and go, oh, gosh, that's great.
19 That rape is all over. I'm fine. No, that's
20 done. That's a piece that she's still going to
21 have to deal with. Will it bring some closure?
22 Hopefully. One way or the other, whatever you
23 decide. But it's not going to change her life
24 tomorrow.

25 Law enforcement, anybody in law

1 enforcement's life going to be different
2 tomorrow? No. Nobody's going to get a raise.
3 Nobody's going to get promoted. Nobody's going
4 to get fired. They are just doing their job.
5 Their day will be the same tomorrow. The same
6 thing goes for the ER nurse, the SLED analyst.

7 But who really has motivation here to lie
8 to you to get out of trouble, to escape
9 consequences and responsibilities? The
10 defendant. His life will be very different
11 based on your verdict, either way.

12 So let's think about the key players in
13 this case and let's take a snapshot of them on
14 the day of the incident. You need a totality of
15 circumstances when you are evaluating people.
16 Yes, we're looking at the three things I talked
17 about, but let's go a little bit deeper.

18 The victim in this case, Ms. Byers, on
19 March 16th of 2009. Ms. Byers was married. She
20 had no kids. She was working at Adidas. She
21 was taking care of her elderly mother. She was
22 living in an apartment that she had been living
23 in for over a year. In fact, she had moved from
24 a smaller one to a bigger one to help take care
25 of her mom. She was a good tenant. She didn't

1 cause trouble. She didn't have suspicious
2 activity. She was not your typical person you
3 would expect to be a crack abuser, drug user.
4 She had a lot of stability, a fairly normal calm
5 life. She was educated. She said she has a
6 massage therapy license and a nursing assistant
7 degree. And she had no criminal record.

8 Does that make sense with someone who
9 supposedly is using a bunch of crack cocaine on
10 March 16th of 2009? All those things that she
11 has in her life, does that equate or make sense
12 with what he's saying about her being basically
13 a crack addict, a crackhead? No, it doesn't
14 make sense.

15 How do we know that makes sense? We start
16 looking at other evidence. In this instance,
17 she calls the police immediately after she has
18 been robbed and raped and threatened to be
19 killed. She says pretty much the whole thing
20 happened in her car, the whole crime, it
21 happened in her car.

22 Within 15 minutes or so, the police are
23 here from when, if you hear the Defendant's
24 side, from when they smoked a bunch of crack and
25 had some sex. But within 15 minutes, she's

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1 called the police and the police come. They are
2 on her car. They are in her car. They are
3 processing her car. They tow her car. They
4 process it further. They inspect that thing for
5 evidence.

6 Did they find any evidence of crack use,
7 crack abuse, crack deal? No. No little baggies
8 common to that. No crack pipes. No
9 paraphernalia. Someone that is using as much
10 crack as she supposedly used that night is going
11 to have something left. They are not that
12 meticulous and they are not that clean that they
13 are going to be getting all the stuff out of it
14 in the 15 minutes before the cops get there.

15 Which also brings us to the point, if you
16 are that much of a crack addict, why are you
17 calling the police? That's the last place you
18 want the police is coming to you. That doesn't
19 make any sense.

20 Also, if she supposedly smoked up four,
21 five, six, seven, approximately eight rocks of
22 crack in a 40-minute timeframe, how is she so
23 calm? You heard the 911 call. She is very calm
24 on that. Very calm. If you smoked that much
25 crack, even according to the defendant, you're

1 going to be geeking. You are going to have
2 elevated heart rate. You're going to be
3 paranoid. You're going to be doing all kinds of
4 weird stuff.

5 Everybody that's involved in this case from
6 the prosecution has dealt with people that are
7 known crack abusers. Everybody. Law
8 enforcement on the road, the investigator, even
9 the nurse is like, oh, yes, we get those in the
10 ER and here are the signs. She is calm and
11 collected enough that she can give information.
12 She can tell the police hurry up, get to me,
13 help me. She's not freaking out. If she smoked
14 that much crack, she'd be freaking out and she
15 wouldn't be calling the police to start with.

16 She goes to the ER. The ER nurse sees her.
17 Within an hour and a half, they start the rape
18 exam. The ER nurse has to document any
19 suspected crack usage or drug use or anything.
20 There's a document. Again, no evidence of that.
21 Nothing to corroborate his version of that.

22 The next day, she's got Investigator
23 Fortner in her house. And really not, you can
24 say it is the next day. But if you look at this
25 rape kit, Ms. Byers doesn't get to leave the

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1 hospital until 4:00 a.m. or at least that's when
2 this kit left the hospital. Deputy Reece stated
3 that he took the kit and he took her and her
4 mother back to the apartment. She's probably
5 not home until 4:30 or so.

6 You've got Investigator Fortner at her
7 house by 10:00 a.m. Nothing in her house looked
8 odd or out of the ordinary or looked like anyone
9 that may be a drug abuser. She's got a husband
10 there and her elderly mother. It just makes no
11 sense. Makes no sense whatsoever. And again;
12 the fact that she can be calm and she can be
13 rational does not equate with a person that has
14 just ingested that much crack cocaine. So
15 that's all her on March the 16th of 2009.

16 Now, Mr. Chambers wants to make a really
17 big deal about her shoplifting. Yeah, that's
18 wrong. She shoplifted and that is wrong. That
19 is against the law. She tried to tell you,
20 yeah, I took the rap for it. The girl did it
21 too but I took the rap for it. She didn't say I
22 didn't shoplift, I didn't do that. But what
23 does she tell you about that incident?

24 I then asked her what happened to you after
25 this? Tell us about what has happened after

1 this rape and this robbery. Let's see. I
2 couldn't go to work anymore. I went through a
3 serious depression. I couldn't take care of my
4 mom anymore. My family had to come and get her.
5 My marriage split up. Yeah, I started hanging
6 around some people. I started doing some stuff
7 I shouldn't have been doing. Yeah, I did that
8 shoplifting. And then it culminated into her
9 trying to kill herself.

10 Now, is that because of one crack deal?
11 Does that make sense? Or is that a very real
12 symptom of Traumatic Stress Disorder, not being
13 able to cope with something horrible that has
14 happened to you? Your life could take a serious
15 turn down. And that's exactly what happened
16 with Crystal. This shoplifting was in January
17 of 2010. We're talking about eight months or
18 so, nine months after this case. Not before.

19 Let's look at the defendant back on March
20 the 16th. We've got the two stories, right?
21 We've only got the victim and we've only got the
22 Defendant's story. The defendant, March the
23 16th of 2009, he's 19 years old. He was
24 actually a convicted felon. He'd been a
25 convicted felon since he was 18 years old. And

1 he's on probation, he tells you. That's the
2 opportunity to get yourself together. That's a
3 second chance to do right. That's what
4 probation is for.

5 What's he telling you he's doing while he's
6 on probation? He is selling drugs. And not
7 just selling drugs, he's telling you that he is
8 selling 250 rocks of crack at a time. That's
9 \$5000 street value of crack. That's trafficking
10 crack cocaine. That's not just selling some
11 drugs here and there. He's admitting that.
12 That's what he's doing on probation.

13 He's also telling you he is fine -- back on
14 that date in time, he's fine with exploiting
15 women who had drug problems. That's what we do.
16 You can't pay for it, then we work it out. He's
17 fine with that. That's not a problem to have
18 sex with somebody you don't know for some drugs.
19 It doesn't matter.

20 Mr. Chambers wants to point out that the
21 victim lied. Let's talk about someone who lied,
22 who told you they lied. The defendant told you
23 he gave statement number one that he says is a
24 lie. Why is he going to say that? Why didn't
25 he just stick with statement number one?

1 Statement number one seemed fine. Look, I just
2 saw this girl. She looked cute. We talked and
3 went and had sex.

4 Basically, he said he stole her phone, but
5 he kind of backs off of that one. At that point,
6 all he knows is that the police have been called
7 that a woman was robbed and raped and her phone
8 was stolen. That's what he knows because his
9 mama and his brother have said that because
10 brother got caught with the phone. That's all he
11 knows. He doesn't know the details of what she
12 had said. So he comes up with this version of
13 how the phone got to the brother. We had
14 consensual sex.

15 Probably thought enough -- in this day and
16 age, you know, DNA is pretty popular. You just
17 watch a little bit of television and you pretty
18 much figure out you're going to get some DNA on
19 something, at least we hope to. So yeah, we had
20 consensual sex. I got this phone.

21 But after he gives this statement, the
22 first statement on the 17th and he's arrested,
23 the investigator says, uh, sorry, man, that's
24 not what the victim says. What about the ATM
25 video? How you going to explain being on the

1 ATM video? Cause clearly in his statement, he
2 didn't know the officer knew that where he says
3 I never made her go to the bank and withdraw any
4 money. Well, you're on video.

5 So he goes into detention. At that point,
6 he's realizing this story is not going to fly.
7 There are a few other pieces of evidence
8 floating around out there that my just seeing
9 her at the Dodger's isn't going to cover. So he
10 calls back the next day. He wants to give,
11 after 24 hours of thinking about how am I going
12 to explain all this stuff, how can I explain it?
13 Well, the best way to explain it is make it a
14 crack deal, which is statement number two.

15 So he's had time to think about it. That's
16 what he comes up with. How does he come up with
17 a crack deal that sounds pretty convincing? It
18 does. It sounds pretty convincing. Because
19 he's been engaged in selling crack. He has been
20 engaged in this very activity some other time.
21 He's just going to plug Crystal Byers into that.
22 Simply enough. That can account for her going
23 to get money and account for her wanting to
24 trade her phone. All that seems pretty logical
25 in a crack deal. Cause you know what? That

1 kind of stuff happens unfortunately in drug
2 deals.

3 What is odd about those, I'm not sure that
4 most people that want to buy crack are going to
5 go up to the dealer with no money on them, they
6 got nothing and just hope that the dealer is
7 going to come with them, ride with them to the
8 bank and get the money. It seems like a sketchy
9 proposition, even for a crack dealer. So that
10 doesn't make sense.

11 But it's necessary to explain how his, sort
12 of, face is on these pictures. He wants to tell
13 you that this is a regular old going to the
14 bank, no big deal. I'm not trying to hide or do
15 anything wrong. You'll have these pictures back
16 there.

17 Unfortunately, the video, as we eventually
18 saw after many attempts is not that great. This
19 was when the bank had the 12 cameras and they
20 overlap each other. You're free to watch again.
21 See it as many times as you need to. From the
22 stills, you're probably going to get the gist of
23 it. This is someone covered. This is not me
24 riding to the bank with Crystal. She's punching
25 it in. We're talking and I'm even watching her

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1 punch it in.

2 All of us have been to a bank machine. All
3 of us have been the passenger probably while
4 someone is at a bank machine. We're not doing
5 this bit. And we're not down here. We're
6 probably talking and watching. We just do that.
7 It's just kind of a natural reaction. So this
8 is pretty suspicious. Pretty suspicious.

9 So now, we are looking at the defendant
10 still at this timeframe of March the 16th of
11 '09. He's convicted of a felony. He's telling
12 you he's dealing drugs currently. He's telling
13 you he lied to Mike Fortner, straight up lied.
14 Yep, lied about that, lied about that, lied
15 about that, lied about that.

16 One of the other interesting things I
17 thought that he said in his testimony was about
18 hitting a lick. That's come up several times
19 now. People commonly refer to it in the
20 Greenville area -- I mean, California could be
21 different. New York could be different. But in
22 Greenville, our Investigators, who have been
23 doing this for 12 years say no, that's a
24 robbery. That's when people are going to do a
25 robbery or done a robbery. They call it hitting

1 a lick.

2 The defendant has got to figure out a way
3 to change that. He says, when I do a robbery, I
4 call it doing a caper. So what's interesting
5 about that comment? He says when he does a
6 robbery. So he does robberies. So when he does
7 it, he calls it a caper. I would think that
8 Investigator Fortner, being a law enforcement
9 officer, would need to know what the lingo is on
10 the street right now. We can't be operating in
11 language from 10 years ago or the police will be
12 behind constantly. He's going to know. They
13 have intelligence. They have people telling
14 them things. He's going to know what a robbery
15 is called. And it's called hitting a lick.

16 Also about that, the Defendant's statement
17 about the crack deal is that his words, he
18 called it selling work. So you have drug deals
19 called selling work. You have robberies called
20 hitting a lick. This is the Defendant's own
21 words. His choice. He can choose what to call
22 this drug deal. He called it selling work. Why
23 did he call it that? Is it because he had no
24 idea that his brother had said he hit a lick so
25 he didn't know he needed to change that up?

1 He called it what it's really called.

2 Work. If he wanted and it's so prevalent to
3 have drug deals getting licks, he would have
4 said I hit a lick. I sold her drugs. That's
5 not what he did. He called it what it was.
6 Work. When does this whole thing come into
7 question? Later, much later when he finds out
8 what his brother said. Basically ratted on him.

9 So who's versions now are corroborated?
10 We've got our snapshot of the victim. We've got
11 our snapshot of the defendant. So we put that
12 in our processing. Let's look at corroboration.
13 Really, we need other things to help us decide.
14 We can't just go by one person's word or the
15 other person's word.

16 So we look at corroboration. Is the
17 victim's recounting of events corroborated? I
18 submit to you it is corroborated by independent
19 evidence. She says she's forced to go to the
20 ATM. We know that. We have ATM receipts with
21 exact times, different accounts. And she's very
22 specific. It's not, uh, he made me go to the
23 ATM, I got some money out. She was very
24 specific. I had to use two different cards. I
25 was trying to get as much as I could. I didn't

1 know what I had in there.

2 So you have these receipts. Two of them
3 are inquiries. The other one is the actual
4 withdrawal. She keeps -- I mean, they're in her
5 car. She doesn't try to get rid of them or
6 anything. She keeps them. I should say she
7 keeps them, they are just shoved into her car.
8 They are there because she called the police
9 immediately afterwards.

10 Again, you have your 911 call. Why call
11 911 if you are a criminal? You don't want to do
12 that. Using drugs is illegal. You're not
13 supposed to do that. So why would you call the
14 police to come to you in this?

15 Then we have within two hours to
16 corroborate her story, she goes and endures a
17 sexual assault exam. Now, this is not your
18 regular yearly check up that ladies have to go
19 to. This is extremely invasive. Every orifice
20 in your body is scraped and swabbed and looked
21 at and photographed and colonoscoped and
22 documented. This is not fun. This is not
23 something you do just because you don't want
24 your husband to know you took \$80 out the bank.
25 This is serious.

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1 And in here, they collected the DNA. This
2 nurse asked all of the pertinent questions and
3 she has to humiliatingly and embarrassingly say
4 everything that happened to her and then be
5 swabbed for it. And she says, yes, he did open
6 mouth kiss on whatever, on my left nipple, so
7 swab it. Got it.

8 How many people in the world? I forgot what
9 she said. But to have a combination of victim's
10 DNA and the Defendant's DNA in this swab would
11 take 61 times the world's population to find
12 another match. That's a lot. That's never
13 going to happen. It's him and he knows it's
14 him. Got to figure out how he's going to
15 explain that it's him.

16 It's corroborated also -- her story also is
17 corroborated by the fact there isn't anything
18 from the vaginal swabs because she says yes, he
19 had a condom. So we wouldn't think to find
20 anything in those. It was just where he didn't
21 think that we would look. On the breast.

22 Now, her story is also corroborated by the
23 Defendant's brother unwittingly. I submit to
24 you the Defendant's brother, I'm sure, never
25 intended to have the defendant be in the kind of

1 situation he's in now. But when you are faced
2 with -- you are the one looking at this charge
3 because you are in possession of woman's phone
4 who had just been robbed and raped, you might
5 want to come clean about how you got that before
6 you find yourself in a situation.

7 So he says, hey, I'm not down with that.
8 That was not me. I got this phone from my
9 brother. I got it within 10 to 15 minutes of
10 him coming back from doing this whatever he was
11 doing. He had this woman's phone and I wanted
12 it.

13 They both really wanted this phone. This
14 must be a really nice phone. They really wanted
15 this phone. The defendant really wanted it. He
16 said that in his testimony. I wanted that
17 phone. I thought that was odd. His demeanor
18 about the phone was very strange. He really
19 wanted that phone. He got it. So did his
20 brother.

21 Then there's testimony about the phone
22 getting sold for \$60, \$50 or some cigarettes.
23 That's all Wilkie -- Wilkins and the defendant.
24 So they don't even have details straight.
25 However it ends up, brother has the phone.

1 Brother's been told you need to go talk to the
2 police cause they are looking at you. He says
3 my brother told me he hit a lick. I got that
4 phone and I wanted that phone. He didn't say he
5 was going to get a drug deal. He said he hit a
6 lick. But I submit the defendant didn't know
7 that until after the fact, until much later.
8 That's where the whole thing comes about trying
9 to change what that means.

10 Also about that time, that's how the
11 witness' story is corroborated is that this is
12 phone and she says there are two perpetrators
13 and Bryan Wilkins says yeah, it was my brother
14 and Tony. My brother and Tony are the ones that
15 were doing this and have this phone. He
16 corroborates two people. She says two people.
17 He corroborates two people.

18 The defendant, even though he is giving
19 totally different versions, he does corroborate
20 what happens in this case. He does corroborate
21 some details that only the victim would know and
22 only defendants would know, perpetrators would
23 know, specifically, pillows in the car. If he
24 wasn't there, how would he know that. He knows
25 these things. Even though he's thinking he's

1 doing himself a favor, he's really corroborating
2 her story. He's the one. He's in her car. He
3 forced intercourse on her. He doesn't say
4 forced. He had sexual intercourse with her.
5 She said forced.

6 He also noticed that she has got an elderly
7 mom. Corroborates her story. Also knows that
8 her husband is at McDonald's. Working at
9 McDonald's. How would he know that if she
10 didn't tell him. So he is corroborating her
11 version of events whether he wants to or not.

12 But I think what really is important in
13 this case and what is going to help you look at
14 things, uh, process and determine your verdict
15 is what the co-Defendant says, Mr. Wilkie,
16 Curtis Wilkie. He gives a statement after he is
17 arrested. First, he was like, I don't know
18 anything about anything. I don't know. Denial.

19 The next day, the investigator brings it
20 back out. He was like, All right, look, the co-
21 Defendant gave a statement. Tell me what you
22 know. We know this lady was raped or robbed or
23 whatever. He doesn't know anything other than
24 that. Investigator Fortner told you we don't
25 tell details because we need to know. We need

1 to make sure we got the right guy. We need to
2 know that that person was involved or knows the
3 person that is involved. We don't go telling
4 everything and then go, okay, we'll just arrest
5 him.

6 Now, we want to be sure. We, prosecution,
7 law enforcement, aren't sure that person's still
8 walking around outside robbing and raping
9 people, so we need to be sure about what we got
10 and what evidence we have and who we are
11 charging. Okay. So he's getting a statement
12 from Mr. Wilkie. Mr. Wilkie again has details
13 only a perpetrator, co-conspirator, co-Defendant
14 could know. The main thing of interest in Mr.
15 Wilkie's statement is -- well, first of all, he
16 doesn't say it's a drug deal. He says it's a
17 robbery. He doesn't know about any rape because
18 he gets out of the car first.

19 But the main thing is he says that the
20 defendant put the gun in her mouth. Okay. Not
21 came up to her and said give me your money. She
22 says put it in my mouth. That's pretty close,
23 pretty personal, pretty specific, pretty
24 detailed. Wilkie says he put it in her mouth.
25 Not her face, not close, in. How would he know

1 that? He wouldn't know that unless he was there
2 watching it go down.

3 Now, I'm going to tell you, he is trying to
4 relieve himself of some responsibility. No, I
5 didn't say shoot her. No, I wasn't down with
6 the robbery. No, I didn't know. Okay. The
7 State doesn't believe that. That's what he's
8 saying at least the part of the robbery is it
9 was, in fact, a robbery. There was a gun. It
10 was in this woman's mouth. Yeah, he's trying to
11 escape some liability. Absolutely. But he's
12 stuck because he's put himself in a robbery.

13 He also knows the thing about the woman
14 taking her husband to McDonald's. He was there.
15 He heard that. He knows about the ATM card
16 where she has to back up and get it. Very
17 detailed. He knows that. The whole time, he's
18 telling you, no, that gun was out. It was in
19 the passenger's seat. It was on her. I was in
20 the back seat. He knows the defendant grabbed
21 the woman's breast. He knows that it started
22 right when he wanted to get out.

23 The other interesting detail that he knows
24 that only a person involved in this would know
25 is that the train tracks were coming down. If

1 he wasn't part of this and down with this and
2 seeing all this and participating in all this,
3 that's an odd detail to know, that the train
4 tracks were coming down. And the victim said
5 that the train tracks were coming down, I had to
6 scoot around. So her version of events is
7 corroborated by many independent things.

8 Is the Defendant's version of events
9 corroborated? Well, he has created his story to
10 fit the evidence, yes. We will give him that.
11 He is on that video. He did have that phone.
12 His DNA is in here. I guess you could say his
13 story is corroborated in a certain way. But his
14 co-Defendant, his friend, the guy he's been
15 chilling with and hanging with and selling drugs
16 with didn't say what he said. In fact, denied.
17 No, this is not about drugs. The one thing that
18 could corroborate the Defendant's story is his
19 co-Defendant, and he didn't.

20 It's not that he didn't for the first time
21 in court. It's not that he didn't out of hopes
22 that something good is going to happen to him.
23 He did it the day after he was arrested. If he
24 wanted to help his friend out, he would have
25 either stayed calm or quiet and not said

1 anything or he would have gone probably the drug
2 deal route as well. But he did not do that.

3 He told what really happened, what he knew
4 of that really happened. He had no animosity
5 toward the defendant. He had no ill-will. They
6 hadn't fallen out. There's no reason he needs
7 to come in here and lie on the defendant. They
8 were cool. They were fine. Why would he not
9 just tell what the Defendant's story was? Cause
10 it wasn't true.

11 Even Mr. Wilkie, who's got a lot of charges
12 on him and looking at a lot of time has some
13 kind of code in and of himself. He has no
14 Criminal Sexual Conduct charges. None. He has
15 no assault on women charges. He even said to
16 the police officer that that was wrong. He
17 shouldn't have raped that woman. That was
18 wrong. He even had a moral code. As bad as he
19 seems to be, he knew that was wrong.

20 The defendant tries to get his story
21 corroborated with Mr. Wilkie. He passes him
22 letters later saying, look, this is the story I
23 told. You need to tell that story. As soon as
24 he gets those letters, Wilkie calls Mike
25 Fortner. He doesn't do it before court. He's

1 not doing it before he's going to get sentenced.
2 He's doing it right way. The defendant is
3 trying and it's just not working. Even his co-
4 Defendant is not going to do that for him. That
5 was really wrong.

6 We talked about Mr. Wilkins, the brother of
7 the defendant. Clearly, he supports his
8 brother. He does not want his brother to get
9 into trouble. That's clear. The problem is he
10 can't unring the bell. He already said he hit a
11 lick and that's where I got that phone. So this
12 is all backpedaling. He come into court and do
13 the best he can for his brother. You know, we
14 all can understand that, I'm sure, to a certain
15 degree. The family is trying to help. He's
16 changing his version of events to say that no,
17 we don't call hitting a -- robbery is hitting a
18 lick. We call that doing drugs. I'll let you
19 take that into consideration and think about
20 that.

21 As well as the co-Defendant, we talked
22 about Mr. Wilkins and now Mr. Wilkie. It sounds
23 so familiar. Again, he only corroborates the
24 State's evidence. He only corroborates Crystal
25 Byers. He completely denies and discounts the

1 Defendant's version of events. So take that
2 into consideration also as you are reaching a
3 verdict.

4 Finally, law enforcement, the last piece of
5 this whole thing. Law enforcement took this
6 case very seriously. They deal with people that
7 are drug addicts and have drug problems on a
8 daily basis. A lot of calls for service that
9 involve things along those lines. They came to
10 this call and they took Crystal Byers seriously
11 because she was a victim. She was robbed and
12 raped. And they put out five deputies, at
13 least, to her house to patrol, to search. They
14 put out a K-9 unit to track. That's an extra
15 deputy and a dog. They had EMS come, take her
16 to the hospital, utilize the hospital services.

17 They had a forensic officer come out to the
18 scene, process her car, try and collect
19 evidence. Had a second forensic officer trying
20 to process some more, get more evidence. Law
21 enforcement took this case very seriously.
22 Legitimate. Then collect more scientific
23 evidence and sent it to our State Law
24 Enforcement Division. This takes time, money,
25 resources because they took this case seriously

1 that Crystal Byers was, in fact, robbed, raped
2 and kidnaped.

3 As you think about each piece of this
4 puzzle, each witness, each piece of evidence, go
5 back to just common sense. I know that if you
6 will apply your common sense to this case, you
7 will find the State's evidence is consistent
8 within itself, with the independent evidence.
9 You will find that it makes sense, is logical.
10 You will find that the witness' demeanor was
11 appropriate, that the responses were
12 straightforward, that they didn't hide anything
13 or do anything to make you really question.

14 I know Mr. Chambers talked about that was a
15 nice production sitting up there. If you will
16 recall, use your memory, I was standing right
17 next to Mr. Wilkie because I could hardly hear
18 him. Tried to get him to speak in the
19 microphone and also showing him the map. So the
20 entire time, his testimony is at the map. It's
21 not in avoidance of the defendant. In fact,
22 when he was asked to identify the defendant, the
23 Court Reporter slid back a little bit after my
24 second request and then he said, oh, yeah,
25 that's him. So possibly, he couldn't see. He's

1 also not a very big guy. If you noticed, he
2 wasn't a real tall guy or big guy.

3 So demeanor of most of the witnesses. That
4 goes into play. And also motivation. You've
5 got to come back to the motivation. Who has
6 something to gain? Who has something to lose to
7 tell you the stories that they are telling you?

8 Now, the defense attorney, Mr. Chambers,
9 great defense attorney. In fact, he was a
10 prosecutor. When I was here, we were
11 prosecutors -- or when he was here, we were
12 prosecutors together. Now, his job is as
13 defense attorney and as he said, an advocate for
14 the defendant, the defendant.

15 The State is an advocate for the State.
16 What does that mean? It is people, the people
17 that live in the state, the state of South
18 Carolina. The Solicitor's office represents the
19 citizens of Greenville county, not Crystal
20 Byers. I am not Crystal Byers' lawyer. I am a
21 lawyer for the people of Greenville county. And
22 those people have rights.

23 The defendants have clear rights. We want
24 no one's rights violated. We do not want to
25 charge anyone if we don't have probable cause.

1 We don't want to convict anyone if we don't have
2 proof beyond a reasonable doubt. Nobody wants
3 that to happen. The State doesn't want that to
4 happen. We have rights as people. Crystal
5 Byers had rights, has rights too.

6 The freedom that we all enjoy, Amendment
7 number 1. She should be free and should have
8 been free from anyone infringing on her personal
9 space, oppressing her, controlling her,
10 attacking her, sexually assaulting her. We, as
11 individuals, have the right to be free from
12 that. That's why we enact laws, why we elect
13 legislatures to put laws in place, so we, the
14 people, can feel safe. When those laws have
15 been broken, there are consequences that we, the
16 people, said we want consequences for. It's in
17 the law. The State has the job of bringing back
18 to the people the charges and the evidence to
19 look at the law, to see if the law has been
20 broken and hold those violators accountable.

21 That is your role. The defense attorney's
22 role is to get you off the track. That's his
23 job. Look away from the evidence. Look at the
24 shiny something over here. Get distracted.
25 Maybe you won't come back to the obvious. Play

1 on semantics of statements. So, oh, well, if
2 she left out a detail the first time she said
3 something and then she said it the second time,
4 we can just take it, but that didn't happen.

5 Let's just do one small exercise and I'm
6 going to let you go. If you were talking to
7 your fellow jurors and they say what did you do
8 for dinner last night, and you say, oh, I went
9 and got a chicken salad. And then two seconds
10 or seconds later, somebody else comes up and so
11 what did you say you did for dinner and you say,
12 oh, I did Chick-fil-a and I got a chicken salad.
13 Now, wait a minute. You didn't say Chick-fil-a
14 the first time. You must be lying.

15 When a third person comes up to you and
16 says, oh, I went to wherever, I went to
17 McDonald's last night and you say, oh, yeah,
18 well, I went to Chick-fil-a and got a chicken
19 salad. I love the way they give their little
20 sunflower seeds and I like their dressing.

21 Wait a minute. You didn't say that the
22 first time. You only said you had a chicken
23 salad. The second time, you say I got a chicken
24 salad from Chick-fil-a. Now, you're going to
25 say it's got that special stuff on it? That

1 didn't happen. No, you didn't. That's a lie.
2 You're lying. No. No, you're not.

3 That's where your common sense comes in
4 when you evaluate this case. What that was and
5 what that is is a ruse to get you to look away.
6 You have to determine are you going to look
7 away. There are things you definitely need to
8 look at. You need to be firmly convinced of the
9 Defendant's guilt if you find him guilty. The
10 State wants that. The state feels like there's
11 enough evidence for you to be firmly convinced
12 of the Defendant's guilt.

13 You keep looking over there. While you're
14 looking over there, does it feel like you are
15 seeking the truth? Cause that's what your job
16 is, to return a verdict. Verdict comes from the
17 Latin word "veredictum", and that word means to
18 speak the truth. Your verdict needs to speak
19 the truth in this case. I feel very confident
20 that you will, based on the evidence before you,
21 be firmly convinced the defendant is guilty of
22 these charges. Thank you.

23 **THE COURT:** All right. Ladies and
24 Gentlemen, next, I'm going to give you a charge
25 on the law. But I want to take a short break

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1 before we start that. So let's take a break for
2 about five or ten minutes. We'll come back in
3 and give you charge on the law. Please don't
4 discuss it.

5 (WHEREUPON, the jury exits at approximately
6 11:00 a.m.)

7 THE COURT: All right. Ladies and
8 Gentlemen, we're in recess for a few minutes.
9 (WHEREUPON, a recess is taken.)

10 THE COURT: All right. You can go ahead
11 and bring them in.

12 (WHEREUPON, the jury enters at approximately
13 11:18 a.m.)

14 THE COURT: The last thing we're going to do
15 is I'm going to give you a charge on the law.
16 And I apologize to you in advance. Some of this
17 I'm going to read to you. Not very much of it,
18 but some of it I need to read to you. And I
19 apologize for that because I don't like to read
20 things because first of all that's boring.
21 Second of all, I suggest to you that either I'm
22 not smart enough to understand the law or I'm
23 not smart enough to memorize it. And some
24 people probably argue that both are true.

25 But in this case, it's because this is an

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1 important case. It's a disservice to y'all,
2 it's a disservice to the parties in this case
3 and a lack of respect for all of y'all
4 collectively if I just wing it. So it's
5 important for me that when I define a certain
6 point of law to you, that I do it with as much
7 precision as possible. So you will see when I
8 begin to read some of these things. I apologize
9 to you in advance for that.

10 Now, I am going to read the law to you. As
11 I told you at the beginning of the case, I'm the
12 judge of the law which means that you have to
13 accept the law as I give it to you. Under your
14 oath that you took at the very beginning of this
15 case, you swore to accept the law as I give it
16 to you. What that means is that if you have any
17 preconceived notions of what the law is or if
18 you have any ideas of what you think the law may
19 be, I'm going to ask you now and instruct you
20 now to disregard that, because the law that I
21 give to you will be the law that you will apply
22 to the facts in this case.

23 Now, of course, you are the finders of fact
24 and you will determine what the facts are in
25 this case. You will look at all of the evidence

1 that's been presented and decide what those
2 facts are and apply the law to those facts as I
3 give it to you.

4 Now, of course, you know that in this case,
5 there are four counts. There are three
6 indictments and there are four counts. Now,
7 what you need to know is that each and every one
8 of those counts is a separate and distinct count
9 and a separate and distinct matter for you to
10 determine. What that means is the State is
11 required to prove beyond a reasonable doubt each
12 and every element of each and every crime. So
13 when I say that, what I'm telling you is that if
14 you find the defendant guilty or not guilty on
15 one of the counts, that does not mean that by
16 extension you must find him guilty or not guilty
17 on the rest of the counts. That is, you can
18 find him guilty or not guilty of two or three
19 and then find him not guilty or guilty of the
20 remaining charges. It's not an all for one
21 proposition. You will look at the evidence and
22 determine whether, in fact, if the State has met
23 its burden of proving each and every element
24 beyond a reasonable doubt.

25 Now, I'll remind you again that the charges

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1 that have been levied in the indictments are
2 just that, they are charges. They are
3 allegations. The State must meet the burden of
4 proving the defendant guilty beyond a reasonable
5 doubt.

6 This is worth restating to you and I know
7 I've said it before and I apologize for
8 restating it to you, but in the United States of
9 America, under our Constitution and under the
10 Constitution of our state, each and every
11 criminal defendant is presumed innocent until
12 proven guilty beyond a reasonable doubt. That
13 defendant, that person, he retains that
14 presumption of innocence until such time as you
15 determine that the State has met its burden of
16 proving each and every element of the offenses
17 beyond a reasonable doubt.

18 Now, the reason I've very careful about
19 pointing that out to you is to make sure you
20 understand and recognize that that is not just a
21 legal theory. It is a very important right.
22 You must take it in consideration in your
23 deliberations.

24 Now, Ladies and Gentlemen, we banded
25 around this term of reasonable doubt. It's

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1 important for me to define that for you before
2 you even get started. The reason -- proof
3 beyond a reasonable doubt is that proof that
4 leaves you firmly convinced of the Defendant's
5 guilt. There are very few things in this world
6 that we can know to an absolute certainty. In
7 criminal cases, the law doesn't require proof
8 that overcomes every single possible doubt.

9 If, based on your consideration of the
10 evidence, you are firmly convinced that the
11 defendant is guilty of the crime charged, you
12 must find the defendant guilty. If, on the
13 other hand, you think there is a real
14 possibility that the defendant is not guilty,
15 you must give the defendant the benefit of the
16 doubt and find him not guilty.

17 Ladies and Gentlemen, you've heard evidence
18 in this case. Evidence ordinarily takes one of
19 two forms generally. That is direct evidence
20 and circumstantial evidence. Direct evidence is
21 that type of evidence which immediately
22 establishes the fact to be proven, such as an
23 eyewitness. Circumstantial evidence by
24 distinction is evidence that is proven by a set
25 of collateral facts which then prove the main

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1 fact to be proven, a chain of facts which then
2 prove the main fact.

3 Now, I tell you those definitions. They
4 may or may not mean anything to you. It seems
5 to me that they are always instructive and
6 helpful if I give you an example to give you a
7 distinction between direct and circumstantial
8 evidence. Let's say that one more -- excuse me,
9 one evening you go to sleep at your house. As
10 you go into your bedroom, you look out your
11 front window or your front door and you see your
12 front yard or your parking lot and there's no
13 precipitation out. It's just bare.

14 And the next morning, you wake up and
15 you're walking past that same window, that same
16 door and you see that there is a blanket of snow
17 on your front lawn or in your parking lot. And
18 you also notice that there are footsteps which
19 lead to your front door and then lead away.

20 Well, direct evidence -- you would have
21 direct evidence that it would have snowed that
22 night or early that morning because you got the
23 snow. You can see it. You can pick it up. You
24 can feel it. You can touch it. You can sense
25 it. So that's direct evidence that it snowed

1 that night.

2 But you've also got circumstantial evidence
3 that sometime either that evening or that
4 morning, somebody came to your front door and
5 left. Now you don't see that person, you didn't
6 see that person. You can't see them. You can't
7 touch them, but you see the footsteps which lead
8 to the door and away. So you can deduce from
9 those collateral facts that someone came to your
10 door and left. That's circumstantial evidence.

11 Now, the law doesn't prefer direct evidence
12 over circumstantial evidence or circumstantial
13 evidence over direct evidence. It gives no
14 preference whatsoever. You determine what
15 weight the evidence has.

16 You will also determine the credibility of
17 witnesses. In deducing the facts in your
18 analysis of the case, you're going to determine
19 who is credible and who wasn't credible. In
20 doing that, you have to take the evidence as you
21 saw it presented in trial. And that is, you
22 look at the demeanor, you look at the
23 disposition, you look at the body language, you
24 look at the facial expressions of the witnesses
25 who testified. You determine whether they have

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1 a prejudice or a bias. You determine whether
2 they have something to gain, whether they have
3 something to lose by and through their
4 testimony. You make a decision as to whether
5 that witness was credible or not. That's your
6 sole determination.

7 Understand that when you are determining
8 either the credibility of a witness' statement
9 or the weight of evidence, that you can take it
10 in parts. What I mean when I say that is you
11 can decide if one part of a witness' testimony
12 is very credible and give it a substantial
13 amount of weight in your determination. Then,
14 you can also find that a different part of the
15 witness' testimony is not very credible and that
16 you shouldn't give it much weight. That's all
17 within your province. You decide what weight to
18 put on that evidence.

19 You also heard some expert witnesses -- one
20 expert witness. And I charged you while we were
21 going, uh, going through the testimony. An
22 expert witness is qualified as such because of
23 his or her education, experience, expertise in a
24 certain field. An expert witness is offered to
25 help you understand issues that may come up or

1 analyze evidence that may be presented better.
2 But expert testimony is just like any other bit
3 of evidence that you receive. You decide
4 whether it's credible. You decide whether it's
5 important. You decide whether it's valuable
6 just like any other piece of testimony.

7 Now, Ladies and Gentlemen, you saw any
8 number of witnesses in this case. You noted,
9 I'm sure, that there was suggestion in questions
10 bearing upon prior records of witnesses. I just
11 wanted to make sure you knew that a prior record
12 doesn't affect the ability of a witness to
13 testify in a case. He or she is still competent
14 to testify. The past record is introduced for
15 purposes of impeachment. That is, it can affect
16 the believability of that witness. You will
17 consider prior record only for purposes of
18 determining that witness' believability and that
19 witness' credibility.

20 Now, Ladies and Gentlemen, also the
21 defendant in this case took the stand and
22 testified. And there was evidence in the record
23 of a prior record of the defendant. I will
24 charge you just the same. That prior record can
25 only be taken into consideration with respect to

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1 his believability or his credibility. That
2 evidence must not be considered as any evidence
3 of the Defendant's guilt in this particular
4 case. It only goes to credibility.

5 Now, I'm going to define for you the
6 specific charges that are before you today. And
7 some of this, you're going to see I'm going to
8 read. This is the part where I want to be very
9 precise about it. The first charge against the
10 defendant is Armed Robbery.

11 The State must first prove beyond a
12 reasonable doubt that the defendant took
13 personal property from the person or presence of
14 another person. Property is in the presence of
15 a person if it is within the person's reach,
16 inspection, observation or control so that the
17 person could, if not overcome with violence or
18 prevented by fear, keep possession of the
19 property.

20 The State must also prove beyond a
21 reasonable doubt that the defendant carried the
22 property away intending to permanently deprive
23 the owner of the property and to keep the
24 property for the Defendant's own use. The
25 slightest removal of the property or the

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1. complete possession of the property even for an
2. instant, by the defendant, is sufficient to show
3. a taking and carrying away of the property. The
4. taking and carrying away of the property must
5. have been done by violence or by putting the
6. owner of the property in fear of violence.

7. Finally, the State must prove beyond a
8. reasonable doubt that the defendant was armed
9. with a deadly weapon during the robbery. A
10. deadly weapon is an article, instrument or
11. substance which is likely to cause death or
12. great bodily harm. Whether an instrument has
13. been used as a deadly weapon depends on the
14. facts and circumstances of each case.

15. Ladies and Gentlemen, the second charge
16. against the defendant is Criminal Sexual Conduct
17. first degree. The first element which the State
18. must prove beyond a reasonable doubt is that the
19. defendant engaged in a sexual battery with the
20. victim. A sexual battery is sexual intercourse
21. whether vaginal, anal or oral or any intrusion,
22. however slight of any part of a person's body
23. any object into the genital or anal openings
24. another person's body except when the intrusion
25. is accomplished for medically recognized

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1 treatment or diagnostic purposes.

2 If you find that the State has not shown
3 beyond a reasonable doubt that a sexual battery
4 has occurred, you would stop deliberating. Your
5 verdict would have to be not guilty. If you
6 find that a sexual battery did occur, you must
7 then decide whether the State has proven beyond
8 a reasonable doubt that the defendant used
9 aggravated force to accomplish that sexual
10 battery.

11 Aggravated force means the use of physical
12 force or physical violence of a high and
13 aggravated nature to overcome the victim. This
14 includes the threat of using a deadly weapon.
15 The victim submitted -- or too, you will
16 determine whether the victim submitted to sexual
17 battery while the victim was also the victim of
18 forcible confinement, kidnaping, robbery,
19 extortion, burglary, housebreaking or any other
20 similar act or offense.

21 So let me reiterate that because I think I
22 misspoke just a little bit and it may have
23 caused you some confusion. That is, the State
24 has to prove, after having proved the sexual
25 battery, one of two things beyond a reasonable

1 doubt, that the defendant used aggravated force
2 or that the victim submitted to sexual battery
3 while the victim was also the victim of forcible
4 confinement, kidnaping, robbery, extortion,
5 burglary, housebreaking or other similar type of
6 offense.

7 Now, in this case, you heard testimony
8 where the defense claims that it was consensual.
9 That is a defense to Criminal Sexual Conduct
10 first degree. The defendant does not have to
11 prove that the victim consented. The State must
12 prove beyond a reasonable doubt that the victim
13 did not consent.

14 The third charge, Ladies and Gentlemen, is
15 Kidnaping. The State must prove beyond a
16 reasonable doubt that the defendant knowingly
17 and unlawfully seized, confined, inveigled,
18 decoyed, kidnaped, abducted or carried away
19 another person without authority of law. It's
20 important for me to define some of those terms
21 that I just read out to you.

22 To do a thing unlawfully, first of all, is
23 willfully against -- to do it willfully against
24 the law. "Knowingly" means with knowledge,
25 consciously, not accidentally. "Seized" means to

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1 take hold of, suddenly or forcibly. "Confined"
2 means to limit, restrict or enclose within
3 bounds, imprison or shut and keep in. "Kidnap"
4 is to remove a person against his or her will by
5 unlawful force or by fraud. "Abduct" means to
6 carry off secretly or by force for an illegal
7 purpose. "Carry away" means to remove.

8 The State does not have to prove that the
9 defendant did all of these things. Instead, if
10 you find beyond a reasonable doubt that the
11 defendant did any of these things, you may find
12 the defendant guilty of kidnaping. Something
13 done without authority of law is something which
14 the law does not sanction, permit, allow,
15 condone or provide justification for.

16 So I've given you those definitions. Let
17 me reread for you what Kidnaping means. The
18 State must prove beyond a reasonable doubt that
19 the defendant knowingly and unlawfully seized,
20 confined, inveigled, decoyed, kidnaped, abducted
21 or carried away another person without authority
22 of law.

23 Ladies and Gentlemen, the final charge that
24 you must consider in this case is Possession of
25 a Weapon During the Commission of a Violent

1 Crime. The State must prove beyond a reasonable
2 doubt that the defendant was in possession of a
3 firearm or visibly displayed what appeared to be
4 a firearm during the commission of a violent
5 crime.

6 A "firearm" means any machine gun,
7 automatic rifle, revolver, pistol or any weapon
8 which will or is designed to or may be readily
9 converted to expel a projectile. In order to
10 find the defendant guilty of Possession of a
11 Weapon during the Commission of a Violent Crime,
12 you must first find the defendant guilty of
13 either committing a violent crime or attempting
14 to commit a violent crime. Armed Robbery,
15 Criminal Sexual Conduct and Kidnaping are
16 violent crimes.

17 All right. Ladies and Gentlemen, I'm going
18 to come down and show you your verdict forms.
19 These are the forms that you'll use and you'll
20 fill out in your jury deliberations at the
21 conclusion. Now, your verdict must be
22 unanimous. That means that you must all agree
23 on it. That means that you can't have any
24 combination of numbers disagreeing that would
25 add up to 12. You can't have 11 for and 1

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1 against or 10 for and 1 against or 9 against and
2 3 for. You have to have a unanimous verdict.

3 Also, I charge you that your verdict has to
4 be -- it can not be the product of sympathy,
5 passion, prejudice or bias. It has to be based
6 on the law and the evidence, the evidence that
7 was presented and the law as I have charged you
8 today.

9 So I have four separate verdict forms.
10 They are all essentially the same. They just
11 cover the four separate charges. The reason
12 I've done that is because I want to reiterate
13 for you that they are four separate and distinct
14 charges which should be considered separately
15 and distinctly and the State has the burden of
16 proving each and every element of each of these
17 charges. And they are very simple. All right.

18 On each one, it says "on the charge of".
19 For example, the one that I have that I'm
20 reading, on the charge of Armed Robbery, we, the
21 jury, unanimously find the defendant, Antwan
22 Dominique Grayson either not guilty or guilty.
23 You will check beside one or the other.

24 Then, Mr. Harvey, you will sign as
25 foreperson. When y'all have come to a final

Jury Charge

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1 conclusion, let the bailiff know that you have
2 come to a conclusion. Then you will come back
3 into the courtroom and we will receive the
4 verdict.

5 Now, understand that I prepared these
6 verdict forms. The order in which I put your
7 possible verdict of not guilty or guilty means
8 absolutely nothing. All right. It is entirely
9 arbitrary and random. You should not deduce
10 from the order in which I have listed your two
11 choices that I have an opinion one way or the
12 other because I will tell you again I don't have
13 an opinion. The only thing I can care about is
14 fair, what's fair to both parties and what's
15 fair to y'all. Okay.

16 So I'm going to ask you to return to your
17 jury room. Now, you're not going to begin your
18 deliberations quite yet. When you go to your
19 jury room, I'm going to take a minute with the
20 attorneys. They are going to tell me if I told
21 you something that was incorrect or if I failed
22 to tell you something that I should have told
23 you. And that happens from time to time. But
24 they will correct me if they need to.

25 After we've -- I've heard from them, we

Remarks

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1 will do one of two things. I will either send
2 back to you the verdict forms with the evidence
3 or I'll bring you back in and I'll correct my
4 charge. So please retire to your jury room.
5 Please don't discuss the case.

6 (WHEREUPON, the jury exits at approximately
7 11:37 a.m.)

8 THE COURT: All right. Guys, any exceptions
9 to the charge?

10 MS. HODGE: None from the State, Your
11 Honor.

12 MR. CHAMBERS: None from the defense, Your
13 Honor.

14 THE COURT: All right. Ladies and
15 Gentlemen, what I want to do is advise the
16 bailiff to take the verdict forms and the
17 evidence back. I'm going to ask him to tell the
18 alternates to come to my chambers and I'll
19 dismiss them from there.

20 If you'd ask the two alternates to come to
21 my office and then tell them they can begin
22 deliberating. But don't tell them to deliberate
23 until the alternates are out of the room.

24 (WHEREUPON, jury deliberation begins at
25 approximately 11:40 a.m.)

Question of the Jury

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1 (WHEREUPON, the Court resumes at approximately
2 2:37 p.m.).

3 THE COURT: All right. Counsel, what I'm
4 going to tell them -- I don't have a set
5 possession charge in here. But what I'm going
6 to tell them is that possession is defined as
7 having an object within, uh, -- within your
8 dominion or your control or within close
9 proximity such that you could exercise dominion
10 and control over the same. Does anybody have an
11 exception to that definition of possession?

12 MS. HODGE: None from the State.

13 MR. CHAMBERS: No, Your Honor.

14 THE COURT: All right. Will you bring the
15 jury in?

16 (WHEREUPON, the jury enters at approximately
17 2:45 p.m.)

18 THE COURT: All right. Ladies and
19 Gentlemen, I've got your questions. I'd just
20 note for y'all that when y'all send me a set of
21 questions, I make it a Court's Exhibit. I have
22 this Court's Exhibit for posterity so that it
23 will be in the Clerk of Court's records so that
24 when Mr. Sipe's ancestors 100 years from now
25 were on Ancestry.com, they will probably know

Question of the Jury

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1 that their grandfather, David Sipe had an 8-
2 ounce steak, mashed potatoes, steamed carrots,
3 chocolate pie and sweet tea for lunch on the
4 30th of March 2011. They will be excited to
5 know that. They'll also know what Tommy's
6 Country Ham House serves.

7 Okay. All right. Your first question, I
8 can answer. Your second two questions, I can't
9 answer and I'll tell you why in a second. First
10 question, please define what does Possession of
11 a Weapon mean. I can charge you generally what
12 possession is under the law. And possession is
13 one's ability to exercise control and dominion
14 over an object or being in close proximity to an
15 object to exercise control and dominion over the
16 same.

17 Now, the second question, was the gun ever
18 found or was an investigation put into it. I
19 can't tell you that. That's evidentiary. You
20 received the evidence into the record all of the
21 evidence you will receive. If I were to attempt
22 to answer that, I would be giving you additional
23 evidence. I'm not allowed to do that. You have
24 received all of the evidence you will receive in
25 this case.

Remarks

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1 The third question, can we have the
2 statements of Mr. Grayson and Mr. Wilkie.
3 Again, those statements were not offered into
4 the record. Because they were not offered into
5 the record as evidence, you can't see them. But
6 do understand this, that you heard them, that is
7 there were portions of them that were read into
8 the record.

9 So I would charge you, you each heard that
10 and you have your individual recollections of
11 the same and that you can recall what that
12 evidence was at the time it was offered into
13 evidence by either of the respected parties.
14 All right. I hope that is helpful and that
15 answers your question. So if you will, return
16 to your jury room and continue deliberations.

17 (WHEREUPON, the jury exits at approximately
18 2:48 p.m.)

19 (WHEREUPON, jury deliberation continues.)

20 (WHEREUPON, the Court resumes at approximately
21 4:45 p.m.)

22 THE COURT: All right, Ladies and
23 Gentlemen. We are about to receive the verdict.
24 I know that this has been an emotionally trying
25 case for just about everyone in the courtroom.

Verdict

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1 I don't know what the jury -- what the verdict
2 is going to be. I have no way of knowing. I
3 haven't looked at it so I don't know. But when
4 the verdict is read into the record, everybody
5 needs to maintain self-control. No outburst.
6 No gesticulations. No comments. No remarks.
7 No cries. Nothing of that sort. We need to
8 conduct ourselves civilly. That's out of
9 respect for the court.

10 I tell you this, not as a threat and I
11 don't mean it as a threat, okay? I just want to
12 advise you that having told you that, that if
13 you violated that order as I just put it out,
14 then you are subject to the contempt powers of
15 the court, which means that this court has the
16 authority to sentence you to a period of
17 incarceration for contempt of court. I would do
18 that very, very reluctantly. So please don't
19 put me in a position where I may have to. Okay.
20 All right. Ready for the jury. All right.

21 Bring them in.

22 (WHEREUPON, the jury enters at approximately
23 4:48 p.m.)

24 THE COURT: All right. Mr. Harvey, has
25 the jury reached a unanimous verdict in this

Verdict

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1 matter, sir?

2 THE JUROR: Yes, Your Honor, we have.

3 THE COURT: Okay. Could you hand the
4 verdict form to the bailiff please, sir?

5 (WHEREUPON, the verdict form is handed to the
6 Court.)

7 THE COURT: All right. Will you publish
8 the verdict please, ma'am?

9 THE CLERK: Yes, sir. Your Honor, case
10 number 2009-GS-23-46 -- excuse me -- 4364, the
11 State versus Antwan Dominique Grayson, on the
12 charge of Armed Robbery, we, the jury,
13 unanimously find the defendant, Antwan Dominique
14 Grayson, guilty. Signed, foreperson, William
15 Harvey, the second.

16 On the charge of possession with a weapon
17 during the commission of a violent crime, we,
18 the jury, unanimously find the defendant, Antwan
19 Dominique Grayson, guilty. Signed, the
20 foreperson, William Harvey, the second.

21 On the charge of Kidnaping, we, the jury,
22 find the -- find unanimously the defendant,
23 Antwan Dominique Grayson, guilty. Signed,
24 foreperson, William E. Harvey, the second.

25 On the charge of First Degree Criminal

Verdict

483

1 Sexual Conduct, we, the jury, unanimously find
2 the defendant, Antwan Dominique Grayson, guilty.
3 Signed, the foreperson, William Harvey, the
4 second.

5 If this is your verdict, please say "yes".
6 (WHEREUPON, each juror responds.)

7 THE COURT: All right. Thank you, Ladies
8 and Gentlemen. Anything further from this jury?

9 MS. HODGE: Nothing from the State, Your
10 Honor.

11 MR. CHAMBERS: No, Your Honor.

12 THE COURT: Okay. Ladies and Gentlemen,
13 thank you for your service. I'm going to
14 dismiss you as jurors in this trial. I'm going
15 to dismiss you for the week as well. I want to
16 talk to you very briefly and just give you some
17 hearty words. It will only take me a few
18 minutes, but I want to do that in the jury room.
19 So, if you would retire to your jury room, I'll
20 be there in just a few seconds. I will take up
21 only a few more minutes of your time. Thank you
22 very much. I appreciate it.

23 (WHEREUPON, the jury exits at approximately
24 4:50 p.m.)

25 (WHEREUPON, there is a disturbance in open

Verdict

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1 court.)

2 (WHEREUPON, the defendant is escorted out of the
3 courtroom.)

4 (WHEREUPON, the gallery audience is escorted out
5 of the courtroom.)

6 THE COURT: Well, I haven't seen that
7 much excitement since my last firefight in
8 Afghanistan. Okay. Post-trial motions, I know.
9 I want to go address the jury real quick. Okay.
10 Then I'll come right back in.

11 (WHEREUPON, a recess is taken.)

12 DEPUTY SHERIFF: Judge, do you want him
13 back out here?

14 THE COURT: No. What I was going to
15 suggest to the lawyers is that we bring him back
16 up and sentence him tomorrow. He's not in the
17 position to be sentenced today.

18 MS. HODGE: I would move that he is not
19 allowed to be at his own sentencing.

20 MR. CHAMBERS: I will tell you this, Your
21 Honor, I have spoken to him. He says he's
22 calmed down. He says that he would be able to
23 come out here. I understand if the Court has
24 concerns and doesn't want him to do that. He
25 tells me -- wanted me to relay to the Court that

Motions

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1 he has calmed down and that he would be good if
2 you wanted to bring him out now.

3 **DEPUTY SHERIFF:** I believe the rest of the
4 family is gone.

5 **MR. CHAMBERS:** There is one family member.
6 She is the one family member that remained calm.
7 Even apologized about what was going on. She
8 would like to be present as well.

9 **THE COURT:** I understand. I saw that.
10 Okay. Before we get to that, any post-trial
11 motions?

12 **MR. CHAMBERS:** I would make a motion for a
13 judgement notwithstanding the verdict and also a
14 motion for new trial, Your Honor.

15 **THE COURT:** All right. Okay. I will
16 respectfully deny the same. I think that the
17 evidence presented by the state was sufficient
18 and, in fact, substantial. I believe that the
19 jury reached a verdict that was based on both
20 the evidence and the law. And I would be
21 reluctant under the circumstances to exercise my
22 authority as the 13th juror and I refuse to do
23 so and respectfully deny your motion. Okay.
24 Uh, want to give it a try?

25 **MR. CHAMBERS:** We can try, Your Honor. He

Sentencing of the Court

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1 says that he will be calm. I stressed to him
2 that he needed to do a little bit better. He
3 wanted me to come back there. He told me please
4 let the judge know I am sorry. I will be calm.

5 THE COURT: All right. Bring him in.

6 (WHEREUPON, the defendant is escorted into the
7 courtroom.)

8 THE COURT: Mr. Grayson, you alright, sir?

9 MR. GRAYSON: Yes, sir.

10 THE COURT: You calm?

11 MR. GRAYSON: Yes, sir.

12 THE COURT: I recognize, Mr. Grayson, that
13 that was not what you wanted and it came as a
14 shock to you and I don't expect you to like it.
15 All I will ask you from this point forward is
16 just remain, contain your composure. Will you
17 do that for me please, sir?

18 MR. GRAYSON: Yes, sir.

19 THE COURT: All right. Good enough. All
20 right. I heard the facts in this case. I think
21 that I am familiar with the same.

22 Ms. Hodge, is there anything the State
23 would like to add now?

24 MS. HODGE: Well, Your Honor, I don't know
25 if you noticed during the commotion, but the

Sentencing of the Court

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1 victim in this case had to leave. We had to
2 have her bused here from Florida. She didn't
3 have transportation. She had to get on a bus at
4 5:15 ---

5 THE COURT: Okay.

6 MS. HODGE: --- to go back to Florida.

7 THE COURT: Yes, ma'am.

8 MS. HODGE: So she would like the Court to
9 relay that this has been extremely difficult.
10 She has not healed from this obviously. She
11 didn't have physical, but she has suffered
12 serious mental, uh, challenges and continues to
13 face those. She actually said to me there
14 should be an attempted murder charge when
15 something like this happens because you have
16 killed the person inside me. That -- she didn't
17 say any specific jail time. I think that she
18 would be in agreement with the State asking for
19 the maximum. We offered 22 years which was
20 denied and requested trial. That's not to
21 punish him for having a trial. That's just to
22 inform you of what the State's offer was.

23 THE COURT: Thank you very much.

24 Mr. Chambers?

25 MR. CHAMBERS: Your Honor, it's true. The

1 State did, in fact, offer a plea deal of 22
2 years, in fact, offered to run that concurrent
3 with time that he's already serving, which is 14
4 years. And my client was very firm in saying he
5 didn't want to do that. I don't -- my comment
6 here is not to -- I'm not in any way retrying
7 the case, but he has maintained from the first
8 day that I talked to him, he steadfastly
9 maintained his innocence.

10 I can assure you that in talking to him
11 about the case that I told him that there was
12 substantial evidence in this case. There was a
13 strong likelihood that he could be convicted. I
14 told him as I tell everybody that I represent
15 in fact, I don't think I've ever missed telling
16 anybody this, if you're not guilty, don't plead
17 guilty. If you tell me you're not guilty, I'm
18 not going to let you plead guilty. He has told
19 me that from the beginning.

20 I believe one of the reasons that he had --
21 the reaction you saw a few minutes ago, Your
22 Honor, I know is something that is a great
23 concern to the Court. It impacts upon the
24 safety of everybody that's in the court. But he
25 has remained calm throughout and, in fact, when

1 he came out was attempting as best he could from
2 where he was to keep his mother calm who was
3 very emotional. I think when the reality that
4 he had been found guilty for something that he
5 had told me time and time again that he didn't
6 do hit him, he reacted in an emotional way. To
7 his credit, he said that he was ready, he was
8 calmed down and he wanted to come out here and
9 he wanted to face the court.

10 Your Honor, I understand that this young
11 man is facing a lot of time. Essentially, you
12 can take his life away from him with the amount
13 of time that he has facing him consecutive
14 sentences. He is 21 years old. He has done
15 some things that are serious. Beyond what the
16 jury found him guilty of here today, he is
17 serving time for some serious offenses. He has
18 truly gotten off to a bad start.

19 I will tell you though, from dealing with
20 this young man and I'm completely sincere about
21 this, he is somebody that in many ways impresses
22 me. He has the presence about him of somebody
23 that under different circumstances in life would
24 have been a much different person. Would have
25 probably educated himself, worked at a job or

1 profession and been somebody that would have
2 been a credit to the community. I think he
3 still has that capacity.

4 What I'm asking the Court is to -- in
5 recognizing the severity of what he's been
6 convicted of to also give him the opportunity at
7 age 21 to still be able to get out of prison,
8 when he is still at least a relatively young
9 man, and still have a life and hopefully learn
10 while he is behind bars to better himself and
11 come out and be able to make some contribution
12 and perhaps atone for the wrongs that he's done.

13 I mean, I certainly -- listen, my heart
14 goes out to anybody that's the victim of a
15 crime. If anything here impacted -- negatively
16 impacted the victim, then I'm sorry for that.
17 In advocating for my client, I do believe that
18 there is some potential in him.

19 He does have a family member here. I'm
20 sorry. I spoken to her, but I don't know who
21 she is or her relationship. I'll let her state
22 her name for the record but she would like to
23 briefly speak to the court. I will say she was
24 the one family member who stayed extremely calm
25 and even apologized for what was going on.

1 THE COURT: Yes, ma'am. I'll be happy to
2 hear from you. State your name again for the
3 record.

4 MS. HILL: My name is Julia Hill.

5 THE COURT: Yes, ma'am.

6 MS. HILL: I am Antwan's aunt.

7 THE COURT: Yes, ma'am.

8 MS. HILL: I just hope -- I know you have
9 to do what you have to do because it's your job,
10 just to have mercy on my nephew's soul. He is
11 still a young man. He is a good boy. I know
12 he's good because I have raised him too. I know
13 he is a good child. I know a lot of family
14 members come in here and they say the same exact
15 thing that their family member is good people,
16 but I know he's a good child.

17 Please just don't take his whole life away
18 from him. I beg of you. I know I asked him
19 tell me the truth, just tell me the truth. He
20 said, Aunt Julia, I didn't do it. I know a lot
21 of people do say that but we've got the bond in
22 our family where we tell each other the truth.
23 We tell each other the truth because we know
24 that we're going to be there at the end of the
25 day and still look at you no differently.

1 If you will just have mercy on his soul.
2 He is still a boy. He's not a man yet. He's
3 still a boy. Just have mercy on his soul.
4 Please, I beg of you. He do not need all this
5 time. I swear he don't. I swear he don't.

6 I know a lot of people come in here and
7 they beg you for the same thing over and over
8 again. But he is a good child. I know cause I
9 raised him. I know. And I beg of you. I beg
10 of you. I would get down on my knees right now.
11 This is my nephew and he's young. But I told
12 him to tell me and I believe in my heart, in my
13 soul, I believe that he told me the truth. I
14 believe he told me the truth.

15 But I know what the jury convicted him of.
16 I know what you got to give him. But please, he
17 don't deserve all this time. He's just a boy.
18 He was 18 when it happened. He was just a boy.
19 I know I told my son, him, his brother and all
20 of them stay out of trouble. Just stay away
21 from those kind of people. Just stay out of
22 trouble.

23 Kids tend to think that they are hanging
24 out when they are free and they doing stuff.
25 They are not thinking right at the time. Then

1 you get mixed up in some stuff.. But I swear, I
2 believe what he said when he said he didn't rape
3 this girl. I really do. This is my nephew. I
4 know he's a good child. I know he is.

5 And I know he broke out in court. He's
6 feeling he has nothing to lose right now. I
7 know that's what he's feeling. I know that's
8 what he's feeling.

9 THE COURT: I understand. I'm not going
10 to hold that against him. All right.

11 MS. HILL: He wouldn't have never fought a
12 cop.

13 THE COURT: Okay. Ms. Hill, thank you for
14 being here, ma'am. And I do appreciate your
15 words. I appreciate your being here for the
16 whole trial. I appreciate you being here and I
17 appreciate you being calm because I did notice
18 it. Okay?

19 MS. HILL: Okay.

20 THE COURT: Thank you very much.

21 MS. HILL: Is there anything -- I can say
22 anything else directly to my nephew?

23 THE COURT: Uh, no, ma'am. Not right now.

24 MS. HILL: Okay. Can I sit here and
25 listen to the rest of it?

1 THE COURT: Yes, ma'am. Absolutely.

2 MS. HILL: Okay. Thank you.

3 THE COURT: Mr. Grayson, I'll be happy to
4 hear from you, sir. If there's anything you
5 would like to tell me, you are welcome to.

6 MR. GRAYSON: I know when I was on the
7 street, by selling drugs, I was wrong. I done
8 been back in the penitentiary since 2009. I had
9 time to study and study myself. These crimes
10 that they say I did, I really didn't do.

11 I ain't nothing but 21 years old. I ain't
12 got no kids. I got nieces and nephews that
13 don't even know me. You know what I mean? I
14 been in group homes since I been 12 years old.
15 I just got out of a group home in '06 when I was
16 17. My whole life been gone. I ain't trying to
17 go down the road for something I ain't do. I
18 already got 14 on my head and this is too much
19 for me. I really didn't do this.

20 THE COURT: I understand, Mr. Grayson.
21 Understand that the question of whether you did
22 it or not or you didn't do it is not for me to
23 determine, okay? It's for the jury. The jury
24 heard --

25 MR. GRAYSON: I just ask that you have ---

1 THE COURT: --- the evidence --

2 MR. GRAYSON: --- I just as that you have
3 sympathy on me.

4 THE COURT: I understand. I understand.

5 MR. GRAYSON: Please.

6 (WHEREUPON, there is a pause.)

7 THE COURT: All right, Mr. Grayson. The
8 sentence of the Court is, as follows, in
9 Indictment 2009-4366, Kidnaping, the sentence of
10 the Court is you be committed to the South
11 Carolina Department of Corrections for a period
12 of 30 years. That is consecutive with your
13 violation of probation sentence, concurrent with
14 all of your 30 March, 2011 convictions. In
15 Indictment 2009-4365, Criminal Sexual Conduct
16 first degree, 30 years, again consecutive to all
17 of today's convictions -- excuse me --
18 concurrent with today's convictions, consecutive
19 with your probation violation sentences. In
20 Indictment 2009-4364, Armed Robbery, 30 years,
21 concurrent with all of today's convictions,
22 consecutive with your violation of probation
23 sentence. On your Possession of a Firearm
24 during the Commission of a Violent Crime, five
25 years consecutive -- excuse me -- concurrent

1 with all of today's convictions, consecutive
2 with your probation sentence. Mr. Grayson, good
3 luck to you, sir.

4 MS. HODGE: Thank you, Your Honor.

5 MS. HILL: I'm going to be there for you.

6 MR. GRAYSON: Please be there.

7 MS. HILL: I promise you I will.

8 MR. GRAYSON: Please.

9 MS. HILL: I promise you. I'm looking you
10 in your eyes. I promise you I will be there.

11 MR. GRAYSON: All right.

12 MS. HILL: I love you.

13 MR. GRAYSON: I love you too.

14 MS. HILL: Thank you, Your Honor.

15 THE COURT: Good luck to you, Ms. Hill.

16 MS. HILL: Thank you. Bye-bye.

17 (WHEREUPON, the proceedings conclude at
18 approximately 5:26 p.m.)
19

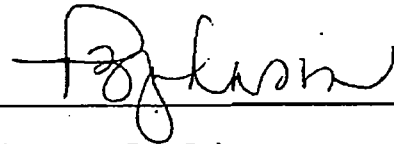
C E R T I F I C A T E

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 21st day of September, 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

A handwritten signature in cursive script, appearing to read 'T. B. Johnson', is written over a horizontal line.

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTWAN DOMINIQUE GRAYSON,

APPELLANT

ANDERS BRIEF OF APPELLANT

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