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STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM SUMTER COUNTY

William Jeffrey Young, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMES GREGORY YOUNGER,

APPELLANT

APPELLATE CASE NO. 2014-001298

RECORD ON APPEAL

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1 State of South Carolina

2 County of Sumter

3

4 The State of South Carolina, Transcript of Record
Plaintiffs 2013-GS-43-00315

5

6 vs.

7 James Gregory Younger, June 9th-11th 2014
Defendant Sumter, S.C.

8

9

10

11 Before the Honorable W. Jeffrey Young, Judge.

12

13

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

15

16 Mr. John P. Meadors
Assistant Solicitor for the State

17

18 Mr. James R. Snell,
Attorney for Defendant

19

20 Margaret T. Sullivan,
Court Reporter

21

22

23

24

25

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Kimberly Baker-Direct by Meadors

1 just don't know what purpose she is on the witness
2 list for, because she is not represented in
3 discovery materials.

4 THE COURT: You all can get together this
5 afternoon and make sure he has all that.

6 MR. MEADORS: And obviously, Judge, if I
7 could put them on there, we may not use everybody
8 on the alternate.

9 THE COURT: He told me you should have put
10 them on---

11 MR. MEADORS: I did put them on there.

12 THE COURT: ---but we are not going to
13 worry about it after the jury has been selected.
14 Are you ready to proceed on the Lyle issue?

15 MR. MEADORS: I am, sir.

16 THE COURT: You may call your first
17 witness.

18 MR. MEADORS: Kimberly Baker.

19 Kimberly Page baker, being
20 first duly sworn, testified as follows

21 THE BAILIFF: State your full name and
22 spell your last name for the record.

23 A Kimberly Page Baker. B-A-K-E-R.

24 Direct Examination by Mr. Meadors:

25 Q Kimberly Page Baker.

Kimberly Baker-Direct by Meadors

1 A Correct.

2 Q And you are the victim in the indicted
3 case from here in Sumter County that we are trying
4 here this week, correct.

5 A Yes, sir.

6 Q Tell the judge a little bit about
7 yourself. Where are you from?

8 A From Sumter. Born and raised.

9 Q Born and raised? Where did you go to
10 school?

11 A Wilson Hall.

12 Q You are doing good, speak in here.

13 A Wilson Hall.

14 Q When did you get out of Wilson Hall?

15 A .

16 Q What did you do after that?

17 A I went to college. USC, for a few years.
18 I take a break from college. My parents moved to
19 Beaufort and opened up a restaurant, and I helped
20 manage that for a few years. Then I went to
21 massage therapy school. And did that for from
22 2002 to 2007. Went back to USC and finished my
23 degree in Biological Sciences. And I was a
24 medical sales rep. from 07 to 2011. And then
25 opened a Yoga Studio here in Sumter August of

Kimberly Baker-Direct by Meadors

1 2011. And still...

2 Q August 2011.

3 A Correct.

4 Q And what's the name of that Yoga Studio?

5 A Southern Bliss Yoga.

6 Q And so August of 2011, that was your
7 business?

8 A Correct.

9 Q And were you also -- is there a Yoga
10 Business in Columbia you were involved in?

11 A Yes. So I was a student at a Amsa Yoga.

12 Q Spell that for the court reporter.

13 A A-M-S-A Yoga. I started practicing there
14 in 2007. Remained a student there. Did my
15 teacher training there in 2011, prior to moving
16 back to Sumter and opening the studio here. And
17 moved back to Columbia in January and took over
18 ownership of that studio.

19 Q So who owns Southern Bliss now here?

20 A Malissa McIntosh. We were just in the
21 process within the last 2 weeks of transferring
22 ownership to her.

23 Q Now for today's purposes, I'm not going to
24 go into a lot of your other background. I might
25 ask you later. Did you have an occasion to meet

Kimberly Baker-Direct by Meadors

1 the defendant?

2 A Yes.

3 Q James Younger?

4 A Yes.

5 Q Can you tell the judge how you met him?

6 A I met him at the studio here in Sumter in
7 March.

8 Q Southern Bliss?

9 A Southern Bliss Yoga.

10 Q March of when?

11 A 2012.

12 Q And was he a -- was he coming there for
13 the services, to be a client -- what do you call
14 it?

15 A A student.

16 Q A student.

17 A Yes.

18 Q And did he take a class?

19 A Yes.

20 Q And did he introduce himself to you?

21 A He did.

22 Q And how did he introduce himself to you?

23 A As Jay Gregory.

24 Q Introduced himself as Jay Gregory.

25 A Correct. And he went by Greg.

Kimberly Baker-Direct by Meadors

1 Q So he said my name is Jay Gregory, but I
2 go by Greg.

3 A Correct.

4 Q And is that who you thought he was?

5 A Yes.

6 Q And as a result of that, did he start
7 taking more classes?

8 A Yes. He was coming weekly more
9 consistently.

10 Q And prior to this, you had never met him.

11 A Correct.

12 Q And this was your full time job?

13 A Yes.

14 Q Do you know what he was doing, the
15 defendant?

16 A He was a contractor. He did fiber optic
17 splicing.

18 Q Did that meeting at your or at Southern
19 Bliss Yoga turn into a relationship?

20 A Yes.

21 Q And how long before that happened?

22 A I would say late April.

23 Q 2012.

24 A 2012. Yes.

25 Q And how did it turn into relationship?

Kimberly Baker-Direct by Meadors

1 A We just started kind of talking after
2 classes. And just getting to know each other, and
3 then started, you know, had dinner. And, you
4 know, attended several events, local events. We
5 did a charity event for the SPCA. I attended that
6 together. And just started hanging out.

7 Q Is it fair to say you all started dating.

8 A Yes.

9 Q Dinner?

10 A Yes.

11 Q Drinks?

12 A Yes.

13 Q And at some point did this relationship
14 turn intimate?

15 A Yes.

16 Q And when was that?

17 A Sometime in May of 2012.

18 Q And do you remember when the first time
19 was?

20 A I don't remember the first time.

21 Q Let me ask you this much. How long after
22 the first intimate relationship, how long did that
23 intimate relationship last initially?

24 A Through about July. July 4th.

25 Q And so to get right to it here, how many

Kimberly Baker-Direct by Meadors

1 times between then and July 4th, were you all
2 intimate?

3 A I would said roughly 10.

4 Q And during those times, where was it?

5 A Mostly at my house. Just a couple of
6 times at his apartment.

7 Q And you were living where?

8 A I lived specific in Tudor Place, in a
9 townhouse.

10 Q And where did he live?

11 A An apartment complex, Pocallo Springs.

12 Q Now and there are certain things I am
13 going to ask you today and ask you tomorrow and I
14 apologize, but there is no other way to do. So it
15 is what it is, okay. During some of these
16 relationships did -- would he always finish?

17 A No.

18 Q Why not?

19 A It would just last for a very long time.
20 And which made me insecure, and I asked about it.

21 Q Made you what now?

22 A It made me insecure. And I had asked
23 about a few times and he got a little defensive
24 and said he masturbated frequently so just
25 endurance, I guess.

Kimberly Baker-Direct by Meadors

1 Q So he would lose his erection?

2 A Yes.

3 Q And so he would not finish. How many of
4 these 10 or so times would he not finish?

5 A I would probably say 70 percent.

6 Q And that relationship went from you said,
7 May to July.

8 A To July.

9 Q Describe to the judge -- I mean,
10 specifically, not the intimate part, but what was
11 his relationship with you, and what would you all
12 talk about or what did you think about him?

13 A We had the common interest of yoga. So we
14 talked about yoga a lot. He had said that he had
15 practiced yoga in Charlotte, North Carolina and
16 practiced for years prior. We talked a lot about
17 our christian belief. And watched a few like
18 christian documentaries together. And shared this
19 daily devotional that I had. And just different
20 things. He fixed things around my house. He
21 fixed things at my mother's house. He would bathe
22 my little 10-pound shitzu. So he was a very kind
23 person.

24 Q In all this time he's doing this, is he
25 still Jay? Or did there come a point where you

Kimberly Baker-Direct by Meadors

1 learned he wasn't who he said he was?

2 A In June I went to Asheville for a
3 workshop, a yoga teacher training workshop. And I
4 asked him to house sit and keep my dog. He was
5 very good with my dog. So he stayed at my house
6 that weekend and kept my dog. And when I came
7 back that weekend, we had a conversation that
8 evening. And we were talking about his son. And
9 I think I asked his son's last name, or something
10 came up about it. He basically disclosed that he
11 did not tell me his full name; that his full name
12 was James Gregory Younger.

13 Q So that's when he told you what his real
14 name was.

15 A Yes, and that was in June of 2012.

16 Q Did he tell you why he had told you the
17 wrong name to start with?

18 A He had done things in his past, that
19 people would judge him. And that would people
20 google search and see his record.

21 Q You can say anything here now. What did
22 he tell you? Did he tell you specifically?

23 A Assaults. An assault when he was maybe
24 20 or 21. He got in a really fight with a male
25 outside of a restaurant or bar. And then another

Kimberly Baker-Direct by Meadors

1 one. It was just an assault on his girlfriend.
2 He said that he had an aggressive girlfriend that
3 cracked him over the head with a lamp, and he
4 defended himself by choking her and putting her in
5 a sleeper hold.

6 Q Sleeper hold.

7 A Yes.

8 Q So those are the things he didn't want you
'9 to find out. And that's why he said he gave you
10 the wrong name.

11 A Correct. Because he said everybody would
12 judge him initially and wouldn't give him a chance
13 of just getting to him know.

14 Q So this intimate relationship went up
15 through you said, July, I think.

16 A July.

17 Q And why did it stop? The intimate part of
18 the relationship?

19 A It just, we had kind of a, after July, we
20 went down to the lake, and I just sensed that it
21 wasn't, he wasn't willing to be like in a
22 committed relationship. And he had said that he
23 had issues with, you know, being in a committed
24 relationship. So we mutually decided that we were
25 no longer going to be sexually active. It was

Kimberly Baker-Direct by Meadors

1 just not going to be anything long term. But we
2 just continued spending time together. Continued
3 cooking dinner together and watching movies. And
4 without any consistent sexual activity.

5 Q So that goes on from July of 2012. Are
6 you seeing time on a regular basis?

7 A Pretty regular, yes.

8 Q Texting.

9 A Yes.

10 Q And I think you said he was working at
11 Farmer's or where was he working?

12 A He was a subcontractor for Farmer's
13 Telephone.

14 Q July becomes August. Was there another
15 intimate relationship in August?

16 A There was one more intimate relationship
17 in August, yes.

18 Q Prior to the incident.

19 A Correct, just once.

20 Q And where was that?

21 A At my house.

22 Q And from that point in August till
23 September 19th hat we are here about this week,
24 had there been any other intimate relationships?

25 A No.

Kimberly Baker-Direct by Meadors

1 Q And was his -- what was his job status
2 August, September 2012 time frame, as far as you
3 know.

4 A He, I know specifically he came to my
5 house on August 13th, upset because he had been
6 told that he wasn't sure if they were going to
7 renew his contract. He was very upset. And
8 stayed at my house for a couple of weeks, about
9 two weeks. I think he stayed in his apartment
10 maybe one or two nights out of those two weeks.
11 But he stayed there and was, you know, during the
12 day using my internet, and looking for jobs. And
13 during those two weeks he had told me that his
14 lease was ending in September, and he had paid and
15 signed a 6-month lease and paid in full, and
16 didn't want to resign another lease without
17 knowing for sure if he would have this job in
18 Sumter.

19 So he had asked to move in, you know, just
20 for a temporary, until he could find out if he was
21 going to have a job or not. And initially I
22 agreed and then after a few days, I just decided
23 that it wasn't a good decision. And we both
24 decided that it wasn't a good decision, and he
25 left.

Kimberly Baker-Direct by Meadors

1 Q When was that the best you can recall? I
2 mean.

3 A That would have been through August 13th,
4 is when he came to my house that day saying that
5 he had lost a job or wasn't sure if were going to
6 renew. So that would have been two weeks after
7 that date.

8 Q To this point in your relationship, if you
9 will, platonic relationship maybe, you all are
10 texting each other?

11 A Correct.

12 Q Did he key to your place?

13 A He did.

14 Q And at some point did you ask him for the
15 key back?

16 A Correct, yes.

17 Q And did you have -- and let me ask you,
18 when you all would get together, would you drink
19 wine?

20 A Occasionally, yes. I'll usually when
21 preparing meals, I will have a little bit of wine
22 while preparing the meal, like a glass with
23 dinner.

24 Q And would he drink also?

25 A Occasionally not often. Occasionally.

Kimberly Baker-Direct by Meadors

1 Q Now specifically on June 12th 2012,
2 what -- how did you and the defendant get together
3 that day?

4 A September 19th?

5 Q Yeah, what did I say?

6 A June.

7 Q I'm sorry. September.

8 A Because I hadn't seen him for three weeks.
9 Because after we decided, you know, not best to
10 move in, I didn't see for 3 weeks, but we were
11 still communicating via text. And I think he went
12 he went back to North Carolina with family, and
13 then came back. And I think he was doing some
14 work in Lake City. And I had sent several
15 messages just asking him if he would bring the key
16 back. And he said he would, when he was town,
17 when he was in the area. And then he had sent a
18 message saying I will be in the area, you know,
19 this week. And then I asked him to come over
20 September the 19th.

21 Q And did you find out specifically where he
22 was living?

23 A Not specifically. He never said
24 specifically. He just said with somebody in, I
25 believe, it was Dalzell.

Kimberly Baker-Direct by Meadors

1 Q Dalzell. But you didn't know.

2 A I did not know the person or no.

3 Q Tell the judge how it came about you all
4 got together on September 19th 2012.

5 A I had asked him to come over so would
6 could talk, and also to return my key. I had --
7 was planning to cook dinner that night and said I
8 will cook enough for you to have dinner as well.
9 So he came over and gave me the key back.
10 Actually he put it in the kitchen where I store
11 junk, my little junk drawer. And I prepared
12 dinner. And we watched TV, which is really all we
13 did. So all the normal stuff.

14 Q Did anything happen after that?

15 A We started kissing in the kitchen, I
16 remember after dinner. which did lead to an
17 sexual encounter.

18 Q An intimate relationship?

19 A Yes.

20 Q Sexual intercourse.

21 A Correct, yes.

22 Q Where was that?

23 A It was in my downstairs bedroom.

24 Q And again not to be graphic, but to
25 graphic, how long did it last?

Kimberly Baker-Direct by Meadors

1 A Not that long. I mean we just went for
2 awhile and he stopped. And was -- did not climax.

3 Q And again, a lot of this we have just
4 to -- did he lose his erection?

5 A Yes.

6 Q And what happened after that?

7 A We talked for awhile. Stayed in the
8 bedroom. Stayed on the bed and talked for awhile.
9 And then he asked if we could go again.

10 Q Let me ask you this. Prior to this, had
11 you ever anal sex with the defendant?

12 A I have not.

13 Q And after he stopped, what happened? Did
14 he ask you if you go again?

15 A Yes. And---

16 Q Let me ask you this. Just when you're
17 having these intimate relationships and was it be
18 missionary style? Would that be some, would that
19 be a position you would use?

20 A It would start that would not be a leading
21 position.

22 Q Would a preferred position from the
23 defendant be doggy style?

24 A Yes.

25 Q From behind.

Kimberly Baker-Direct by Meadors

1 A From behind, yes.

2 Q Not in the anus, but from behind, doggy
3 style.

4 A Yes.

5 Q So that would be the preferred position.

6 A Yes.

7 Q Now on the 19th, you had stopped when you
8 started to have sex. Then he said can we do it do
9 again. What happened after that?

10 A He had said from behind. For me to lay
11 flat on my stomach so I wasn't up on all fours.

12 Q Did you get on your stomach?

13 A I got on my stomach. And my legs were in
14 close proximity. And then he entered from behind.
15 And was on top of me. And that continued for
16 awhile. And I remembered he was getting rougher
17 than normal. I remembered him putting his right
18 hand over my mouth. And then at one point my arms
19 were behind me. And he put his right hand over my
20 mouth. And I remembered his left arm around here.
21 And then I just felt like it was getting tighter
22 and I just had a moment of, I realized I couldn't
23 breath. And then I went unconscious.

24 Q So he had his hand over your mouth and his
25 arm around your neck. And you are telling the

Kimberly Baker-Direct by Meadors

1 judge you couldn't breath.

2 A Yes. I just remember of having a moment
3 of, oh my gosh, my airway is being cut off.

4 Q And did you go unconscious?

5 A I went unconscious. I did not verbally
6 say, oh, my gosh.

7 Q I understand.

8 A But I just...

9 Q You lost consciousness.

10 A Yes.

11 Q Did you want to do that?

12 A No.

13 Q That wasn't some kind of game you were
14 playing or anything.

15 A Absolutely not.

16 Q And what's the next thing you remember?

17 A I remembered coming to. I had felt a lot
18 of discomfort and burning sensation from my
19 rectum. And I felt like I had to use the
20 bathroom. And I had like a -- it was like a
21 moment of embarrassment because I felt like I had
22 used the bathroom. And I was very disoriented.
23 And I went to the bathroom and I sat down, because
24 there was a bathroom in the downstairs bedroom.
25 And I remember sitting on the toilet just being

Kimberly Baker-Direct by Meadors

1 very confused, because I had no memory of him
2 entering my rectum. And there was a lot of pain
3 and a lot of discomfort. And I wiped, and there
4 was a lot of blood. And I went back into the
5 bedroom and asked him what just happened. And he
6 had said he had accidentally slipped.

7 Q He had what?

8 A He had accidentally slipped, one time.
9 And I asked him if he choked me unconscious. And
10 he said he did not realize that his arm was around
11 my throat that tight.

12 Q And you were bleeding?

13 A Yes.

14 Q Was there blood on sheets?

15 A Yes.

16 Q What happened next?

17 A He suggested that we get into the bathtub.
18 And we got into the bathtub.

19 Q What happened to the sheets?

20 A He put the sheets in the washing machine.

21 Q He put them in there.

22 A Yes.

23 Q And you got in the bathtub. Did you wash
24 yourself off?

25 A Just rinsed off. It was -- I mean I

Kimberly Baker-Direct by Meadors

1 wasn't able to put any pressure.

2 Q And did you -- was your rectum torn?

3 A Yes.

4 Q And what if any treatment or ointment did
5 you put on yourself or did he put on you?

6 A He applied a triple antibiotic ointment
7 into the area. I got out of the bathtub. And I do
8 remember feeling very faint again. And I had a
9 wave of nausea that came over me. And I was able
10 to get upstairs to my bedroom. And he basically
11 just was saying, I want to make sure you okay.
12 And then looked at the area and applied the
13 ointment to the area.

14 Q Did you fall asleep?

15 A Eventually.

16 Q Did you take some medicine?

17 A Yes. He had actually got me some
18 ibuprofen for -- ibuprofen.

19 Q What happened when you woke up?

20 A When I woke up there was still a lot of
21 discomfort, a lot of pain. And I had to use the
22 bathroom, which was very---

23 Q Painful.

24 A ---painful. I was unable to wipe, so I
25 got into the bathtub again to rinse my rectum.

Kimberly Baker-Direct by Meadors

1 And went downstairs. He was in the kitchen making
2 coffee. And I was taking my dirty clothes down
3 and there was -- I had blood in my panties. And
4 he even said let me see. And he said they were
5 going to stain, so we need to put those into the
6 washing machine too. And he actually put my
7 panties---

8 Q So he got your---

9 A ---in the washing machine.

10 Q ---panties and put them in the washing
11 machine. When did he leave that day?

12 A I would say it was anywhere between like
13 9 and 10 in the morning. Relatively early.

14 Q Did you have class scheduled for that day?

15 A I did. I had a 4:30 and 6:30 class. I
16 was able to get a sub, because I was not able to
17 teach. I was able to get 4:30 class subbed. And
18 I ended up canceling my 6 o'clock class that day.
19 I was still unable to teach on Friday. I had
20 Friday morning class, and I had another teacher
21 sub that class as well.

22 Q When is the next time you saw the
23 defendant?

24 A That morning. I never saw him again.
25 That was it.

Kimberly Baker-Direct by Meadors

1 Q That's what I was. After that morning,
2 when is the next you saw him?

3 A I never -- just now.

4 Q You never saw him after that until today.

5 A Correct.

6 Q Did you text him before and after that?

7 A Yes.

8 Q And were there texts leading up to a few
9 days after to explain what happened and all this?
10 You asked him.

11 A Yes.

12 Q And I don't think for these purposes we
13 need to go over all the rest of it, but there was
14 a question earlier about Malissa McIntosh. Now
15 Malissa McIntosh, who is that?

16 A She is one of my dear friends.

17 Q And she also working at yoga or Southern
18 Bliss?

19 A Yes.

20 Q And at some point that week did you talk
21 to her and basically tell her what had happened?

22 A I spoke with her Thursday. The day after
23 it happened.

24 Q And did you kind of inquire about....

25 A I was asking if she ever, yes about anal

Kimberly Baker-Direct by Meadors

1 sex. And would one slip cause that kind of damage
2 discomfort.

3 Q So your -- and you confided and talked
4 with her about what happened, correct?

5 A Yes.

6 Q And did she eventually go with you down to
7 sheriff's department that Monday?

8 A Yes.

9 MR. MEADORS: I beg the court's
10 indulgence.

11 THE COURT: Yes, sir.

12 Q And prior to that, had you taken a picture
13 of yourself?

14 A On Saturday, September 22nd.

15 Q And tell, when the defendant is down there
16 putting ointment on you afterwards and that next
17 morning, did you actually look at yourself then?
18 Do you understand what I am saying? Did you look
19 at your?

20 A Not the next morning. I remember seeing
21 it that night. And it was just very swollen. I
22 mean swollen and like blue or black. The next day
23 as the day progressed is when I started getting
24 concerned about, yes, I did that afternoon. I was
25 getting concerned about the bruising that I was

Kimberly Baker-Direct by Meadors

1 seeing and the continued discomfort to the area,
2 yes.

3 Q And you took the picture of, I guess you
4 took the picture, didn't you?

5 A I took the picture, yes.

6 Q And when was that?

7 A That was on Saturday three days after.

8 Q I know I've asked you that before. Judge,
9 give me one second. I am trying to find the
10 picture. I have it.

11 (Photo marked State's Exhibit No. 1 for
12 Id.)

13 Q Do you recognize State's Exhibit No. 1 for
14 ID?

15 A Yes.

16 Q It's not a usual picture you see of
17 yourself, is it?

18 A No.

19 Q Who took the picture?

20 A I took the picture with my camera phone.

21 Q And I know it's the fourth time I've asked
22 you. And I apologize to the judge and everybody
23 else. You took that picture on what day?

24 A September 22nd. Saturday.

25 Q This incident happened on September 19th?

Kimberly Baker-Direct by Meadors

1 A Wednesday.

2 MR. MEADORS: So and I've have showed this
3 to defense counsel, Your Honor, and he had it in
4 discovery.

5 Q And that's the picture of your behind. I
6 don't know how else to say.

7 A Yes, sir.

8 Q And those -- what's the pink or the
9 purplish color in there?

10 A Bruising.

11 Q And that was your behind.

12 A Yes.

13 Q And had you asked the defendant to engage
14 anal sex?

15 A I did not.

16 Q Did you want to engage in anal sex?

17 A No.

18 Q Had you ever had anal sex before in your
19 life?

20 A No.

21 Q Did you end up going back to the sheriff's
22 department again on October 2nd or 3rd, and meet
23 with Irene Cullick?

24 A Yes, that's when I met with Sergeant
25 Cullick.

Kimberly Baker-Direct by Meadors

1 Q And there's some other parts we will go
2 over later when the jury is here. But for these
3 purposes---

4 A Yes.

5 Q ---it happened on September 19th.

6 A Yes, sir.

7 Q You took the picture when?

8 A September 22nd.

9 Q Went down to the sheriff's department when
10 for the first time? The police department.

11 A Monday the 24th.

12 Q And then went back to the police
13 department.

14 A October 2nd.

15 Q And when you went to the police department
16 the first time, that Monday, the 24th, I believe.
17 Did you get an incident report or some document or
18 at least tell them what happened?

19 A Yes, I spoke with a female officer and
20 told her what happened.

21 Q Did you, I don't know if this is the right
22 time or not. But tell why didn't you go right
23 away to the police?

24 A I was processing what had really happened.
25 This was someone I trusted and I cared for. And I

Kimberly Baker-Cross by Mr. Snell

1 couldn't fathom that he would intentionally do
2 that to me or anyone.

3 Q So you never saw him after that day?

4 A No, sir.

5 Q And is the person who did that to your
6 bottom in the courtroom?

7 A Yes, sir.

8 Q Could you point him out?

9 A Just sitting next to---

10 Q Mr. Snell?

11 MR. MEADORS: I beg the court's
12 indulgence. please answer any questions
13 Mr. Snell has. Thank you.

14 THE COURT: Mr. Snell.

15 Cross Examination by Mr. Snell:

16 Q Good afternoon, Ms. Baker.

17 A Hello.

18 Q My name is Jim Snell. As you heard, I'm
19 the lawyer for Mr. Younger.

20 A Yes.

21 Q And we've never met or spoken before, is
22 that correct?

23 A Correct.

24 Q I just have just have some follow up
25 questions. Is the only photograph you took, the

Kimberly Baker-Cross by Mr. Snell

1 photograph that is sitting on the counter right
2 now?

3 A Correct.

4 Q Were there ever any marks on your throat
5 or your neck?

6 A No, sir.

7 Q Did you ever get any medical attention?

8 A Yes.

9 Q When?

10 A It was after I met with Sergeant Culick on
11 October 2nd. It was within that week.

12 Q And that two weeks after. So that
13 two-week time you didn't get any medical attention
14 or have any treatments.

15 A Correct.

16 Q And why not?

17 A I was still processing what had happened
18 to me.

19 Q And when you say processing, at the night
20 this happened or the night you and Mr. Younger
21 were last together, did you believe at that time
22 that you had been assaulted?

23 A Right. Immediately after it happened?

24 Q Yes, ma'am.

25 A He told me that it was an accidental slip.

Kimberly Baker-Cross by Mr. Snell

1 And I---

2 Q Did you believe him?

3 A At that moment I did.

4 Q Did you believe that the next day?

5 A The next day when I the continued
6 discomfort and bruising was still there, I started
7 piecing things together and realized that one
8 accidental slip would not do that.

9 Q And but you don't have any prior
10 experience personally, about this sort of matter,
11 do you?

12 A No.

13 Q Now when you went to the police on the
14 following, for first time the following Monday, is
15 that correct?

16 A Correct.

17 Q And did you met with a Detective Lyons?

18 A Correct.

19 Q Billy Lyons?

20 A Correct.

21 Q And you also met with Ms. Fowler?

22 A The victim's advocate, yes.

23 Q And did you file or fill out a form like a
24 complaint or incident report?

25 A I was sent home with an incident report to

Kimberly Baker-Cross by Mr. Snell

1 fill out.

2 Q And at that time did you -- were you
3 asking -- did you tell them that you were sure you
4 had been assaulted?

5 A I was sure that I had been assaulted, but
6 I did not know what I wanted to do at that point.
7 It was more -- I was really fearful at that time
8 and thought that it needed to be reported in case
9 he came back.

10 Q So at that time you weren't asking to
11 press any kind of charges.

12 A Not at that time. I was making a report.

13 Q And now prior to September 19th, you
14 hadn't seen Mr. Younger for 3 weeks, is that
15 right?

16 A Correct.

17 Q And during that time he had returned back
18 to North Carolina, is that correct?

19 A To my knowledge.

20 Q And so after the 19th, you understood, to
21 the best of your knowledge, he had gone back to
22 North Carolina which was his home.

23 A Correct.

24 Q And so you had -- when Mr. Younger left on
25 the 19th, you all didn't have any definite plans

Kimberly Baker-Cross by Mr. Snell

1 to see each other again any kind of specific -- at
2 a specific time.

3 A Not specific. But I sought my house key.
4 I needed my house key back. But I knew he was
5 still waiting to find out if he would have the job
6 in the area or not. But no specific plans.

7 Q When he left your house which would have
8 been on September 20th, correct me, about 9 or 10
9 in the morning, did he, when he left your house
10 that morning, did he take the house key with you
11 or did he leave it?

12 A No, he left the house key then.

13 Q And---

14 MR. MEADORS: What day is he saying? You
15 didn't say 9/21.

16 A Yeah, I think he got confused was we were
17 talking about that 3 week gap.

18 MR. SNELL: I'm sorry.

19 MR. MEADORS: He started off talking about
20 before in October when that 3 week gap. Now he's
21 asking about the sexual. I just want to get the
22 dates straight and I do it later and saying she
23 said otherwise. I apologize.

24 MR. SNELL: Not at all.

25 Q And just to be clear, the last, your last

Kimberly Baker-Cross by Mr. Snell

1 date with Mr. Younger.

2 A September 20th.

3 Q It was on September 20th. And that
4 extended overnight into the morning of the 21st?

5 A No, the incident happened September 19th,
6 Wednesday. He left the following Thursday.

7 Q So it started on the 19th, and it ended on
8 the 20th.

9 A He left my house the next morning.

10 Q And on the 19th, you hadn't seen him for
11 the 3 weeks before September 19th.

12 A Correct.

13 Q And when he left your house on September
14 20th, you didn't have or did you have a definite
15 plan to see him again?

16 A Not a definite plan. He had mentioned
17 something about he was going to finish up a job in
18 Lake City, but he may come back and check on me.
19 We did discuss that.

20 Q And at any point and at that time, did you
21 indicate that that was okay?

22 A At that time I did.

23 Q You did. And at any point and just so we
24 are clear, there was a consensual sex between you
25 and Mr. Younger.

Kimberly Baker-Cross by Mr. Snell

1 A Yes.

2 Q Downstairs. And you testified that he
3 became rougher or more aggressive?

4 A More aggressive.

5 Q But even you still allowed or consented to
6 the sex going forward.

7 A Yes.

8 Q And was there ever a point during the sex
9 when you told him no or to stop?

10 A No.

11 Q And---

12 A I wanted to give that opportunity.

13 Q And when Mr. Younger asked you to roll
14 over, you voluntarily rolled over, correct?

15 A Yes.

16 Q And even though he had been rougher up to
17 that point.

18 A Not up to that point. He started getting
19 rougher up into the point where I remembered
20 having my airway cut off. It was those -- it
21 started getting rough and that all happened very
22 quickly.

23 Q And at any point, did you ever get any
24 kind of marks or bruising on your neck or your
25 throat?

Kimberly Baker-Redirect by Meadors

1 A No.

2 MR. SNELL: If I may beg the court's
3 indulgence.

4 THE COURT: Yes, sir.

5 MR. SNELL: Thank you so much. No other
6 questions.

7 THE COURT: Any redirect?

8 MR. MEADORS: Just briefly.

9 Redirect Examination by Mr. Meadors:

10 Q Mr. Snell asked you about the photos.
11 During some part of the consensual sex, did you
12 ask him if he was videotaping you?

13 A I remember seeing yes, the phone was
14 propped up. First he said no, then he said yes.
15 And then---

16 Q Wait a minute. Did you ask him whether or
17 not he was videotaping this incident?

18 A Yes.

19 Q And what did he say?

20 A Yes.

21 Q Did he say yes to start with, or did he
22 say no to start with?

23 A He said no to start with. And then, yes.

24 Q Then yes. And then did he anything with
25 the phone after he initially said no and then said

1 yes?

2 A I said to see it. And it was a very dark
3 recording. And I said delete it. He deleted it
4 and then phone went away.

5 Q So he had been recording.

6 A Correct.

7 MR. MEADORS: Thank you, Judge. That's
8 all.

9 THE COURT: Any recross?

10 MR. SNELL: No, Your Honor.

11 THE COURT: Thank you. You may step down.

12 MR. MEADORS: Cori Palmer.

13 Cori Palmer being first duly sworn,
14 testified as follows:

15 THE BAILIFF: Please state your full name
16 and spell your last name for the record.

17 A Cori Palmer. P-A-L-M-E-R.

18 MR. SNELL: If I may.

19 THE COURT: Yes, sir.

20 MR. SNELL: And at this point, I would
21 like a make a motion to sequester the witnesses.

22 THE COURT: Any objection?

23 MR. MEADORS: Just One left regarding
24 this.

25 THE COURT: Motion granted.

1 MR. MEADORS: As to this issue you are
2 talking about?

3 THE COURT: Yes.

4 MR. SNELL: Well and if there are any
5 other witnesses in the courtroom, they should
6 be -- we would ask that they be sequestered.

7 MR. MEADORS: Okay.

8 Direct Examination by Mr. Meadors:

9 Q Good afternoon, Ms. Cori Palmer.

10 A Yes.

11 Q Tell the judge where you are from?

12 A I live in Lumberton, North Carolina.

13 Q Where were you born?

14 A Georgia. Columbus, Georgia.

15 Q Where were you raised?

16 A Columbus, Georgia.

17 Q Where did you go to high school?

18 A Columbus, Georgia.

19 Q And when did you leave Georgia?

20 A 1997.

21 Q And where did you go?

22 A I lived in Tennessee for a little while.

23 I was married. And then when I got divorced, I

24 moved to North Carolina in 2002.

25 Q and what were you doing in North Carolina?

Cori Palmer-Direct by Meadors

1 A I was a flight attendant for the military.
2 I traveled transporting troops.

3 Q Where did you all go?

4 A Anywhere that the U.S. Military has an
5 installation base.

6 Q How long did you do that?

7 A About 5 or 6 years.

8 Q So in 2005, that's what you were doing?

9 A Yes.

10 Q And specifically in January of 2005, did
11 you meet the defendant?

12 A Yes.

13 Q And how did you meet him?

14 A I was out with a girlfriend and she
15 introduced me to him.

16 Q And do you remember where you were?

17 A In a restaurant bar in High Point, North
18 Carolina.

19 Q And as a result of that, did a
20 relationship start between you and the defendant?

21 A Yes.

22 Q How did that go about?

23 A I traveled. I was out of th country for
24 two weeks at a time. I would be home. Gone two
25 weeks. Home two weeks. He got my phone number

Cori Palmer-Direct by Meadors

1 that first night. We called. He called and we
2 talked on the phone a little bit. We went to a
3 couple of movies. Spent some time together when I
4 was home. I think I flew out right after I met
5 him. Then when I came back, we were in contact
6 again. And we would see each when I was at home.

7 Q And so the two weeks when you home after
8 you meet him in January, is it fair to say you all
9 saw each other a lot?

10 A Yeah, several times. Uh-huh.

11 (Affirmative.)

12 Q And where would you -- would he come to
13 your house?

14 A Yes.

15 Q Would you go to his place?

16 A No, not very often.

17 Q Where was he---

18 A Once or twice I went there.

19 Q Where was he staying, do you remember?

20 A He lived in Archdale. He had apartment in
21 Archdale. Or it may have even be Trinity. That
22 area is a south -- a little south of High Point.

23 Q Tell the judge about your relationship as
24 it started. Specifically you said you would go to
25 dinner and all. Would you have wine?

Cori Palmer-Direct by Meadors

1 A Yes. He came over to my apartment a lot.
2 When we first started dating, I just -- he would
3 come to my apartment and cook breakfast for me in
4 the morning. He would come over and walk my dog.
5 He helped me change a light fixture in my
6 bathroom. He was just really great. And we
7 cooked dinner some. And I liked to drink wine.
8 And we would often -- several times we had wine
9 with dinner.

10 Q Was fitness involved in your relationship?

11 A He was a personal trainer. I worked out
12 at a local gym there. He talked to me a lot about
13 working out and things I could do better or
14 differently to get a better result.

15 Q To get a better result?

16 A As far as your physical fitness goes,
17 yeah.

18 Q Where was he a trainer.

19 A I am not clear on that. I think he told
20 had a business called Younger Image Fitness.

21 Q How often would you see him when you were
22 home for your two weeks from a flight attendant?

23 A Almost every time I came home we would see
24 each other.

25 Q This relationship from beginning to end,

Cori Palmer-Direct by Meadors

1 lasted how long?

2 A April -- from January until April 18th.

3 Q 2005.

4 A Yes.

5 Q And at some point after you started, after
6 you met him and going out to dinner, did the
7 relationship become intimate?

8 A Yes, it did. Probably about a month.

9 Q And prior to that, what were your
10 conversations like? What did you all talk about?

11 A I really thought Greg was great. I really
12 kind of fell for him. I really thought, we
13 talked about the bible. We prayed together. He
14 encouraged me with physical fitness. He told me
15 that he had son, however I never met his son. I
16 thought it was great.

17 Q Did you fall for him?

18 A Yeah. I was hoping that it would
19 progress.

20 Q And anything in particular and I have to
21 ask you this, I apologize. Is there anything
22 about your intimate relations that you remember or
23 stand out prior to the last one?

24 A He let me know that he was interested in
25 anal sex, but I was not interested in that.

Cori Palmer-Direct by Meadors

1 Q How did he let you know that?

2 A Well he told me. He would ask if he could
3 do it, and I wasn't interested.

4 Q And did he ever in one of your intimate
5 relationships still try to get you to do it kind
6 of when you are in the heat of moment maybe?

7 A No, he may have played around with his
8 finger or something, but no. He never penetrated
9 me anally.

10 Q And you told him that's not something you
11 wanted to do.

12 A Right.

13 Q Again I apologize for asking you this.
14 How many -- did there come a time with some wine
15 that you noticed something? An effect on
16 yourself?

17 A Yes, there was an incident about maybe two
18 weeks before the last time I saw Greg. We were
19 cooking -- I was cooking some dinner, and he came
20 over and poured us both a glass of wine. And I
21 noticed that he put his finger in the glass. And
22 I said did you -- why do you put -- what are
23 doing. And he said I just put a little something
24 in there to help you relax. And I took a sip or
25 two of it, and it made me sick immediately. I

Cori Palmer-Direct by Meadors

1 threw up.

2 Q Did you know what -- did he tell you what
3 was in there?

4 A No, he didn't.

5 Q Did that end the evening.

6 A Yes.

7 Q As far as that night is concerned?

8 A Yes.

9 Q Now did there come another time the
10 incident that I actually asked you to come down
11 here for? Do you remember when that was?

12 A April 18th 2005.

13 Q You remember the date?

14 A Yeah, I do.

15 Q And what do you remember about that day
16 prior to this incident?

17 A He came over to my apartment. Again, it
18 was in the evening. Fixed us both a glass of
19 wine. He sat on my couch. I sat on the floor in
20 front of him. And we were sitting there talking
21 and I took a couple sips of my wine, and I became
22 very drunk. I said that I had to pee. And I
23 said did you put something in my wine. And he
24 said no it just must be getting to you tonight.
25 And I don't remember ever getting up to pee. My

Cori Palmer-Direct by Meadors

1 next memories are being in the bed naked. He had
2 one my pink scarves around my neck. I was faced
3 down on the bed. He was behind me. I was
4 asking -- I do remember asking him to stop. My
5 recollection of the events that night are on and
6 off, because I believe that I was passing out and
7 waking up and passing out. I don't know if he was
8 penetrating me anally with himself or with an
9 object. I also remember him being on top of me
10 with the scarf around my neck and he an x acto
11 knife, and he was pressing it on my breasts. He
12 never penetrated the skin; however, he was just
13 pressing it there. He never moved it break to
14 skin.

15 I woke up the next morning and there was
16 blood on my sheets. He was gone. My bottom was
17 bloody and sore. I went to the bathroom and it
18 hurt. And the whole day after that was a bit of a
19 blur. He texted me maybe midday and asked me how
20 I was doing. I asked him, I texted him back and
21 said, what did you do to me. And he said where
22 are you hurting. And I texted him and said don't
23 ever call me again. I have never seen him again
24 until today.

25 Q And when you said initially he had the

Cori Palmer-Direct by Meadors

1 scarf around your back, he was behind you and he
2 had scarf around your neck?

3 A Yes.

4 Q And was he choking you with it?

5 A Yes.

6 Q And that's whether either himself or
7 something else was in your anus?

8 A Yes.

9 Q And had you wanted that to happen?

10 A No.

11 Q Had you specifically told him you didn't
12 want that to happen?

13 A No.

14 Q Had you told him you didn't want to do
15 that before?

16 A Oh, yes. Yes.

17 Q And the next day when you got up, were you
18 bleeding from your anus?

19 A Yes.

20 Q And since that last text where he said,
21 where are hurting and you said, I don't want to
22 see you anymore. You have not seen him.

23 A I have not. I saw I think about a week
24 after that, I saw his, he had a black jeep
25 Cherokee at that time. And I saw it ride through

Cori Palmer-Direct by Meadors

1 the apartment complex where I lived, but I didn't
2 see him.

3 Q So this was about a four month
4 relationship.

5 A Yes.

6 Q Approximately how many times had you all
7 been intimate prior to this?

8 A Maybe 10.

9 Q And let me ask you, did you -- did he take
10 pictures of you?

11 A Yes.

12 Q Do you know when? Did you know he was
13 taking pictures?

14 A No.

15 Q How did you know he took pictures?

16 A He e-mailed me a picture of my bottom.

17 Q Of your bottom.

18 A Uh-huh. (affirmative.)

19 Q When was that?

20 A I am not clear.

21 Q And did you come up -- let me rephrase
22 it. Did your name surface I guess, in the
23 investigation of Lindsey Rogers?

24 A Yes, it did.

25 Q That's looking for other victims. That's

Cori Palmer-Cross by Snell

1 how you were identified, potential victims, that
2 how you were identified.

3 A Yes.

4 Q And you gave this information to a Captain
5 Denny who was in the courtroom earlier, correct?

6 A Correct.

7 Q And is the person that drugged you and
8 anally penetrated you with either himself or an
9 object, in the courtroom?

10 A Yes.

11 Q Is he sitting next to Mr. Snell behind the
12 computer? Is that him?

13 A Yes, he is.

14 MR. MEADORS: Thank you for being here
15 today.

16 THE COURT: Mr. Snell.

17 Cross Examination by Mr. Snell:

18 Q My name is Jim Snell. Now you dated
19 Mr. Younger for approximately 4 months,---

20 A Yes.

21 Q ---is that correct? Was that a committed
22 relationship? Were you only seeing him and he was
23 only seeing you?

24 A No.

25 Q Were you all both seeing other people?

Cori Palmer-Cross by Snell

1 A I really wasn't, but I don't know if he
2 was or not. We had not formally made a
3 commitment.

4 Q Now and I want to make sure I understand
5 your testimony. There were, did you testify that
6 there were two separate incidents where he had put
7 something in your drink?

8 A Yes.

9 Q And the first incident would that have
10 been around March of 2005 after you had been
11 dating about 2 months?

12 A I don't know. Probably. It was a few
13 weeks before.

14 Q The April incident.

15 A Yes. Uh-huh. (Affirmative.) So.

16 Q At that time, did he tell you that he had
17 put something in your drink?

18 A Yes.

19 Q What did he put in your drink?

20 A He didn't tell me.

21 Q But at that point you knew that he had put
22 some type of drug -- you believed he put some type
23 of drug in your drink.

24 A Yes.

25 Q And you continued to date him.

Cori Palmer-Cross by Snell

1 A Yes.

2 Q Afterwards.

3 A Yes.

4 Q Then you said that a couple of weeks after
5 the first drug in your drink, he put -- he
6 repeated that, and put a drug in your drink again,
7 the second time, correct?

8 A Yes.

9 Q And you're not sure -- now did you ever
10 yourself after that either incident, report to law
11 enforcement immediately or in the months
12 following?

13 A No, I did not.

14 Q So you never attempted to press charges or
15 anything like that?

16 A No, I did not.

17 Q And you testified before that you are not
18 sure as to what type of anal penetration you had,
19 correct? What type of object or...

20 A That's correct.

21 Q And at any point, I didn't hear you say at
22 any point that you had been choked or choked in
23 unconsciousness, is that correct?

24 A He had the pink scarf around my neck, and
25 was pulling on the scarf.

Cori Palmer-Cross by Snell

1 Q But that's -- but you didn't fall
2 unconscious---

3 A Yes, I did.

4 Q Because of choking?

5 A I believe it was because of what he put in
6 my drink.

7 Q Had -- was the choking or was that
8 anything that had been to some degree involved in
9 your sex before?

10 A No.

11 Q So that was the first incident.

12 A Yes.

13 Q And you also said it was during the second
14 incident that he had a knife and held it up to
15 you?

16 A He had an x acto knife. Which, do you
17 know?

18 Q I do. But you can describe it.

19 A It's just a little crafting knife. And I
20 just happened to have it in my nightstand drawer.
21 I was doing some crafts or something, and it just
22 happened to be in my nightstand drawer. But he
23 did not cut me with it, but he pressed it on my
24 breasts.

25 Q Was that to threaten you?

Cori Palmer-Redirect by Meadors

1 A I don't know. I think it was just
2 something he was doing to get a thrill. I don't
3 know.

4 Q Sex play?

5 A I can't speculate on why he did I. I
6 don't know.

7 Q But he never -- he wasn't holding a knife
8 up to you to force you to....

9 A No, he was not.

10 MR. SNELL: I beg the court's indulgence,
11 Your Honor.

12 Q Now, Ms. Palmer, did you ever have to get,
13 seek medical attention?

14 A I did not.

15 MR. SNELL: Thank you. No further
16 questions.

17 THE COURT: Any redirect?

18 MR. MEADORS: Just briefly, Judge.

19 Redirect Examination by Mr. Meadors:

20 Q Since he asked, why didn't you go to the
21 police? I am not fussing, I'm just asking.

22 A I was just dumbfounded. I didn't want to
23 believe that he would do that to me.

24 Q You didn't want it to happen.

25 A No.

Lindsey Rogers-Direct by Meadors

1 MR. MEADORS: Thank you.

2 THE COURT: Any recross?

3 MR. SNELL: No, Your Honor.

4 THE COURT: Thank you. You may step down.

5 Why don't we take a 10 minute recess. The court

6 will be -- well just make it 15. The court will

7 be in recess until 2:30.

8 (Whereupon, the court takes a short

9 recess.)

10 THE COURT: You may call your next witness

11 MR. MEADORS: Lindsey Rogers.

12 Lindsey Michelle Rogers, Being first

13 duly sworn, testified as follows:

14 THE BAILIFF: Please state your full name

15 and spell your last name for the record.

16 A Lindsey Michelle Rogers. R-O-G-E-R-S.

17 DIRECT EXAMINATION by Mr. Meadors:

18 Q Good afternoon, Ms. Rogers.

19 A Hello.

20 Q Now like the prior witness, did you come
21 down from North Carolina this morning?

22 A Yes.

23 Q At my request.

24 A Yes.

25 Q And can you please tell His Honor, Judge,

Lindsey Rogers-Direct by Meadors

1 Young, just a little bit about you. Your
2 background. Where were you born?

3 A I am from Greensboro, North Carolina.
4 I've been there my whole life. I went to school
5 there. Work. I do sales.

6 Q What are you in?

7 A I'm medical sales. Prior to that,
8 pharmaceutical sales.

9 Q And what about your background as far as
10 education?

11 A I have a degree from the University of
12 North Carolina at Greensboro, in Business
13 Administration.

14 Q When did you meet the defendant?

15 A I met him June 30th 2005.

16 Q And how did that come about?

17 A I was dining at T. K. Tripps for lunch
18 with my grandmother. I was taking her out to
19 lunch. And he approached me. He sent a water
20 over my table. And the waiter told me, you know,
21 this guy has bought you a drink or whatever. And
22 I just kind of laughed like okay, whatever. And I
23 guess as he was leaving the restaurant and he
24 stopped by my table introduced his self. And give
25 me his number. And I think I might gave him mine.

Lindsey Rogers-Direct by Meadors

1 I don't remember. But we exchanged numbers. Or I
2 got his number.

3 Q Who was he with?

4 A He was with an elderly couple. I presumed
5 it was his parents. It was -- he later told me
6 that it was a client -- I don't know if it was a
7 friend. But he was actually working with this
8 couple. The lady had hired him to help with her
9 husband who is an Alzheimer's patient. So Greg
10 took them out, whatever. Took care of them.

11 Q And when he left you that number that day,
12 did he give his name with the number?

13 A He just put Greg on there. So that's all
14 I had to go by at that point and time..

15 Q And tell me when this was, Ms. Rogers,
16 again.

17 A June 30th 2005.

18 Q And T. K. Tripps is in Greensboro.

19 A Yes.

20 Q So after that, did you hear from the
21 defendant again, or did y'all come in contact
22 after?

23 A Yes, we spoke over the phone a couple of
24 times. He called me. I had to go out of town.
25 And he called me, you know, on the phone. And we

Lindsey Rogers-Direct by Meadors

1 just talked, you know, briefly. You know, what do
2 you like. What's your name. Because I asked him,
3 so what's your last name. And he said Greg
4 Johnston. And I said oh, okay. That's a weird
5 last name, but okay.

6 Q So he told you his name---

7 A So that's he told me his name was Greg
8 Johnston. He told me he was 26 years old. And
9 again, this is 2005.

10 Q You've come to find out that he wasn't 26.

11 A That's right. Nothing he told me was
12 right.

13 Q The name he gave you was Greg Johnston.

14 A The name was wrong. Birthdate wrong, yes.

15 Q And how long after this encounter at T. K.
16 Tripps were these phone calls where you all were
17 back and forth?

18 A July 2nd, we were on the phone. Then
19 again on July 4th, we talked on the phone. We
20 went to -- we meet up, I believe on July 4th we
21 did the fireworks. I was already planning to go
22 both with my mother and my father to the
23 fireworks.

24 Q Did your father come with you today?

25 A Absolutely. He's right back there.

Lindsey Rogers-Direct by Meadors

1 Q Raise your hand. That's your daddy?

2 A Yep. So he went along with my mother and
3 I. We were already planning on to the fireworks.
4 And I asked Greg if he would like to go. Because
5 I thought, okay, this will be fun, you know,
6 something to do. So we went. And he took
7 pictures. And my family took pictures of him and
8 I. He sent them later in an e-mail. Everything
9 seemed to me be fine. And the next day July 5th,
10 we had planned to go work out. I met him at the
11 YMCA. We did a hot yoga class, which I've never
12 done yoga. I work out. I was like, okay, I'm
13 going for it. Did a yoga class. And I don't do
14 well in the heat. So I was like, I'm just not
15 feeling well. I feel like I am faint. Like I had
16 to get some air. Cool down. And so I walked out
17 in the hallway and just sat there and cooled down.
18 And I fine.

19 And after the class was over, we went to
20 Mexican Restaurant and had margarita's and we just
21 sat there and kind of talked. And I know we were
22 drinking the margarita's and he asked me like, do
23 you feel the alcohol. And I said, no. You know,
24 he talked he was dating a couple of people. And I
25 mean it was just -- we were just casually talking.

Lindsey Rogers-Direct by Meadors

1 We just met.

2 Q That's July 5th 2005.

3 A Right.

4 Q Okay.

5 A So we did the margarita's at the
6 restaurant. And the 6th came and that was morn --
7 the day that we had planned like, we are going to
8 go out this night. This is going to be our date.
9 Like we're officially going on a date or whatever.
10 And, you know, he was like, I'll come up with
11 something and make the plans. That evening he was
12 teaching a yoga class. And I guess it ran late or
13 what not. And he just finished it like
14 8:00 o'clock. He had told me to meet him at the
15 mall, you know, in a parking lot after that
16 because he was running late. So obviously I hadn't
17 showered or done anything. Didn't have a game
18 plan for the evening.

19 So he was like, well it doesn't matter
20 whatever you want to do. We can go do pool. We
21 can do bowling. And he was like well you can just
22 come back to my house, and I'll get ready and
23 we'll get it figured out. I was like okay. In
24 the meantime he called me as we've driving, and he
25 was like, how about just picking up a movie at

Lindsey Rogers-Direct by Meadors

1 Blockbuster. So I picked up -- he gave me his
2 Blockbuster card. He threw it in my car from his
3 car. And I went and picked up a movie. And I got
4 to his house around 9:15 p.m.

5 Q And where was he staying?

6 A In Archdale at his condo there. So by the
7 time I picked out the movie and got there, it was
8 around 9:15.

9 Q Now prior to this, stop right there in
10 your mind. Prior to that, your other
11 conversations, and you went to fireworks. What
12 else would you all talk about? I mean did he have
13 any other---

14 A I mean he just, he worked out a lot. He
15 told me he was a nurse. I found out that wasn't
16 true. You know that -- just nothing specific or
17 significant.

18 Q It's back at 9:15. I didn't mean to break
19 you up.

20 A That's okay.

21 Q You're back at 9:15 at Archdale his condo.

22 A Uh-huh. (Affirmative.) That's right.

23 Q And you had been to Blockbuster to get a
24 movie.

25 A I had been to Blockbuster. Got a movie.

Lindsey Rogers-Direct by Meadors

1 I got there--

2 Q Do you remember what you got?

3 A Collateral or something. I don't know.

4 I can't remember. That might have been the movie

5 that was on TV when I got there. But anyway, so

6 got to his house. He was, you know, at the door.

7 He came to the door, he was dressed. And he

8 opened the door. I walked straight in. There was

9 not a television in the living room or anything.

10 And he said that he had a DVD player in his room,

11 like in his bedroom where he had the TV. And I

12 walked in his room. He says, Oh, I don't have a

13 DVD player. You know, my so and so got the

14 play -- I was going to put it on the play station.

15 I don't have it.

16 So he had no means of watching anything on

17 a DVD. So then we just turned on the TV. Walked

18 in the kitchen. We drank wine. He poured two

19 glasses of wine. I was in witness of. And I saw

20 that. And then we watched TV. Went to his room.

21 Kingsize bed. I sat on one side. He sat on the

22 other. We were talking a little bit. And then he

23 kept, you know, like cheers. Clinging the glasses

24 together. He did that multiple times.

25 Q Like just doing your cheers.

Lindsey Rogers-Direct by Meadors

1 A Yeah.

2 Q Okay.

3 A And you know we kissed maybe. But that's
4 it. There was no touching. I didn't touch him.
5 He didn't touch me. None of that went on. And
6 then he got another glass wine by his self. He
7 came back and I was drinking that. And I noticed
8 on the glass there was like a little residue of
9 something. And I asked him like what is on here.
10 And he was like, oh, that's probably from the dish
11 washer or something. And so, you know, whatever.
12 And then after that it was like 10:15 or 10
13 o'clock when the movie was going off. And the
14 credits were rolling by. I remember nothing after
15 that moment.

16 Q And the last thing you remember was the
17 credits going off.

18 A Right.

19 Q In his bedroom.

20 A Yes.

21 Q What do you remember next?

22 A The next thing I remember was him waking
23 me up around 6:30 in the morning. And I was -- I
24 had no clothes on. I was sick. I didn't really
25 know where I was. And I was just out of it. And

Lindsey Rogers-Direct by Meadors

1 I felt horrible. Like I was throwing up. And I
2 asked him at that moment and time, because I've
3 drank. And my, you know, everybody has drank. I
4 know what a hangover feels like, and that was not
5 a hangover. You know, I was just really, really
6 sick and just out of it. So he -- I asked him if
7 he put anything in my drink. I said, what did you
8 give me. Did you give me anything. He said, no,
9 I would never do that. And, you know, after that
10 he left.

11 And I went and found my phone. Apparently
12 he turned my phone off. Because at the time when
13 this event happened, I was living at home with my
14 parents. And thank God for my parents. They were
15 looking for me all night. Lindsey doesn't go out
16 on a date and not show up at home. And my phone
17 was off. Because I had told my girlfriends, you
18 know, I was excited, I was going on a date. Like
19 they were all worried about me. Nobody could get
20 a hold of me.

21 So when I got to my phone, Greg was
22 calling saying my father was calling him, looking
23 for me. Call your dad. And that's when I did.
24 My dad hardly knew anything I was saying, because
25 my voice was so slurred. He knew at that moment

Lindsey Rogers-Direct by Meadors

1 something was wrong with his daughter. So at that
2 moment and time, I told him how to get there. He
3 asked me, what's wrong. And I said I don't know
4 even what hap -- like he goes, do you have your
5 clothes on. And I said, no. And I'm very sore.
6 Something has happened. And he said call 911.
7 And I did. And that's when Detective Denny showed
8 up, my father and brother to see the shape I was
9 in

10 Q Where were you? Where did they come?

11 A I was at his apartment or condo or
12 whatever in Archdale. That's where they came.
13 And I did not know until Detective Denny got
14 there, and he said now what did you say this guy's
15 name was. And I said Greg Johnston. And he
16 said---

17 MR. SNELL: Objection to that hearsay.

18 MR. MEADORS: Judge, for these purposes.

19 THE COURT: That would be different if we
20 were in front of the jury. I'm going to hear it.
21 Proceed.

22 MR. MEADORS: And he's here.

23 THE COURT: Overruled.

24 A Okay. And anyway so I was telling
25 Denny---

Lindsey Rogers-Direct by Meadors

1 Q You told him Greg Johnston.

2 A Right. I said it's Greg Johnston. I
3 swear that's what his name is. He said, no. And
4 his name is Greg Younger. And that was the first
5 time I ever heard his name. The first time I ever
6 knew that he had given me the wrong name. So
7 that's when I was taken to the hospital and
8 given -- the rape kit was done. I had rectal
9 tears. Several different tears in my rectum.
10 They took pictures for my rape kit. And all the
11 blood work was done. I got two phone calls from
12 him. One, was a message seeing if I was okay.
13 The second one was a message saying he got a visit
14 from the local police department with some strong
15 accusations. And I'm sorry you don't remember
16 what you did. So that's what I got from him. And
17 I never spoke to him again, ever.

18 Q I'm glad you are here. You have been
19 waiting a long time for this.

20 A I have. I am glad to be here.

21 Q You know, it's hard not to get personal.
22 But had you ever had anal sex before that day?

23 A No.

24 Q And you said you had rectal tears?

25 A Yes. And like I say, I remember nothing.

Lindsey Rogers-Direct by Meadors

1 Q Did you have those tears before you lost
2 conscious?

3 A No.

4 Q And you went to the hospital and you were
5 examined and had a rape kit.

6 A Yes, sir.

7 Q Had he told you he was a student anywhere?

8 A He said was at UNCG or GTCC doing nursing,
9 but that was null and void.

10 Q And you actually filed charges against him
11 in North Carolina.

12 A I sure did.

13 Q Now do you whether or not he took pictures
14 of you?

15 A Yes, he did take pictures. I found that
16 out later.

17 Q Tell us then, when did you find out?

18 A So when I pressed charges and Detective
19 Denny was doing all the research investigation of
20 him, he went to his house, confiscated cameras,
21 DVDs, VHS tapes, all kind of stuff. And found
22 bunch of pictures of me along with other women on
23 there.

24 Q Do you remember him taking those pictures?

25 A No, I remember nothing.

Lindsey Rogers-Direct by Meadors

1 Q And I know, I had to ask the obvious.

2 But you didn't - you weren't posing for him.

3 A Absolutely not.

4 Q Don't get mad. I just had to ask you
5 that. So I mean, you didn't know he was taking
6 pictures of you.

7 A No.

8 Q And you see them later when they are
9 provided by, I think his defense counsel maybe.

10 A That's right.

11 Q Do you know how he got your dad's number?

12 A I don't know. I couldn't figure it out.
13 But was glad he did. But whatever, I don't know.
14 Well it as my dad got his number somehow. I don't
15 give it to him or what. I have no idea. But he
16 had his number and called him and said I am
17 looking for Lindsey.

18 Q Did you give who had been identified --
19 who identified themselves as Greg Johnston, that you
20 later found out was James Gregory Younger, had you
21 given him permission to put something in your wine
22 to make you feel better or lose conscious?

23 A No.

24 Q Did you give him permission to take your
25 clothes off?

Lindsey Rogers-Direct by Meadors

1 A No.

2 Q Did you give him permission to touch you?

3 A No.

4 Q Put himself in your anus or see anything
5 else?

6 A No.

7 Q Did you want that to happen?

8 A No.

9 Q And did you find out what was in your body
10 that had made you go out?

11 A Yes. Blood work from the SBI that came
12 back showing that I had been given Ambien. And
13 I've never been prescribed a sleep aid a day in my
14 life. I don't have a problem sleeping. And I've
15 never taken anything like that. It showed up in
16 my blood work over 10 hours after it was given.
17 So I don't know how much I was given, exactly. But it
18 was enough. And it can be deadly when given with
19 alcohol. So I'm lucky to be sitting here.

20 Q But you had never taken that
21 voluntarily---

22 A No.

23 Q ---never prescribed that.

24 A Never. And I'll never do it under my
25 power.

Lindsey Rogers-Cross by Snell

1 Q But that's what was found in your blood.

2 A That's right.

3 Q And is the person who introduced himself
4 to you as Greg Johnston and the person who took
5 you to -- or the person you went to his house and
6 got wine from him.

7 A Yeah, he is sitting right over there.

8 MR. MEADORS: We would like the record to
9 so reflect.

10 THE COURT: The record will so reflect.

11 MR. MEADORS: I beg the court's indulgence
12 just.

13 MR. MEADORS: Thank you.

14 THE COURT: Mr. Snell.

15 Cross Examination by Mr. Snell:

16 Q Ms. Rogers, good afternoon. My is Jim
17 Snell. And I represent Mr. Younger. And just to
18 be clear, you had I have never spoken or talked
19 before, have we?

20 A No.

21 Q I have just have some questions just to
22 kind of clarify my understanding. Now this was
23 the first time that you and Mr. Younger had gone
24 out together, is that correct?

25 A Which date? I mean like I said, we've

Lindsey Rogers-Cross by Snell

1 done fireworks together. We went to lunch and a
2 dinner, and that's it. And then.

3 Q Okay. Was this -- and it's your
4 allegation that you were -- you and had sex or
5 some type of sexual act with him on that last
6 meeting?

7 A The next morning I found out.

8 Q And was that the only time you and
9 Mr. Younger had---

10 A Absolutely.

11 Q ---any type of sexual encounter?

12 A Yes, sir.

13 Q So up to that point you and him didn't
14 share a consensual sexual relationship?

15 A No, sir.

16 Q And just to make sure, were there any
17 allegations or did you ever allege any type of
18 choking?

19 A Not that it was aware of. Just blacking
20 out, unconscious. And finding out why later.

21 Q So no sleeper holds around your neck or
22 putting your hand over your mouth to stop you from
23 breathing. That didn't happen.

24 A Not that I know of. I don't remember.

25 Q And do you have any -- and so you don't

Lindsey Rogers-Cross by Snell

1 have any specific recollection due to you said the
2 drugs, the sex act or whatever the act was
3 involving your rectum. Is that correct? You
4 don't remember what happened.

5 A No. Until the next day. You wake up and
6 it's all, you know, you've got issues.

7 Q Now you have pressed charges and gone to
8 the police almost right away, is that correct?

9 A That morning.

10 Q And you had a gone to a hospital or doctor
11 right away.

12 A Yep.

13 Q Is that correct? And you had a rape kit
14 performed.

15 A Yep.

16 Q Correct? And did Mr. Younger to the best
17 of your knowledge, admit having anal sex with you?

18 A As far as I know, he told the detective
19 that he did.

20 Q So he admitted at that point having anal
21 sex with you, correct.

22 A Yes.

23 Q And he admitted anal sex until
24 ejaculation.

25 A I think he told him that, yeah.

Lindsey Rogers-Cross by Snell

1 Q And now Mr. Younger was actually arrested
2 and charged originally for this, is that correct?

3 A Uh-huh. (Affirmative.)

4 Q And it was back in 2005?

5 A Yeah.

6 Q But now at some point those charges were
7 actually dismissed or dropped, correct?

8 A No, the case was left open. Nothing was
9 discharged or dismissed.

10 Q Just make sure I am clear. Since 2005,
11 this case never came to trial, is that correct?

12 A Right.

13 Q And Mr. Younger never pled guilty to
14 anything, correct?

15 A Right.

16 Q And do you -- and would disagree with the
17 fact that the case -- the court records up there
18 actually say the case is closed. And Mr. Younger,
19 it's has been concluded for 7 or 8 years now.

20 A Nine.

21 Q Nine. But the legal case has been closed.

22 A Well to my knowledge, I don't think that
23 it was closed. I think it was left open, which is
24 that's what I was under the impression of.

25 Because if it I would have went and lost or won or

Lindsey Rogers-Redirect by Meadors

1 whatever, and that would have been closed. But to
2 leave it open so if these further acts keep going,
3 then this can be used to my knowledge. But...

4 Q Up until this case today, you haven't --
5 as far the North Carolina case, nothing has
6 happened with that case for years, is that
7 correct?

8 A Oh, it's been researched and it's been
9 brought up. And there's a lot of cases that go on
10 with him involved.

11 Q But your case, your case specifically,
12 involving you.

13 A Just my case has been used in, you know,
14 comparison to other cases that are being
15 investigated today, yes. So I don't know what, I
16 mean, I don't know, open/close. I don't. To my
17 knowledge, it was left open. So I may be in the
18 wrong, I am not for sure. I don't know.

19 MR. SNELL: I beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 MR. SNELL: Nothing further. Thank you so
22 much.

23 Redirect Examination by Mr. Meadors:

24 Q Your memory is that you never went in a
25 courtroom, to a jury room.

Lindsey Rogers-Redirect by Meadors

1 A That's right. Never been in the
2 courtroom. That's why I am here today.

3 Q And you're understanding it may dismissed,
4 relieved or restored or something like that. Is
5 that what your understanding?

6 A That's kind of, yeah. That's what I was
7 under the impression.

8 Q But you've never gone to court for it.

9 A That's right.

10 Q And specifically Mr. Snell asked you about
11 what his client had said to Detective Denny. Had
12 he ever discussed anal sex with you?

13 A Who? Greg?

14 Q Johnston or Mr. Younger.

15 A No.

16 Q And so you had never talked to him
17 about---

18 A We didn't discuss anything about sex.

19 Q I'm sorry. He had never talked to you
20 about wanting to have anal sex and you telling him
21 that you had anal sex before.

22 A Not to my knowledge.

23 Q That is what he told Detective Denny,
24 isn't it?

25 A Well that's what Detective -- yeah, that's

Linsey Rogers-Recross by Snell

1 what he told Detective Denny, but not to my
2 knowledge.

3 Q But you didn't have that conversation with
4 him.

5 A And I don't remember having that
6 conversation at all. But I don't remember
7 anything.

8 Q That's my point. Prior to that night, you
9 had never discussed---

10 A No.

11 Q ---not only not anal sex or any sex.

12 A Anything, no.

13 MR. MEADORS: Thank you, Judge. That's
14 all.

15 THE COURT: Any recross?

16 MR. SNELL: We do, Your Honor.

17 Recross Examination by Mr. Snell:

18 Q Make sure I am clear from the last
19 question. Is it your testimony you are not sure
20 in the last night you were with Mr. Younger, if
21 you did or didn't tell him that you anal sex
22 before.

23 A I did not. I don't remember anything that
24 night. Prior to that night, it wasn't discussed.
25 And I've discussed it with him, no.

Linsey Rogers-Recross by Snell

1 Q So as far what happened on that night, you
2 don't remember if you did or didn't say that.

3 A I don't remember anything from that night
4 until I woke up.

5 MR. SNELL: Thank you. No further
6 questions.

7 THE COURT: Thank you. You may step down.
8 The State may call its next witness.

9 MR. MEADORS: I beg the court's
10 indulgence.

11 THE COURT: Yes, sir.

12 MR. MEADORS: That's all, Judge.

13 THE COURT: Thank you. Would you all like
14 to argue your positions?

15 MR. BROWN: The State is ready when the
16 court is ready to argue, Your Honor.

17 THE COURT: Are you ready to argue?

18 MR. SNELL: We are, Your Honor.

19 MR. BROWN: Your Honor, may it please the
20 court?

21 THE COURT: Yes, sir.

22 MR. BROWN: Permission to approach
23 opposing counsel?

24 THE COURT: You may.

25 MR. BROWN: We've actually prepared a

Linsey Rogers-Recross by Snell

1 memorandum of law. And I may make one if it
2 pleases the court a court exhibit as well. That
3 is one for your copies.

4 (Memorandum marked Court's Exhibit No. 1
5 for id. only.)

6 MR. BROWN: Your Honor, this is Court's
7 Exhibit No. 1, a memorandum that has just been
8 handed up. Your Honor, the law as it pertains to
9 admitting prior bad acts under State vs. Lyle and
10 the subsequent case law has been handed down.
11 There is case law backing all this up. But in
12 short what you are looking for is ultimately about
13 a four part test. The first question of the court
14 is whether it's relevant. Because these are
15 convictions, the second test is to whether it is
16 clear and convincing evidence. The third test and
17 we are dealing with common scheme and plan as to
18 what similarities and dissimilarity. Define
19 whether the similarity is outweighed a
20 dissimilarity. And when we are talking about
21 absent of mistake or accident, to look and see
22 whether or not there's as a public trier of fact,
23 the jury, the judge, makes determinations about
24 what the law is. And then finally we would have
25 to look to see whether the probative value is

1 outweighed by the prejudicial effect of the
2 testimony from them.

3 As it pertains to the case before this
4 court today, I believe the law supports the
5 admission of both Lindsey Rogers testimony, as
6 well as Cori Parker. Or Cori Palmer, my
7 apologies. As pertains the testimony being
8 relevant, these all deal very directly with the
9 same type of accusation. These deal with sexual
10 assaults. All of them being of the anal assault
11 in nature. Each of them deal with it being
12 something that started with the victim coming over
13 to either defendant's house or the defendant
14 coming over to the victim's house. And all of it
15 deal with this happening after they had been
16 knocked unconscious.

17 As it pertains to both of these prior
18 victims, it is relevant directly as to what
19 happened to Kimberly Baker, because it all stems
20 directly from essentially what happened to her.
21 As it pertains directly to the second part of the
22 test, whether or not it is clear and convincing,
23 Your Honor, you've heard the testimony. I believe
24 that each one of the witnesses has come up and
25 testified today. They were forthright. They were

1 candid. They answered questions. That was
2 favorable to the defense and the State. You heard
3 their testimony. And that's going to be
4 ultimately your decision.

5 I will tell the court that any decision
6 you make here today will generally not be
7 disturbed on appeal, because you are at least for
8 the purposes of this, the factual finder.
9 Anything short of being clearly wrong. So I will
10 leave that decision to you. Obviously the biggest
11 part of this test goes directly to the
12 similarities outweigh the dissimilarities. In
13 comparing both of their testimony, I'll start by
14 comparing Kimberly Baker to Lindsey Rogers.

15 In my memo on page 6 of 12, I have
16 outlined the similarities that exists in this
17 particular case. Both of the victims were given
18 false names and false ages by the defendant about
19 exactly who they were dealing with in terms of
20 whether it's a 26-year-old or whatever the case
21 may be. One was given the name of Greg Johnston.
22 All, both of them have given a very different
23 name. Both of them were assaulted while they were
24 alone at the house with the defendant. One was at
25 the defendant's house in North Carolina. The

1 other one was at the victim's house in Sumter.

2 Your Honor, it should be pointed out that
3 both of these were gotten to that location through
4 plaintiff's to either have dinner together or
5 watch a movie together. Things that you do
6 alone. It was essentially an isolation of the
7 victim. Both victims had consumed some alcohol
8 leading up to the assault. It should be pointed
9 out that both victim's were caused by the
10 defendant to be unconscious, leading up the
11 assault. Your Honor, I am sure the defense is
12 going to point out both with Lindsey and with Cori
13 that the way they were knocked unconscious is
14 completely then what happened to Kimberly.
15 Kimberly by the State's position was chocked out.
16 Lindsey and Cori were drugged. But the State's
17 position on that; is that, it is still the same.
18 Because he is still knocking them out. He's
19 removing their ability to fight, to say no, or to
20 not consent to the sexual assault that occurred to
21 them that night.

22 They were knocked out. And that happened
23 in both of these cases. That happened to all 3 of
24 the victims. And we believe that is a glaring
25 similarity in this case. Both of the victims,

1 both Lindsey and with Kimberly and for that
2 record, with Cori, all of them were anally
3 assaulted. None of them had given any permission,
4 any consent. As it pertains to Kimberly and Cori,
5 both of them were in consensual sexual
6 relationships that dealt with vaginal intercourse.
7 But they had never consented to any type of anal
8 intercourse leading up to this particular night.
9 And on that particular night after being knocked
10 unconscious, they were anally assaulted.

11 As it pertains to Lindsey and Kimberly,
12 both of them, the defendant admitted to both of
13 them there had been anal penetration and gave
14 varying reasons as to why. As pertaining to
15 Kimberly he said that it was a slip, and his being
16 slipped out her vagina and entered her anus. As
17 it pertains to Lindsey he said that she had
18 actually said that it was okay, because they had
19 had, she had had anal sex in the past. Your
20 Honor, here are more obviously there are more
21 dissimilarities in her case as opposed to Cori's.
22 But to be clear, we do believe that the test that
23 is outlined and I would specifically cite the case
24 of State vs. Scott.

25 Your Honor, can find that throughout the

1 memorandum of law. But it's specifically at 405
2 S.C. 489. It clearly outlines that the court when
3 they're looking at this common scheme or plan,
4 when they're doing this balancing test the
5 obligation of the court is look for a close degree
6 of similarities existing and that exists when
7 similarities outweigh the dissimilarities. That's
8 specifically at page 433 of, I believe it's
9 actually, I'm sorry. I believe that's actually at
10 around page 242, I think. I am not quite sure.
11 But that's actually in the Scott opinion that's
12 quoted.

13 It tells the court that it should look for
14 all relevant factors. All of them should be
15 considered. There's a number of things that we
16 deal with sexual assaults that are obvious keys:
17 Ages of victims, relationships leading up to it,
18 location of where the abuse occurred, coercion and
19 threats and manner of the occurrence. With that
20 being said, when you look at the assault that
21 happened to Lindsey Rogers and the assault that
22 happened to Kimberly Baker, I do believe there are
23 glaring similarities. There are substantial
24 similarities. There are similarities that
25 outweigh the dissimilarities.

1 I think it's also important to weigh the
2 similarities and dissimilarities between the
3 assault on Kimberly Baker and Cori Palmer. That
4 as well is outlined in my memorandum. That's on
5 page 7 of 12. Of course they were in a dating
6 relationship. They had been dating for a number
7 of months leading up to it. I believe
8 Cori Palmer, she testified it 3 or 4 months. With
9 Kimberly Baker it was somewhere between 4 and 6
10 months. They both went in -- had been sexually
11 active in the dating relationship. Both of them
12 candidly, the defendant used religion to gain
13 confidence.

14 One I believe testified that they watched
15 a religious video together. I believe their
16 testimony and prayer together. They used
17 exercise. The defendant used exercise and
18 training as a means to develop a relationship with
19 each of them. One was through yoga. One was
20 through weight training. I believe it was through
21 Cori, weight training. Both women like I said,
22 were in a consensual, sexual relationships that
23 did not include anal sex. Neither victim had ever
24 engaged in anal intercourse with the defendant
25 prior to the assault. Both were, both women were

1 assaulted at their own personal residence by the
2 defendant. Both of them were at the home alone as
3 had been done with Lindsey and Kimberly.

4 THE COURT: But that wouldn't be usual,
5 would it? That they would be home alone, I
6 mean...

7 MR. BROWN: I mean not necessarily, Your
8 Honor. Except for the fact that---

9 THE COURT: I mean isn't that what we're
10 talking about the type of thing that generally
11 happens when people are alone?

12 MR. BROWN: I would agree, Your Honor.
13 But I'd also point out that is our State's
14 position as to what is actually going on. That is
15 where the defendant is isolating them. He's
16 getting them alone. Instead of making plans to go
17 out that night, he's getting them to the house
18 alone. And that way he can way he can isolate
19 them to actually cause these sexual assaults. I
20 believe that that is pertinent as to pertains
21 this particular case. Respectfully, Your Honor.

22 Both of them were served alcohol that
23 particular night. Both of them were knocked
24 unconscious. And, Your Honor, I want to be
25 perfectly clear. The initial knocking

1 unconsciousness for Cori Palmer was by the alcohol
2 and what was mixed in there. But that being said,
3 both of them chocked.

4 THE COURT: But is there any proof? I
5 mean on Cori Palmer's situation, is there any
6 proof that there was a substance placed in her
7 drink?

8 MR. BROWN: I thought there was testimony
9 out there that there had been something placed
10 into her drink, Your Honor.

11 THE COURT: I mean she thought there was
12 something that was -- he said it was from the dish
13 washer. But I mean is there any medical evidence
14 or anything like that showing that there was
15 anything in there?

16 MR. MEADORS: And, Your Honor, I think she
17 said he admitted -- he admitted to her he put
18 something in there.

19 THE COURT: Oh, is that? Okay.

20 MR. MEADORS: I thought that's what she
21 said.

22 MR. BROWN: And that was the same witness,
23 Your Honor.

24 THE COURT: Okay.

25 MR. BROWN: And, Your Honor, I would also

1 point out the fact that as she woke up from her
2 unconsciousness, there was still chocking going on
3 through the scarf. Both of them were chocked.
4 As it pertains to Kimberly Baker, she was
5 specifically chocked and that was what knocked her
6 out. Again, Your Honor, this was an anal assault
7 as opposed to a vaginal assault. And it was while
8 they were unconsciousness, not even ever consent
9 to do that.

10 Again, Your Honor, the purpose of this for
11 you weigh the similarities and dissimilarities.
12 And if they outweigh them, if they greatly
13 outweigh them, then that is the point this comes
14 in. I will point out to the court, we're not only
15 pursuing this under a common scheme or plan.
16 We're also offering it, because it goes to the
17 absence and mistake or accident. As it was
18 clearly testified in what was told by the
19 defendant to he victim, he slipped out the vagina
20 and into her anus. Your Honor, the law as
21 pertains to that, and I'm citing specifically,
22 State vs. Smith, 391, S.C. 353.

23 The law is clear that when the State
24 adequately explains how evidence of other acts
25 rightfully connects with issue in the case, and it

1 demonstrates to the judge or the jury that they
2 can use the evidence without using it for
3 prohibitive purposes of inferring guilt of
4 defendant's propensity to commit a crime. And,
5 Your Honor, that even goes further to cite State
6 vs. Wallace, where it actually outlines that this
7 evidence when you have by means of proving absence
8 of mistake, that this evidence can actually can be
9 specifically used to do that.

10 As was testified to as James Gregory
11 Younger stated to the victim, it could be very
12 possible for the jury to believe that the assault
13 occurred and there was a lack of mens rea. And,
14 Your Honor, that's simply put and not necessarily
15 what happened here. That's actually not at all
16 what happened here.

17 THE COURT: I guess one of my concerns,
18 I've still have to read all this. But aren't you
19 asking me in essence to find him guilty on those
20 charges in order to give that to the jury; that I
21 have to find him pretty much guilty in order for
22 that to go to the jury. And yet they were never
23 actually tried in a court of law.

24 MR. BROWN: And the standard is clear and
25 convincing as to the second part of the test---

1 THE COURT: Which is higher than just the
2 preponderance. I've got - it's not and of course,
3 we know it's not beyond a reasonable doubt. But
4 it's still a pretty high burden that you're asking
5 me to find that those facts all occurred, in order
6 to give to the jury.

7 MR. BROWN: Certainly, Your Honor, and
8 that is a high burden. And we aren't trying to
9 shine away from that at all. I would offer to the
10 court that the State vs. Scott opinion actually
11 gives a good analysis as to looking at the clear
12 and convincing evidence standard, as well as the
13 other four parts of the test that we can prove
14 this.

15 THE COURT: But what I'm getting at is,
16 you're asking me to find him guilty by clear and
17 convincing evidence that these events actually
18 took place the way the one victim's have
19 testified, in order to present it to the jury.

20 MR. MEADORS: Judge, we're not asking to
21 find guilty at all, beyond a reasonable doubt. I
22 don't think that's the law.

23 THE COURT: No, I'm saying you're asking
24 me to find by clear and convincing evidence that
25 he committed these acts.

1 MR. MEADORS: More likely, yes, by clear
2 and convincing, yes, sir. Based on not only their
3 testimony, but a lot of it came through the
4 detective where Lindsey's -- there was blood.
5 There was -- I don't think Your Honor has to go
6 through all the chain to find that. But, yes,
7 sir, I think Your Honor evaluated credibility.
8 And I think credibility is key in this setting as
9 much as anywhere, evaluating their credibility.
10 Was their credibility.

11 And, Your Honor, when they talk about the
12 x acto knife and certain specifics that they were
13 talking about, to me, reeked with credibility that
14 this happened. I think Your Honor can consider
15 that in deciding clear and convincing. Would that
16 be beyond a reasonable doubt, I don't know. I
17 don't think that's your understanding. But I
18 think what co-counsel or his argument, the
19 similarities we're saying are enough to show
20 absence of mistake, common scheme or plan, which I
21 think that's what he does. He gets them in. I
22 hate to use the word, prey on them. But preys on
23 them. Develops a relationship. Gets to where
24 they trust each other. Maybe even loved him.
25 And just say he's incredible. This is an

1 unbelievable.

2 They get to where he's got them under
3 control, and then he takes advantage and gets what
4 he wants. And I think it's anal sex. And I think
5 it's rough anal sex. That's what he wants.
6 That's what is consistent in all three these. And
7 I think the standard is clear and convincing. And
8 I don't know how else we could present it through
9 their testimony; is that, this is what did happen.
10 And we respectfully ask Your Honor to hope that we
11 did prove that to you. That standard.

12 THE COURT: You may proceed.

13 MR. BROWN: And, Your Honor, I completely
14 agree with everything Mr. Meadors said. That is
15 what we are asking you to do here today.
16 Obviously the final part is probative versus
17 prejudicial effect. And, Your Honor, while it
18 will be prejudicial, I believe the probative value
19 greatly outweighs. It would help the triers of
20 fact, the jury to help determine what actually did
21 happened that night. It would help them determine
22 whether or not this was an accident, whether or
23 not it was a mistake, whether or not this does
24 fall under common scheme and plan.

25 And I believe that the evidence, if it

1 were allowed to be entered, and I believe the law
2 supports it being entered at this point. I
3 believe that it would help the trier of fact to
4 sort through this case.

5 MR. MEADORS: Judge, can I say one final
6 thing?

7 THE COURT: Yes, sir.

8 MR. MEADORS: You know, it wasn't like I
9 brought them. These were actually reported, or
10 Ms. Rogers reported it the next day. And we have
11 had actually had Detective Denny here, and perhaps
12 I ought to call him. But he would corroborate
13 what she testified. And a lot of it came through
14 hearsay on both sides. But obviously the
15 defendant admitted that there was a sexual act.
16 He said that she had said, she had had anal sex
17 before. And she clearly denies that. Said that
18 this was the first time that they had been
19 together.

20 And I submit that her actions afterwards.
21 And her daddy calling and coming. I submit that's
22 beyond clear and convincing evidence; that that
23 really was first time. And that she didn't want
24 that to happen. But they were reported back when
25 it happened. So it isn't like these are just

1 coming to light. Ms. Cori explained the best way
2 she could, why she didn't come forward. She
3 didn't want to believe he had done that. I think
4 even our victim, Kimberly Baker said at first one
5 of the reasons there was a delay, she couldn't
6 believe he had done that. And just it took her
7 awhile to realize that this is what happened. A
8 lot of it, the picture. And it just took awhile.
9 She didn't want to believe it was what happened.
10 And I think that's a result of him taking
11 advantage of the relationship he had developed.
12 At least between those two, between Kimberly and
13 Ms. Cori Palmer. Thank you.

14 THE COURT: Mr. Snell.

15 MR. SNELL: Thank you so much. And, Your
16 Honor, our position we clearly think this is
17 overreaching. And we don't think under the
18 appropriate or applicable standards evidence,
19 either prior act admitted or testified to from
20 Ms. Palmer or Ms. Rogers is admissible under the
21 appropriate analysis. First, Your Honor, we don't
22 believe that there is need for the State to have
23 this evidence. The State is perfectly -- can make
24 its case and present the case here in question
25 today in the Baker case, without either any

1 evidence of prior bad acts. There is not a void
2 or vacuum that the State must go to prior bad act
3 evidence introduced in order to go forward with
4 this trial. There is no need. It's not a
5 question of identity. It's not a question of
6 motive. It's not anything.

7 As far as any allegation that it's
8 necessary under an accident doctrine, you know,
9 that evidence is coming directly from the State's
10 witnesses. The State has manufactured or produced
11 that. And it's not anything that -- I don't
12 think they can preemptively bring in prior bad act
13 evidence or that would be appropriate to try to
14 circumvent any type of defense.

15 Your Honor, first of all, with regard to
16 the clear and convincing standard, we don't
17 contend that the court can make a finding that
18 either one of these incidents occurred to a clear
19 and convincing standard. With regard to the
20 Palmer case, there was, she testified that she had
21 two instances involving where she suspected some
22 type of drug. She agreed. She had the first
23 incident and then continued to date Mr. Younger
24 and continued to accept his drinks. I think that
25 raises a serious question. At least enough to

1 circumvent a clear and convincing finding; that
2 she didn't acquiesce or consent to that type of, I
3 don't know what the term is, but that type of
4 partying or that type of drinking.

5 Second, with Ms. Rogers, as far as a clear
6 and convincing standard, she immediately reported
7 it. That case was investigated. All we know is
8 the case was dismissed. The prosecution, I mean,
9 she seemed adamant or intense as far as her
10 version, but obviously the prosecutor in North
11 Carolina felt otherwise. Obviously there was some
12 issues with the case but they couldn't prosecute
13 or any further burden, and it was dismissed. I
14 think that either one of those by itself would be
15 the Palmer and Rogers brings us another question
16 to keep the -- should prevent the court from
17 reaching any clear and convincing finding.

18 Further, we heard no, from no, on either
19 one, any medical evidence. We heard from no
20 investigators. We heard nothing corroborating or
21 offering any evidence of drugs or that anyone was
22 unconscious or either one had a medical situation.
23 We saw no photographs. We saw nothing else. The
24 State had that type of evidence, and it was
25 available. This was the hearing and the State's

1 opportunity to present it. They failed to do. I
2 think that prevents them from meeting the
3 appropriate evidentiary burden.

4 Second regard is, under Wallace and the
5 other cases, we know the court has to conduct an
6 analysis in the same areas. Either one of these
7 cases are nothing similar at all to this
8 particular case. These both cases they have
9 introduced or attempting to introduce involve
10 drugs. Neither one of them testified there was
11 choking to unconsciousness. Neither one testified
12 as to any type of vigorous consensual sex.

13 Ms. Palmer, testified as to the use of a
14 scarf which is a completely separate allegation
15 than the Baker case. She also testified as to
16 something involving a knife. Involving some type
17 of knife sex play on her breasts. Whatever that
18 is, it's completely unrelated. It has no bearing
19 to the allegations in the Baker case. You know,
20 it's a type of, as I understood, it was something
21 kinky that she alleged occurred in that particular
22 incidence that has no bearing. There is no
23 similarity. We've heard no evidence I think
24 looking at the factors about the ages of these
25 folks or any kind of similarities to ages, which I

1 think is a law's factor.

2 As far as the relationship goes, they were
3 over -- I think were over the border, all over
4 place. We had the dating relationship in the
5 Baker case which they are alleging similarities
6 to. Not a dating relationship or exclusive dating
7 relationship in the Palmer case. And the Rogers
8 case, although they had gone out a few times in
9 the dating, and that was the first incident she
10 alleged they had any type of sex. So it wasn't
11 like it was a pattern of consensual sex. And then
12 a different incident. I mean she's alleging
13 basically that something happened. I think that's
14 enough of a difference.

15 And finally, Judge, I think beyond the
16 lack of the similarities necessary, we get to the
17 issue of prejudicial versus probative. Clearly
18 this evidence would be highly prejudicial to the
19 defendants as far as it pertains to the
20 allegations in this particular case. I know that
21 one similarity that we heard is, all of these
22 cases involve some allegation of anal involvement
23 or Ms. Palmer said she wasn't sure exactly what
24 happened. And in Rogers, she has no recollection
25 but understood from the case information

1 that Mr. Younger had actually admitted to the anal
2 involvement.

3 Judge, I think as far as the prejudicial
4 versus probative, that simple fact and I am going
5 to give Your Honor a site if I may, state vs.
6 Gore, which 283 S.C. 118. Which is a prior bad
7 act case. Finding basically when you have kind of
8 a specific -- something that specific, that would
9 be a similarity in some of the anal case, but even
10 if that was enough to make a similarity, it would
11 become so similar as to be -- as the prejudicial
12 value to outweigh the any possible -- outweigh any
13 probative value. And so I don't think the
14 similarities are enough to get through that
15 portion of the analysis. And if Your Honor found
16 the clear and convincing and found the need for
17 the evidence, found the exception under 44(b) to
18 allow the evidence, I think ultimately prejudicial
19 versus probative fails. And that evidence should
20 be held inadmissible.

21 So based on that, Your Honor, we ask you
22 to -- we request an order excluding the Palmer
23 allegations and the Rogers allegations. Or any of
24 their allegations of any type of prior bad acts
25 outside of the incident here in question. Thank

1 you.

2 THE COURT: Your get the last argument.

3 MR. MEADORS: Just one briefly, I don't
4 think the law requires exact similar as it says.
5 And in this case, we have three victim who lost
6 consciousness, no matter he did. And then they
7 were rectally assaulted, Judge. I think there is
8 argument then if even if Your Honor finds this are
9 similar, then he's saying it's prejudicial. But I
10 think the basic act, and it doesn't have to be
11 exact. There is case out there, I can't remember
12 right now where there was two different, there was
13 a vaginal assault and then there was an oral
14 assault. And it was led into that case. So it
15 doesn't have to be the exact same act.

16 Judge, the other thing I have just been
17 thinking about your question earlier. There's a
18 charge out there, which we will request in this
19 case, that a victim's testimony alone is enough
20 for a jury to find beyond a reasonable doubt. If
21 they believe her. If they're that credible. So I
22 think depending on Your Honor's view of the
23 evidence that was presented, that there would be
24 respectfully for Your Honor to the testimony that
25 we presented to find by clear and convincing what

1 these victims said was believable. I think that's
2 all we have. Thank you.

3 THE COURT: I am going to take this matter
4 under advisement. And I will give you my ruling
5 in the morning. Court is adjourned until 9:30 in
6 the morning.

7 MR. MEADORS: Judge, and again, I just
8 because I did it again we are going to renew our
9 motions. I've done it before so I don't want to
10 say I never did. But I am respectfully asking
11 Your Honor to take the defendant into custody
12 have.

13 THE COURT: And I have already ruled on
14 that. Let me see the attorneys in my chambers.

15 (Whereupon, the trial commences on Tuesday, June
16 10th 2014, at 9:30 a.m.)

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

19 THE COURT: I took this matter under advisement
20 after hearing testimony, and now I am ready to present
21 my ruling. The question before the court is whether the
22 proper evidence of prior bad acts may be admitted
23 against the defendant under Rule 404(b) of the South
24 Carolina Rules of Evidence and State vs. Lyle 125, S.C.
25 406, 1923. Under the rules and case law of this area

1 evidence of prior bad acts that have not resulted in
2 convictions, may not be admitted to prove criminal
3 propensity. The evidence may however be admitted to
4 prove a common scheme or plan, intent, motive or absence
5 of mistake. This evidence must first rise to the level
6 of clear and convincing proof. Then to prove a common
7 scheme and plan as in this instance, the evidence must
8 prove similarities between the crime being prosecuted
9 and the prior bad act. Finally, the evidence must be
10 subjected to a balancing test, and the probative value
11 of the evidence may not be substantially outweighed by
12 the risk of unfair prejudice.

13 The evidence adduced at the hearing was that
14 Cori Palmer dated the defendant and they had an intimate
15 relationships. And they had engaged in consensual sex
16 on many occasions. Ms. Palmer testified that
17 the defendant admitted to having put some substance in
18 her wine to relax her. And that she had become
19 instantly ill on that occasion, but continued to carry
20 on a relationship with the defendant. Ms. Palmer then
21 testified that she believed she was administered a
22 substance in her wine again on another night, causing
23 her to lose consciousness and then regain consciousness,
24 at which point there was some scarf around her neck,
25 which was not alleged to have been the reason for her

1 loss of consciousness. As well as an x acto knife being
2 held against her chest without any allegations of its
3 use or coercion or injury.

4 Ms. Palmer testified that it was upon her
5 regaining consciousness that she had realized that she
6 had been penetrated anally by something. Ms.

7 Palmer further testified that she learned the
8 defendant's real name the first time after the assault.
9 Lindsey Rogers testified that she had met the defendant
10 a few times before going on a date with him. She stated
11 she met the defendant at his home, and had a glass of
12 wine that was prepared in her presence. Again, watching
13 a movie with the defendant. And then was given a second
14 glass of wine, the preparation of which she did witness.

15 Ms. Rogers' testimony is that her next memory
16 was upon her waking up the following morning, that she
17 was unclothed and that she was sore. And that she was
18 very disoriented. She testified that she learned the
19 defendant's real name after the assault. She testified
20 that she was administered a rape kit and that blood was
21 drawn to be tested. No admissible evidence of the
22 results of that kit or blood test was offered to this
23 court. The victim in this instance testified that she
24 and the defendant were engaged in an intimate, romantic
25 relationship and had engaged in consensual, sexual acts

1 on a number of occasions, but they never engaged in anal
2 intercourse despite numerous requests from the
3 defendant.

4 The victim testified that she her initially been
5 given only defendant's first and middle name as the
6 defendant's whole -- as his whole name. But during the
7 course of their relationship, the defendant told the
8 victim the defendant's whole name and explained that he
9 did not want her to judge him on the results of a google
10 search, as he had prior assaults on his record. The
11 victim and defendant continued their relationship after
12 the victim learned the defendant's real name. The
13 victim testified that they had ended their relationship
14 based on a mutual understanding that the relationship
15 was not sustainable in the long term. She then invited
16 defendant over to have dinner, and then he returned her
17 key. And the victim stated that after dinner and wine,
18 they began kissing. Then engaged in consensual
19 intercourse.

20 The victim testified the defendant and she
21 changed positions until the defendant was behind her,
22 where the defendant then began to apply force to her
23 neck. Which ultimately resulted in her losing
24 consciousness. The victim stated that she awoke to find
25 herself sore and bloody. And the defendant washed her

1 sheets and underwear, which contained some of the blood.
2 The victim testified that the defendant left the house
3 at some point that morning and checked up on the victim
4 later in the day. The victim then sought medical
5 treatment and made a report to law enforcement several
6 days later.

7 This court turns first to the issue of whether
8 or not the bad acts proffered have been established by
9 clear and convincing evidence. The State offered
10 witnesses who allege that they were the victims of some
11 sort of penetration without their consent. The State
12 alleges that these prior penetrations were accomplished
13 by the use of chemical or substance and that these
14 victims were drugged. However, the State has offered no
15 evidence that would be admissible in trial of the
16 underlying acts to prove that a substance was
17 administered to these victims during the incidents in
18 question; specifically, the State's witness testified
19 that a blood sample had been drawn and tested and the
20 State alleged that there was a law enforcement officer
21 at the hearing who could corroborate this account, but
22 no results were offered in any admissible form to this
23 court.

24 Due to the lack of evidence offered, the court
25 cannot find the proffered testimony rises to the clear

1 and convincing standards required. In analyzing the
2 similarities between the prior incidents and the present
3 allegation is important to for not only the number of
4 similarities, but to specifically exam similarities with
5 merit. In State vs. Timmons, 327 S.C. 48., the court
6 laid out a number of similarities upon which it is based
7 its decision to admit evidence of prior bad acts,
8 including those temporal, in temporal proximity, of the
9 two different sprees mere weeks apart. The fact that
10 shots were fired during the case at bar, and the alleged
11 bad acts, and the geographical proximity of the acts,
12 the supreme court disagreed that these similarities were
13 of significance.

14 Here the State alleges the similarities are one.
15 The defendant got the victims to be alone with him.
16 Two, the various victims were given a false name by the
17 defendant. Three, the various victims consumed alcohol
18 before the assault. Four, the various victims were
19 rendered unconscious before the assault. Five, the
20 defendant anally penetrated the various victims. The
21 State further alleged that between one of the prior
22 victims and his victim in this case, there were existed
23 similarities that both victims had a consensual,
24 romantic relationship with the defendant lasting several
25 months. Both victims shared their religious beliefs

1 with the defendant. Both victims were engaged on the
2 topic of fitness and health and exercise training by the
3 defendant.

4 The court takes the view that the similarities
5 that the victims while on dates of a romantic sort with
6 the defendant or throughout their romantic involvement
7 were alone, consumed alcohol and shared similar
8 interests with the defendant, are of little moment. Of
9 significance in this matter, are the similarities that
10 the victims were rendered unconscious before the
11 assaults, and that the assaults were all of anal
12 penetration.

13 In this matter, the court has noted several
14 dissimilarities which must be weighed. The victims --
15 the victim in this matter alleged she was rendered
16 unconscious not through a chemical or substance being
17 administered to her, but by choking during the course of
18 what to the point was consensual -- up to that point, was
19 consensual intercourse. In the prior two incidents the
20 allegations were that there was no consensual sex on the
21 date of the assault, but that all intercourse was
22 accomplished through some manner of drugging the
23 victims.

24 And in the present case the allegation is that
25 the victim and the defendant had dinner. Then began

1 kissing and engaging intercourse. That was consensual
2 up until the point which the victim lost consciousness.
3 The test for admission based on similar -- similarity of
4 prior acts and allegations at trial, is that the
5 similarities must outweigh the dissimilarities in making
6 the determination. Focus is upon whether each
7 particular proper bad act evidence is sufficiently
8 similar to the crime charged, not whether multiple
9 proffers are sufficiently similar to each other as
10 stated in State vs. Scott, 405 S.C., 489, where the
11 rehearing was denied. And here the acts proffered were
12 undoubtedly similar to each other but lacked the
13 requisite similarity to the crime charged to satisfy
14 this test.

15 Finally, the court turns briefly to the balancing
16 test that must be performed prior to admission, where as
17 here, the previously alleged bad act is strikingly
18 similar to the one from which the appellate is being
19 tried, the danger of prejudice is enhanced. And that's
20 stated in State vs. Gore, 283 S.C. 118. Temporal
21 proximity is a factor to be considered when performing
22 the balancing test. A trial court does not necessarily
23 err when it admits testimony of a bad act occurring many
24 years before the crimes charged. And that's stated in
25 State vs. Scott, 405 S.C., 489. But even so, with no

1 evidence of continued illicit conduct in the intervening
2 years between the incidents, courts are hesitant to find
3 a temporal link present such as there is no prejudice in
4 the admission of proffered bad acts. Indeed in the
5 proffered incidents the acts were alleged to have
6 occurred mere months of each other and therefore, had a
7 strong temporal link.

8 However, in the charged crime, 7 years had
9 passed since the latter of the two proffered incidences
10 rendering the temporal link fatally remote. And unable
11 to support an allegation of a common scheme or plan that
12 existed between all three events. This court finds that
13 the admission of the proffered testimony of remote acts
14 with a dissimilar scheme would have a prejudicial effect
15 which substantially outweighs the probative value of
16 such admissions. Whereas, in this case there is no
17 question of identity or act performed. That is my
18 ruling. The admission of prior bad acts will not be
19 allowed in this trial.

20 Do you all need a little bit of a break, before
21 we bring the jury in and start?

22 MR. MEADORS One second.

23 THE COURT: Why don't we do this? Why don't we
24 take 10 minutes, and then we'll bring the jury in.

25 MR. SNELL: Your Honor, if I may, just a

1 question about the scope of the ruling. I think
2 there was some testimony or reference that
3 Ms. Baker the complaining witness, alleged that
4 Mr. Younger had told him about a prior allegation
5 himself.

6 THE COURT: If he says something about
7 that, then she can state it. But the other two
8 ladies are not allowed to testify.

9 MR. SNELL: Your Honor, could I make a
10 motion to exclude that as, I think it would be
11 otherwise inadmissible hearsay, as it's a
12 non-statement against self penal interest. And I
13 would like to make a motion in limine to prohibit
14 the introduction of that evidence.

15 MR. MEADORS: Your Honor, when he gives a
16 false name. And then goes on for several weeks
17 and then ultimately says well this is my real
18 name. Here's why I gave you the false name. I
19 think somehow I need to explain that to the jury.

20 THE COURT: I think -- I mean he made the
21 statement. I'm not so concerned about that. He
22 made the statement then that can be used against
23 him as far as from her, he made that statement.

24 MR. SNELL: Thank you.

25 THE COURT: We will take a 10-minute

1 MR. MEADORS: May it please the court.

2 THE COURT: Yes, sir.

3 MR. MEADORS: It slipped. It slipped. I
4 didn't mean to render you unconscious. It was an
5 accident. That's what this case is about, Ladies
6 and gentlemen. How Kimberly Baker received these
7 injuries. How on September 19th 2012, the
8 defendant James Gregory Younger, committed a
9 rectal assault, a rape, on Kimberly Baker's anus.
10 That's what this case is about.

11 Mr. Foreman, Ladies and gentlemen, good
12 morning. My name is John Meadors. Sitting with
13 me at counsel table is Mr. Tyler Brown. We are
14 assistant solicitors and have the pleasure and
15 honor of working for your elected solicitor,
16 Ernest A. Chip, Finney, III, who you saw yesterday
17 in jury qualification. And we are here today on
18 behalf of the people of the State of South
19 Carolina, specifically the people of Sumter,
20 representing the State today and the victim,
21 Kimberly Baker against the defendant, James
22 Gregory Younger who is represented by Mr. Jim
23 Snell.

24 First or all, thank you for being here. I
25 thank you. I think the judge said it yesterday,

1 this is not going to be a long trial. We will
2 probably be through tomorrow. But do not the
3 length of this trial take away from the
4 importance, the importance to the defendant. The
5 importance to the victim. The importance to this
6 community. This is an important case that will be
7 tried in this courtroom, in this state. In this
8 country this week. It's important to everybody.

9 It is going to be graphic you all. Just a
10 little bit. You are going to hear some graphic
11 things. And as His Honor said listen, discern and
12 use your common sense in deciding what the truth
13 is. We've all got roles here, His Honor, Judge
14 Young is the law. He is the law. The law. He
15 decides what the law is for all of us. He does an
16 outstanding job. He is the judge of the law. He
17 tells us all what the law is, what law to follow
18 and we'll do that. We have our respective roles
19 representing our clients, if you will. But you
20 also have a role. And you're the judge and judges
21 too. You're judges of the facts, of the facts.

22 And we're week in and week out in here.
23 I'll have to consider this our office. I love
24 this place. This is our office. But every
25 weekend and week out we're here. His Honor is

1 here. We're here. Defense counsel is here. And
2 we do our job, present the evidence. Follow the
3 rules, which we will. We want to make sure we
4 both do. But week in and week out, and I'll say
5 this isn't a game. It's the farthest thing from
6 it. But it's like a most valuable player coming
7 in a week in and week out, a different player, who
8 determines the outcome of the game. But it's not
9 a game. It's just an illustration. But you come
10 in from the community with your experiences and
11 common sense. And you come in and you listen to
12 the facts. You listen to the facts that come
13 from this witness stand. And that's the only
14 place they can come from. You're going to make
15 your decision based on what you hear from this
16 stand and what evidence comes in from this stand,
17 and that's it. What comes through here. That's
18 what you'll decide. And you'll take those facts
19 and you'll decide what is believable and what's
20 credible. His Honor will tell you what law you
21 have to follow. And then you the most valuable
22 player, will determine the outcome.

23 And that's why our system is so pure. And
24 it's the way it should be. The community decide
25 it. And it's beautiful. And that's all we can

1 ask you to do, be fair to the defendant. Be fair
2 to the State and the victim. That's all we can
3 ask. And we know you'll do that. What's the
4 defendant want to. His Honor has told you. His
5 Honor is going over in detail later about the law,
6 so I'll be very, very brief now. The defendant is
7 charged with criminal sexual conduct in the third
8 degree. Criminal sexual conduct, the State must
9 prove that there is a sexual battery. A battery
10 means sexual intercourse, oral, fellatio. In this
11 case we will present anal intercourse. That's
12 what the sexual battery will be. And we almost
13 also have to prove and for criminal sexual conduct
14 in the third degree, that the defendant knew or
15 should have known in this case, that the victim
16 was rendered physically helpless.

17 We submit that he choked her. He choked
18 her unconscious. And that's when he stuck himself
19 inside her anus when she didn't want him to.
20 Criminal sexual conduct in the third degree.
21 You'll also have a charge of assault and battery
22 in the second degree. Not complicated law. His
23 Honor will explain it to you, so I'm sure you
24 understand it. It's an unlawful touching,
25 unlawful touching of another person. And in this

1 case, assault and battery in the second degree;
2 specifically, the act involves the nonconsensual
3 touching of the private parts of another person.
4 Didn't want you to. Didn't say you could. You
5 just did it without consent. Assault and battery
6 in the second degree. We'll go over those more in
7 detail. That's what he is charged with.

8 Now what's the burden the State? His
9 Honor mentioned it. And I'll be brief. It's the
10 same in this courtroom today as it is in every
11 other courtroom across this great country. The
12 State must prove James Gregory Younger guilty
13 beyond a reasonable doubt. Beyond a doubt that
14 makes reasonable folks hesitate to act. You will
15 hear the testimony, and you will decide if we've
16 you met that burden. In just a little bit
17 Kimberly Baker is going to take the stand, the
18 first witness. And she's going to tell you, and
19 we believe the evidence will show how she met
20 James Gregory Younger.

21 The evidence will show she didn't meet
22 James Gregory Younger. She met Jay Gregory.
23 That's how he introduced himself to her was Jay
24 Gregory. And that's who she thought he was. He
25 came to a yoga place where she was working. She

1 now owns a yoga store, spa, whatever you call it.
2 She'll tell you. But that's how she met him. He
3 came there and he started taking classes.
4 Introduced himself as Jay Gregory. He goes to
5 several classes I think the evidence will show.
6 Eventually a relationship he initiates, develops
7 between James Gregory Younger and Kimberly Baker.
8 That's Kimberly Baker back here. Raise your hand.
9 A relationship develops. Dinner, wine, movies.
10 They start dating.

11 The evidence will show they become
12 intimate. They have intimate relations probably
13 beginning in May. She will tell you. Through
14 roughly through July. I'm going to ask her how
15 many times. Were you intimate. She's going to
16 get up and tell it all. That relationship ended
17 in July-ish. They still were talking. The
18 evidence will show. Still communicating. Got
19 together one time in August. I am not sure of the
20 exact date right now. I think had sexual
21 relations. Don't get together again intimately or
22 physically until September 19th 2012.

23 The evidence will show his job may have
24 gone up or they may have finished where he was
25 working. Looking for another job. Lease running

1 out. Wanted to stay with her. She initially
2 said well you can stay with me. Then said, no you
3 can't. They're still talking. He has the key to
4 her apartment. He's supposed to bring it back.
5 They get together, consensually starting out
6 September 19, 2012, he comes to her apartment.
7 Cook. Have some wine. Listen to me, they go
8 down, the evidence will show, and started having
9 consensual sex. That's why you've got to listen
10 to all of it. Then you're going to -- listen to
11 Kimberly and watch her. Started having consensual
12 sex.

13 It's graphic what's coming out. He stops,
14 loses his erection. She's going to tell you about
15 some of that in their prior experiences. Then he
16 says, can we start back. Puts her on, asks her to
17 get on the front laying down. Gets behind her.
18 She's going to testify, I believe, it's rougher
19 this time. Puts her arms behind her back the
20 evidence will show. Puts his hand over her mouth.
21 Puts his arm behind her. She's going to
22 demonstrate it, and chokes her. And she's going
23 to say she went unconsciousness. You can watch
24 her. It's your decision. You watch her. She's
25 going to say, I went unconscious.

1 And the next thing I remember when I wake
2 up, I feel wet behind me. I feel wet. And I go
3 to the bathroom, she's going to say. And I put a
4 piece of tissue down there and it's bloody. She
5 doesn't know what happened. And she goes to use
6 the bathroom and she's going tell you it hurts.
7 And she's going to tell you about her rectal tear
8 in her anus. And then she's going to tell you
9 the defendant tended to her. Put her in the
10 bathroom. She's going to tell it all. The
11 evidence is going to show.

12 And then they put some ointment on her
13 anus. She didn't know what was going on. She
14 cared for him. She didn't know what was going on.
15 That's what the evidence will show. And then he
16 left. He washed the sheets. He washed the sheets
17 with blood on them. And left. And that's the
18 last time she saw him in person until this week.
19 They texted some after that. We'll get into that.
20 She sits at home. She calls her class, the
21 evidence will show, the yoga class. Gets somebody
22 else to do it that day because she can't. She'll
23 tell you about her schedule. She's struggling
24 with what happened with we think the evidence will
25 show. She's deciding what to do.

1 She's calls one of her friends, Malissa
2 McIntosh. And the State is allowed to do outcry
3 witnesses, who can just say well this witness said
4 well they complained of an assault at a certain
5 place and time. That's all they can testify to.
6 The law allows that. And you'll hear some of
7 those. It won't be -- there will be several.
8 She talks to that friend. Talks about anal sex.
9 Talks to her about just a slip.

10 And then on Saturday the 21st, she takes
11 this picture of her own anus. I'm sorry to be
12 graphic, but I don't know how to do it. This is
13 what the evidence will show. She takes a picture
14 of her own anus. And It just didn't seem right,
15 she will testify. And with her friend she goes
16 down on September 24th, and talks to a lady named
17 Ruth Fowler and an Officer Billy Lyons. And just
18 tells the time and place of an assault. And then
19 on October 3rd, she comes back and talks to Irene
20 Culick, the investigator right here. Gives her
21 statement. Tells what happened. The defendant
22 was arrested after that for CSC third and assault
23 and battery second. That's what we believe the
24 evidence will show.

25 How did that happen? The issue, did she

1 want this to happen? So what do you do? You
2 listen and decide what the truth is. And then
3 listen to the law His Honor tells you and come
4 back with a verdict. That's all we can all ask
5 you to do. That's all we can ask you to do. Be
6 fair to both sides and listen. What does verdict
7 mean? Verdict means to speak the truth. Speak
8 the truth That's all we can ask. Thank you for
9 listening to me. At the close of the evidence I
10 will be back again to argue what the reasonable
11 inferences are. And again thank you all for being
12 here. And when I come back, I'm going to
13 respectfully ask you based on the evidence to find
14 James Gregory Younger, guilty. Thank you.

15 THE COURT: Thank you. Mr. Snell.

16 MR. SNELL: Your Honor, May It please the
17 court, my name is Jim Snell, James Snell. I'm a
18 lawyer with an office in Lexington. And I tell
19 you it's my privilege to come here today and
20 represent Mr. James Younger who I am seated next.
21 And in company behind him is his sister and his
22 mother. And my brother John Snell who works in
23 my law firm is here with us. Now Mr. Younger has
24 pled not guilty. And that's because that's
25 exactly what he is, he is not guilty. He's not

1 guilty of the criminal sexual conduct charge. And
2 he's not guilty of the assault charge. What the
3 evidence in the case is and what Mr. Meadors
4 provided to or told you in his opening statement,
5 is a pretty good synopsis of the evidence at
6 30,000 feet.

7 The evidence is going to show that
8 Mr. Younger is actually from North Carolina. And
9 he had a what I would temporary contract job here
10 in Sumter, doing a kind of kind of cable
11 installation with the phone company type work.
12 While he was in Sumter, he met Ms. Baker and they
13 began dating. And he met her in March of 2012.
14 And they dated up through the last time they were
15 together was in September of 2012. She trusted
16 him. He had a key to her house. I think you are
17 going to hear some testimony that he maybe did
18 some repairs on her house. Did some repairs on
19 her mother's house. He took care of her dog.
20 It's an important relationship to her. And it's a
21 significant relationship and a significant part of
22 her life. What Mr. Younger, the contract job
23 ended. Mr. Younger was going back to North
24 Carolina. And the relationship was not going to
25 be progressing. It wasn't going to continue on as

1 relationships some do and some don't. Mr. Younger
2 went back to North Carolina. And Ms. Baker was
3 here in Sumter.

4 On September 19th, they had their final
5 meeting. And Ms. Baker had called Mr. Younger and
6 they had invited him over. And he came over to
7 her house, and they made dinner together. Watched
8 some TV, had a nice day. No arguing. In fact,
9 you didn't hear anything arguments or anything of
10 the sort. They've having a nice time. They
11 start, I believe he used the term making out. And
12 then both of them willing went to a bedroom. And
13 it was consensual sex. Ms. Baker consented.
14 She's an adult. No one forced her. Threatened
15 her. Did anything like that. She got in bed with
16 Mr. Younger and they were both voluntarily having
17 sex.

18 During that encounter, and this is the
19 last time they would sex, you will hear some
20 details perhaps and some additional details about
21 it. But they were having sex and maybe stopped
22 and talked and then started again. She's going
23 to -- I anticipate she's going to say that he
24 became very rough or not rough but maybe it got
25 very physical. You know, she's a yoga instructor.

1 You know these are young people that are
2 physically fit and active. In their kind of prime
3 of life. And it was, I'll call it active session.
4 And she's still consenting, going along with it, a
5 willing participant. And he asks her to change
6 positions or she, whatever the evidence is. She
7 voluntary agrees to kind of get on a -- in a
8 position I think of where she rolled over. I
9 think Mr. Meadors tried to demonstrate a little
10 bit.

11 And then we have the point at where the
12 allegations in his case start. So the beginning
13 of the story is, we have then in the bed together,
14 engaging in consensual lovemaking. I think the
15 State's contention is everything is perfectly
16 legal up to this point, there are no problems.
17 Ms. Baker I believe or what evidence -- what I
18 understand the evidence in the case to be, she's
19 going to say she then became unconscious. And
20 she's going to say that he put his hand around her
21 mouth and his arm around her neck. And she went
22 unconscious. And when woke -- and she has no
23 recollection of what happened during that time.
24 But when she woke up, she said that she had this
25 injury or an injury to her rectal or her anal

1 area.

2 And just kind of like Mr. Meadors, I want
3 to say, I wish there was another way to talk about
4 these things. You know in a polite society, and
5 normally I can kind of tell you as a lawyer, I
6 don't normally come in front group of people with
7 this kind of discussion. So I want to thank you
8 all for that and your attention and your
9 indulgence. I don't know of any other way to do
10 it except to do it. She said she woke and had the
11 pain or discomfort in her rectal area, but she has
12 no recollection of exactly what happened because
13 she alleges she was unconscious.

14 Now, I know from prior statements that
15 Ms. Baker and the evidence is going to show that
16 he then placed his right hand over her mouth. But
17 this is not in a forceful manner. Those are her
18 words. But that's the event that she alleges lead
19 her unconscious and she woke up with the pain.
20 Now what happened the rest of the night. Well the
21 evidence is going to show that that happened
22 during the night of the 19th. She woke up. They
23 talked about what happened. That's where you
24 heard that testimony or not testimony, but the
25 allegation that this was a slip or mistake or an

1 accident. She didn't think at that time. And she
2 fessed up previously at that time she didn't
3 believe that there was a crime or that she was
4 victim.

5 Mr. Younger continues to stay over. He --
6 she allows him to rub some ointment on her, trying
7 to make her feel better. She invites him to spend
8 the night, voluntarily, consensually. No
9 threatening. No arguments. No coercion. She
10 welcomes him to continue to stay over. This is
11 after she alleges or accuses him or is now
12 accusing him of having forcefully choked her and
13 then anally violated her. He's allowed to stay,
14 spend the night. In the morning, I think the
15 testimony is going to be he made breakfast or she
16 made breakfast. They had breakfast together. He
17 doesn't leave until 9 or 10 in the morning and
18 that's the last time he saw her.

19 Now, she doesn't go contact the police
20 that day. She doesn't call the police their last
21 date you recall, is on Thursday. She doesn't
22 call the police Thursday. She doesn't call the
23 Friday, Saturday, Sunday. I think the evidence is
24 going to be that there is all that time without
25 making any report. Then she is going to go to the

1 police department, I understand on the following
2 Monday. Talk with police officers, but not make a
3 report. Not want to press charges or anything
4 like that. She never sought medical attention.
5 She didn't go to a doctor. Didn't go to a
6 hospital. There's no evidence of any type of rape
7 kit or anything like that.

8 Whatever this wasn't -- it didn't rise to
9 a level where medical attention was required. Not
10 even a CVS medical claim. What we -- what
11 happened was almost two weeks later almost to the
12 day, she had gone to the sheriff's department.
13 Actually at that point that's the first, from I
14 what I understand, the first time she talked to
15 the detective, wanted to press charges. That was
16 October 3rd. On October 4th, they refer as police
17 departments will do, as they should, to the
18 medical provider for a screening.

19 I believe the evidence is going to show
20 that that report showed a normal, at that point a
21 normal exam. There are no allegations that she
22 ever had any bruising, any marks on her throat.
23 She never took any photographs ever of any
24 bruising or marks on her throat. Nothing like
25 that. Other than the simple accusation or the

1 allegation of her version, the only thing you have
2 as far as evidence as you've seen is of what she's
3 identified as a picture that she took herself. It
4 wasn't something taken with the police or a doctor
5 or any kind of medical session. It's just
6 something that she did on her own days later.

7 And I just think the evidence is going to
8 show that on the date -- on the time of their
9 last date, she didn't think that she was a victim.
10 She didn't think that any crime occurred. But
11 what you are going to hear is that this was an
12 important relationship. She hadn't see him in the
13 3 weeks before. They have this final date that
14 leads to sex. And then after the end of that, he
15 gets back in his car and goes back home to North
16 Carolina. The relationship is still over. And
17 she talks to her friends. You're going to hear
18 that, about what had happened. About how this
19 relationship is over, under the circumstances.
20 And then what happened on the night of the 19th,
21 in her mind changes. And the inferences change.
22 And what happened mentally changes. So it's not
23 until sometime later, days and weeks later that
24 she contends I am a crime victim. Or it's been a
25 crime or I've been assaulted. I believe the

1 evidence is going to show, that this is not a
2 crime that occurred. This is a crime that was
3 decided later occurred. And that's important.

4 Now this is the type of case and the type
5 of allegation that makes me especially glad I live
6 in this country. And I live in a state and a
7 county that can provide resources like this court
8 and this courtroom, and bring jurors in and we can
9 have a judge come in and make sure that there's a
10 sure that there is fair application of the law.
11 The jury system is the best system possible in the
12 world to help defend against false and unfair
13 accusations. And that's what this case is. It's
14 a false and unfair accusation. In order to
15 convict Mr. Younger of any crime, each and every
16 one of you has to decide beyond a reasonable
17 doubt, that Mr. Younger should be branded criminal
18 under these allegations and this accusation.

19 The judge will victim as to what beyond a
20 reasonable doubt means. And my understanding is,
21 and what I think he's going to tell you is that it
22 means the type of doubt that would cause a
23 reasonable person to hesitate before they acted.
24 In this case Ms. Baker who is the accuser, had
25 doubt. She waited. She did not believe that a

1 crime had occurred. I think at the end of the
2 trial the State is not going to be able to meet
3 it's burden. It's certainly not a burden beyond a
4 reasonable doubt. And it will be up to each and
5 every one of you to follow your oath as jurors,
6 uphold the law and follow the instructions that
7 the judge provides to you and render a verdict of
8 not guilty.

9 I want to thank you all for listening. I
10 want to thank you all for your attention. And I
11 would ask that as this trial continues, you pay
12 particular attention to the witnesses, use your
13 common sense, use your collective life
14 experiences. This is most important event in
15 Mr. Younger's life. I cannot express to you as
16 Mr. Meadors said, how important, how critical this
17 is. And again would ask for a not guilty. Thank
18 you so much.

19 THE COURT: And why don't we take a 10
20 minute recess before we begin your testimony.
21 Ladies and gentlemen, please go back to your jury
22 room for just a few minutes, about a 10-minute
23 break. And then we will start the testimony.
24 Please do not discuss anything about the case
25 while you are back there.

1 (Whereupon, the court takes a 10-minute
2 recess.)

3 THE COURT: You may bring the jury.

4 (Whereupon, the following takes place
5 within the presence of the jury.)

6 THE COURT: Mr. Meadors, you may call your
7 first witness.

8 MR. MEADORS: The State would call
9 Kimberly Baker.

10 Kimberly Paige Baker, being first
11 duly sworn, testified as follows:

12 THE BAILIFF: Please state your full name
13 and spell your last name for the record.

14 A Kimberly Paige Baker. B-A-K-E-R.

15 Direct Examination by Mr. Meadors:

16 Q Good morning, Ms. Baker.

17 A Good morning.

18 Q I want you to tell this jury, the ladies
19 and gentlemen of this jury please, ma'am, about
20 Kimberly Baker. Where were you born?

21 A Here in Sumter.

22 Q Where were you raised?

23 A Sumter.

24 Q And when did you get out of high school?

25 A I graduated from Wilson hall in 1995.

Kimberly Baker-Direct by Meadors

1 Q And what did you do after that?

2 A I went to USC for a couple of years. And
3 then took a break. My parents opened a restaurant
4 down in Beaufort and I went and managed the
5 restaurant for a few years. I went to message
6 therapy school. Did that for several years in the
7 chiropractic officers. And went back to Columbia
8 in 2006, and finished my degree in biological
9 sciences from USC.

10 Q In 2006.

11 A 2007 is when I completed the degree.

12 Q Ma'am, I'm sorry.

13 A 2007 is when I completed the degree.

14 Q I apologize. What did you do after that?

15 A I spent several years as a medical sales
16 rep. in Columbia.

17 Q Who were you working with?

18 A A company called Rotech. And we sold
19 respiratory equipment and durable medical
20 equipment.

21 Q And you were living in Columbia.

22 A Correct, yes, sir.

23 Q How long did that last?

24 A Living in Columbia?

25 Q No, the medical sales.

Kimberly Baker-Direct by Meadors

1 A From 2007 to 2011.

2 Q And what did you do after that?

3 A I moved back to Sumter and opened a yoga
4 studio here in August of 2011, is when I opened
5 the studio.

6 Q And what was the name of that studio?

7 A Southern Bliss Yoga.

8 Q And was that your studio?

9 A Yes, sir.

10 Q And were you still living in Columbia
11 then?

12 A I moved back to Sumter in February of
13 2011, and the studio was opened in August of 2011.

14 Q Had you had some particular interest in
15 yoga?

16 A Yes, I have practiced yoga since 2007.

17 Q Prior to Southern Bliss where did you
18 practice yoga?

19 A In Columbia. A studio by the name of Amsa
20 Yoga.

21 Q A-M-S-A?

22 A Yes, correct.

23 Q So you opened Southern Bliss, and how long
24 were you working at Southern Bliss?

25 A Up until last well May or June. I just

Kimberly Baker-Direct by Meadors

1 transferred ownership in June.

2 Q To whom?

3 A To Malissa McIntosh, a dear friend of
4 mine. And also she was an instructor in the
5 studio.

6 Q What are you doing now?

7 A In January, I moved back to Columbia. The
8 previous owners of Amsa Yoga, which were dear
9 friends of mine, asked if I would take over the
10 ownership of their studio. They had an
11 opportunity in Asheville. So in January, I moved
12 back to Columbia; own the studio there in
13 Columbia. And I was owning both studios but It
14 very challenging owning two businesses. So we had
15 decided to transfer the ownership to Malissa
16 because I wanted the studio to remain here for the
17 community.

18 Q So Ms. McIntosh owns Southern Bliss, and
19 you now own Amsa?

20 A Correct, yes.

21 Q And you're living now where?

22 A In Columbia.

23 Q Did you meet the defendant through yoga?

24 A Yes, I did.

25 Q Tell the ladies and gentlemen about that,

Kimberly Baker-Direct by Meadors

1 please.

2 A He came to the studio here in Sumter.
3 Southern Bliss Yoga in March of 2012. He had
4 taken several classes at the YMCA and said that
5 they didn't offer yoga classes that worked for his
6 schedule. And he was told that there was a local
7 studio in town, and he came to check out our
8 studio and started taking classes. And became a
9 regular student.

10 Q I don't do yoga. Do many men do yoga?

11 A It's predominantly female but, yes, men do
12 yoga.

13 Q When you met the defendant, I guess when
14 you meet anybody, did you introduce yourself?

15 A Yes. And when new students come into the
16 studio, I have them fill out a waiver form. An
17 intake form, like a liability, where they fill out
18 their name. Personal information, address, phone
19 number, e-mail address if they want to get our
20 monthly newsletter and then just sign a waiver.

21 Q And that's just standard.

22 A Standard, yes.

23 Q Who did the defendant say he was. Who did
24 he tell you I am. What did he tell you his name
25 was?

Kimberly Baker-Direct by Meadors

1 A Jay Gregory and that he went by Greg.

2 Q Jay Gregory and he went by Greg.

3 A Correct.

4 Q Did you have any trouble understanding him
5 when he said my name is Jay Gregory?

6 A No, sir.

7 Q Did you think his name was Jay Gregory?

8 A I thought his name was Jay Gregory.

9 Q Now just briefly and this is back when you
10 met him in when of 2012?

11 A March of 2012.

12 Q What were your, and it's here in Sumter,
13 Southern Bliss.

14 A Yes.

15 Q What were the yoga schedule or class
16 times?

17 A We had several morning classes 9:30. I
18 believe at that time there was maybe like Monday,
19 Wednesday, Friday 9:30. But most of the classes
20 were or 4:30 or 6 p.m. week on weekdays.

21 Q Did the defendant Jay Gregory or James
22 Younger, go to a particular class when he started
23 coming?

24 A He was a regular in our Tuesday 6 p.m.
25 warm power flow.

Kimberly Baker-Direct by Meadors

1 Q And when you say regular, what does that
2 mean?

3 A He would attend weekly. Sometimes most of
4 the week. But that was consistently.

5 Q And did he have a background in yoga did
6 you know or did you learn or?

7 A He said that he practiced yoga in
8 Charlotte, North Carolina for years prior.

9 Q So how long did he take or go to class?
10 What did you call them students?

11 A Students.

12 Q How long was he a student at Southern
13 Bliss?

14 A I would say through July is when he pretty
15 much stop coming to the studio.

16 Q July of 2012.

17 A July of 2012.

18 Q At some point after you had met, who you
19 had been introduced as Jay Gregory, did you all
20 start talking?

21 A We did, yes.

22 Q And talking can mean a lot of things. But
23 did you all start doing more than talking?

24 A We did. We developed a relationship
25 outside the studio.

Kimberly Baker-Direct by Meadors

1 Q And how did that develop?

2 A We just started spending time together.

3 We had dinner, like our first dinner date, so you

4 could say. We had succi in Columbia. And then we

5 would, you know a few days a week, he would come

6 to my house and we would cook dinner and watch

7 movies. Occasionally I would go to his apartment.

8 But we mainly came to my house.

9 Q And where were you living?

10 A I lived in Tudor Place, in a duplex in

11 Tudor Place.

12 Q And where was he living?

13 A In an apartment complex, Pocallo Springs.

14 Q So you went to dinner.

15 A Yes.

16 Q Would you do anything else in the

17 community?

18 A Yes. We actually we attended the SPCA

19 Woofstock together. That was like one of the

20 first things we did together outside the studio,

21 as we were developing a friendship/relationship.

22 Q Did you do anything with other you and or

23 the defendant with other yoga students?

24 A We did. We actually attended a workshop

25 in Columbia at the studio that I currently own

Kimberly Baker-Direct by Meadors

1 now, Amsa. I believe that was August of 2012. We
2 did that as group, several students.

3 Q Now let me ask you this much. Is it your
4 practice to date or get involved with students?
5 Had you ever done that before?

6 A No, sir.

7 Q And who initiated the contact?

8 A We just started talking after class. And
9 had some common interests. I remember him telling
10 his background was he was a personal trainer. And
11 that he said that he was a nurse once before. And
12 I was a biology major. So we had that kind of
13 common, I thought at that time, you know, just
14 talking about yoga and anatomy.

15 Q Was he a nurse?

16 A I don't have proof of that.

17 Q So this client/student relationship turned
18 to a more social relationship. And did that turn
19 to a more intimate relationship, Ms. Baker?

20 A Yes, it did.

21 Q When was that?

22 A Sometime in May of 2012.

23 Q And when we say intimate, do we mean
24 intimate?

25 A Yes.

Kimberly Baker-Direct by Meadors

1 Q What do you mean by that?

2 A We were sexually involved.

3 Q And that started in May?

4 A Yes.

5 Q How long did that last initially?

6 A Through July.

7 Q And I've got to ask you some of these
8 things, okay. Where would it happen?

9 A Mostly at my house.

10 Q Between May and July, tell these ladies
11 and gentlemen of the jury how many times you think
12 you were intimate with the defendant.

13 A I would say around 10 times.

14 Q I am sorry?

15 A 10 times or so.

16 Q So in May of 2012, you were sleeping
17 with---

18 A Jay Gregory.

19 Q You were sleeping with Jay Gregory. So
20 when you started having intimate relations with
21 him, you thought you were sleeping with Jay
22 Gregory.

23 A In May, yes. Until June.

24 Q And approximately those 10 times between
25 May and July.

Kimberly Baker-Direct by Meadors

1 A Yes.

2 Q And did there come a time in July when the
3 relationship, intimate relationship stopped?

4 A After July, we were no longer sexually
5 active together. Though we were still spending
6 time together.

7 Q I'm going to go back and ask you some
8 specific questions right now. I apologize to
9 everybody. During those 10 times approximately,
10 was there a more usual position you would be in
11 than the other?

12 A Yes.

13 Q Does that make sense?

14 A Yes, it does.

15 Q You've got missionary style. You've got
16 doggy style. I mean what style did you and the
17 defendant, what was preference?

18 A From behind.

19 Q And when you say from behind, you don't
20 mean in the anus.

21 A Correct. I was on all fours.

22 Q Now again would the defendant always
23 finish?

24 A No, he would not.

25 Q And explain that. Well he didn't finish.

Kimberly Baker-Direct by Meadors

1 Did he become limp?

2 A He would, yes.

3 Q And did he have an explanation for that?

4 MR. SNELL: Objection. Hearsay.

5 MR. MEADORS: No, it's defendant's.

6 THE COURT: Defendant's statement.

7 Overruled.

8 Q Did he say anything to you when he would
9 become limp as to why that might be?

10 A I asked why he never would finish. It
11 made me insecure.

12 Q It made you what?

13 A It made me insecure as a woman. And he
14 just said that he masturbated daily, frequently.
15 So...

16 Q So how many percent of the time of those
17 10 times, did he not finish?

18 A I would say 70 percent.

19 Q Now at some point in your relationship
20 prior to July, did you discover his real name?

21 A Yes, that was in June.

22 Q I'm sorry. And how did that come about?

23 A I had a yoga teacher training workshop in
24 Asheville a weekend in June. And I asked if he
25 would house sit and keep my dog. And he house sat

Kimberly Baker-Direct by Meadors

1 and kept my dog. And when I came back from that
2 weekend trip, we were conversating about, I
3 believe we were talking about his son. And I said
4 something about his son's last name. And that's
5 when he divulged my last name is Younger.

6 Q And this was in June.

7 A This was in June.

8 Q And did he tell you why he had told you
9 his wrong name?

10 A He did.

11 Q What did he say?

12 A He said he had done things in his past,
13 and that people would always judge him. And if he
14 would have disclosed his full name and age, then I
15 could have google searched and seen these things
16 from his past and he would have been immediately
17 judged. And I would have not given him a chance
18 to get to know him or anything. And, yes.

19 Q Was he specific?

20 A Yes. He said that he was -- had a felony
21 charge from when he was 19 or 20 years old. It
22 was an assault.

23 MR. SNELL: Object.

24 THE COURT: Overruled.

25 Q Go ahead.

Kimberly Baker-Direct by Meadors

1 A It was an assault. I don't remember
2 exactly what the legal term is as far as the --
3 but he had beat up a guy really badly coming out
4 of a restaurant. They had a disagreement and a
5 fight, a really bad fight. And then an assault on
6 a female; that he had a really aggressive
7 girlfriend that cracked him over the head with a
8 lamp. And that he put her in a choke hold, a
9 sleeper hold because he knew jiu jitsu. And he
10 was defending himself is what he said.

11 Q So those were his words to you as to why
12 he had given you a false name.

13 A Yes.

14 Q And he didn't want you to google him.

15 A Yes.

16 Q Did you continue the relationship after
17 that?

18 A I did.

19 Q And you said you stopped being intimate
20 around July. If you said it again, I apologize to
21 everybody. Why was that?

22 A Yes. We had gone to lake around July 4th.
23 And just at that point I knew it wasn't going
24 anywhere long term. I knew that he wasn't open to
25 being in a committed relationship or an exclusive

Kimberly Baker-Direct by Meadors

1 relationship or...

2 Q So you knew that?

3 A Yes. He said he was unable to be in a
4 committed relationship. That wasn't what he
5 wanted.

6 Q And could you live with that?

7 A And not be -- I would not be sexually
8 active. I didn't want to be sexually active if
9 that were the case.

10 Q So that's when your intimate relationship
11 stopped.

12 A Correct.

13 Q Were you seeing anybody else?

14 A No, sir.

15 Q So your life moved on?

16 A It did, but he remained in my life.

17 Q That was my next question. And did he
18 remain in your life without the intimate
19 relationship at this point, July of 2012?

20 A He remained in my life without the
21 intimate relationship.

22 Q Tell the ladies and gentlemen of the jury,
23 what was life like then in July of 2012, those
24 weeks when there was no intimacy, what were you
25 all doing?

Kimberly Baker-Direct by Meadors

1 A We were still hanging out at my house and
2 cooking dinner. He bought me a grill one time,
3 and we started grilling out. We would still, you
4 know, practice yoga in my house together. Talk
5 about yoga. We always shared a lot about our
6 religious beliefs, christian beliefs. So we would
7 read daily devotionals together. And watched
8 several Louis Giglio christian documentaries.

9 So It hanging -- I mean we were hanging
10 out as friends, but I still, I mean I still had
11 feelings for him. I am not going to deny that.

12 Q July progresses into August obviously.
13 Anything happen in August of a intimate nature?

14 A We did have one sexual engagement. I
15 believe it was early August.

16 Q Can you tell the ladies and gentlemen of
17 this jury how that came about, and where it was?

18 A It was in my home. We had a -- I was
19 message therapist, as I said earlier. And I had
20 worked on him. And then he also worked on me.
21 And I even inquired if he had ever been to message
22 therapy school, because he was very -- he had
23 knowledge of how to -- I mean there is techniques
24 you use when you do message therapy. And then
25 that lead to kissing and we engaged in sex.

Kimberly Baker-Direct by Meadors

1 Q Did you all ever drink wine?

2 A We did.

3 Q Do you remember the date of that?

4 A Of that? It was on a weekend. So I would
5 say the first weekend in August.

6 Q What was his status employment wise then
7 here in Sumter? Because he was staying in Sumter
8 a lot.

9 A Correct. He was still working with the
10 contracting company where he did the fiberoptic
11 splicing.

12 Q And that was with whom? Or who was that
13 with?

14 A It was contracted through Farmer's
15 Telephone.

16 Q Now at this point August of 2012, was he
17 still living in his place?

18 A Yes.

19 Q And you were living?

20 A In my place.

21 Q Again, that's where?

22 A Tudor Place.

23 Q Did his lease end up coming up.

24 A His lease was ending in September. He
25 came over to my house. I do know the specific

Kimberly Baker-Direct by Meadors

1 date, August 13th. He was very upset. And said
2 that he found out that he was excused from his
3 job. And he wasn't -- I guess whoever he directly
4 worked under, told him that---

5 Q Not what they say. Well did he -- he was
6 going to loss his job.

7 A Yes.

8 Q And he was upset about that.

9 A Yes.

10 Q What did that, as far as that and his
11 residence and your residence, did that have
12 anything to do with where he might stay?

13 A After that night, he stayed at my house
14 for two weeks straight. I think one or two
15 nights, he actually went back and stayed at his
16 apartment. But he was just there during the day
17 using my internet, because he didn't have internet
18 where he lived. Searching for jobs, and trying to
19 figure out what he was going to do.

20 Q Did he ask whether he could move in with
21 you?

22 A He did. Because his lease ended in
23 September. And he told me that he had signed a
24 6 months lease in that apartment complex and paid
25 it in full. And was told that there was chance

Kimberly Baker-Direct by Meadors

1 that may renew his contact here in Sumter. So he
2 was kind of in a holding pattern. And he didn't
3 want to resign a lease here in Sumter without
4 knowing for sure if he would still have this job
5 and remain in Sumter, or if he would continue to
6 look for work elsewhere. And asked if he could
7 move in with me. Temporary.

8 Q When was that?

9 A That would have been after the August 13th
10 date. So within those two week spans when he was
11 staying in my house.

12 Q And what did you tell him?

13 A Initially I said yes. And then we had,
14 you know had discussed it just wasn't -- it
15 wouldn't to be a good idea.

16 Q So you said yes. Then it wouldn't be a
17 good idea. So he didn't actually move in.

18 A Correct.

19 Q And then where was he living?

20 A He was still in that apartment in Pocallo
21 Springs. And then he moved out of that apartment.
22 And I never knew really exactly where he moved
23 from that point. So the night of the incident, I
24 don't know where his physical address was.

25 Q Did he ever tell you what area he was

Kimberly Baker-Direct by Meadors

1 living in?

2 A He said he was staying with a friend in
3 Dalzell.

4 Q Dalzell?

5 A Yes, sir.

6 Q So during July, August, now I guess up to
7 September, were you all still communicating daily
8 or?

9 A Daily or every other day.

10 Q How were you communicating?

11 A Mostly text messaging.

12 Q Well how would you describe your
13 relationship at the end of August, first of
14 September?

15 A End of August, first of September. A
16 friendship and not sexually active, and but still
17 caring for each other.

18 Q You liked him.

19 A I did.

20 Q Did he have a key to your place?

21 A He did have a key to my house.

22 Q And September 19th, the reason we are all
23 here today, did you have an occasion to see him
24 then?

25 A Yes.

Kimberly Baker-Direct by Meadors

1 Q What lead up to that? I mean if you
2 generally or specifically. I mean...

3 A After we deciding for him not moving in,
4 and then he was still searching for work. And he
5 said that he was staying with a friend in Dalzell,
6 because I was concerned of where, you know, where
7 he was staying. Because I thought, you know, he
8 didn't have a job and where are you going to go.

9 Q I didn't mean to interrupt you, but were
10 you seeing him? You said you communicate daily or
11 every other day. But were you seeing him in
12 person between that middle August until this
13 September 19th?

14 A No, sir. Three weeks went by that I did
15 not see him.

16 Q You did not see him at all.

17 A I did not see him at all. And that's when
18 we were texting, and he was saying he had some
19 work in Lake City through his friend. And then he
20 was also going back to North Carolina with
21 visiting family as well, and following up on
22 potential job leads there as well.

23 Q So at this point, did you know where he
24 would end up?

25 A I did not.

Kimberly Baker-Direct by Meadors

1 Q Did you know he might be going out of
2 state?

3 A I did not where he would be going.

4 Q So it had three weeks since you had seen
5 him in person prior to September 19th.

6 A Yes.

7 Q What lead up to the September 19th?

8 A In several text messages I did say I need
9 to get my house key back. And he had said that he
10 would bring it when he back in the area. And then
11 I believe, sent a message saying he would back in
12 the area around this time and I had asked him to
13 come over that night.

14 Q And why did you want your house key back,
15 Kimberly Baker?

16 A I didn't think it would be necessary for
17 him to keep it.

18 Q And did you all talk about how -- was he
19 going to bring the key back this day?

20 A Yes.

21 Q And you said there were text messages
22 about that.

23 A Yes.

24 Q So specifically the day, do you remember
25 that? Do you remember what you did earlier that

Kimberly Baker-Direct by Meadors

1 day?

2 A It was on a Wednesday. So I believe at
3 the time I still had a morning class that I
4 taught. And then would have just worked from
5 home. Did my normal work.

6 Q But a morning class yoga?

7 A Yes.

8 Q Is that what you're talking about?

9 A Yes.

10 Q So you had a morning class.

11 A I taught a morning class, and then I would
12 have worked from home the rest of that day.

13 Q Did you have specifically September of
14 2012, a regular schedule for yoga classes?

15 A I did.

16 Q That you were teaching.

17 A Yes.

18 Q Now morning becomes afternoon and evening
19 on September 19th 2012. When did you see the
20 defendant?

21 A He came over around 6:00 o'clock that
22 night. He had actually dropped off a file cabinet
23 at my mother's house prior to coming to my house.
24 The one that he had in storage in North Carolina
25 that he had picked up was there, and sold my

Kimberly Baker-Direct by Meadors

1 mother.

2 Q Is your mom here?

3 A She is.

4 Q Mama, raise your. Is that your mom?

5 A Yes.

6 Q What's her name?

7 A Gloria Hightower.

8 Q So he had taken something by your mother's

9 house?

10 A Yes.

11 Q What was that?

12 A A file cabinet.

13 Q What happened after that?

14 A He came over to my house.

15 Q What happened after that?

16 A I had prepared dinner. And had told him

17 in a text message earlier I was cooking and that

18 there would be enough for him, because he said do

19 I need to get something for him. I said, they'll

20 be enough. So we had dinner. I had one glass of

21 wine as I was preparing dinner. And had an

22 additional glass wine with dinner. He had half a

23 glass of wine while we were in the kitchen

24 preparing dinner, because he would help. We ate

25 dinner in my living room. Watched TV, all which

Kimberly Baker-Direct by Meadors

1 was normal activity for our time spent together.

2 And then later in the evening it was
3 probably around 10, we started we were in the
4 kitchen and he started kissing me. And the
5 kissing lead us to going into my downstairs
6 bedroom and engaging in sex.

7 Q Intimate relations.

8 A Yes.

9 Q And at that point, did you want to do
10 that?

11 A At that point, yes.

12 Q And you were you in your house?

13 A Yes.

14 Q Getting intimate with my question, did the
15 defendant finish?

16 A He did not.

17 Q And why not? Physically why not?

18 A Physically it just went and it lasted and
19 then he just -- he did not hold an erection and we
20 stopped.

21 Q After that what happened after?

22 A We just talked for awhile. And he asked
23 if we could start again, which in the times before
24 when he would just not climax and we would stop,
25 he never asked if he could try again.

Kimberly Baker-Direct by Meadors

1 Q What position were you in before he
2 stopped the first time? Missionary or what
3 position? When you first started.

4 A At first, yes.

5 Q I am sorry to be so graphic. But when you
6 first started what position were you in?

7 A Missionary. And then from behind on all
8 fours.

9 Q And after you stopped he said can we start
10 again?

11 A Yes.

12 Q And at that point, what specifically
13 happened?

14 A He had asked that I lie down on my
15 stomach. And I had my legs in close proximity and
16 entered vaginally from behind.

17 Q So you were face down.

18 A Yes.

19 Q And he was behind you.

20 A On top of me and behind me.

21 Q And I think you testified earlier, the
22 preferred position perhaps.

23 A From behind.

24 Q What happened after that?

25 A Things progressed. And I remembered at

Kimberly Baker-Direct by Meadors

1 one time, he had my arms behind my back. And it
2 started getting rougher than usual. And I
3 remember his left arm was around this area. Like
4 the collar bone area I would say. And he placed
5 his right hand over my mouth. And then I just
6 remember things getting just a lot of tight
7 pressure around my neck.

8 Q From him?

9 A From him. And I just had a moment of
10 thinking I can't breath. And that my neck was
11 being squeezed on very tightly. And the next
12 thing I remember is coming up from being
13 unconscious.

14 Q So you couldn't breath.

15 A I could not.

16 Q Had you all ever done that before as far
17 as over the mouth and choking?

18 A Never.

19 Q I mean tell these folks is that some kind,
20 I don't know what you call it. Is that some kind
21 of little game you all played?

22 A Never.

23 Q So this had never been done before to
24 you?

25 A Correct, no.

Kimberly Baker-Direct by Meadors

1 Q And did you in fact become unconscious?

2 Tell these ladies and gentlemen.

3 A Yes, I was unconscious.

4 Q Prior to going unconscious, did you say,
5 James Gregory Younger, put your penis in my anus?

6 A No.

7 Q Had you ever done that before with him?

8 A Never.

9 Q Not to get personal, but I am going to get
10 personal. Had you ever had anybody else in your
11 anus?

12 A I've never had anal sex.

13 Q Did you want to have anal sex?

14 A No.

15 Q And after you testified you went
16 unconscious, what do you remember next?

17 A I remember coming up. And I had a
18 sensation of feeling wet in that area. And there
19 was a lot of burning and pain. And I felt like I
20 had even used the bathroom from that area.

21 Q Had you ever had that feeling before?

22 A No.

23 Q Did it hurt?

24 A It did.

25 Q Where was the defendant when you woke up?

Kimberly Baker-Direct by Meadors

1 A He was still in the room behind me. And I
2 immediately got up. I was embarrassed. Because
3 I, like I said, I felt like I had used the
4 bathroom in that area. And I was very
5 disoriented. And I immediately went into the
6 downstairs bedroom -- bathroom that's inside of
7 that room. Very close proximity from where the
8 bed was. And I remember turning on the light, and
9 sitting down on the toilet. Everything was so
10 bright in that room. And I just remember sitting
11 on the toilet and I could not understand why I was
12 having pain in that area, and burning.

13 And when I wiped, there was a lot of blood
14 on the tissue. And so I went back and asked him,
15 what had just happened. And he said that he
16 accidentally slipped one time.

17 Q He slipped?

18 A That's what he said. And I asked him, did
19 you choke me unconscious. And he said he didn't
20 realize that his arm was around my neck that
21 tight. He didn't realize that I had gone
22 unconscious.

23 Q Did he say whether or not it was an
24 accident?

25 A He said it one accidental slip.

Kimberly Baker-Direct by Meadors

1 Q Now you keep saying that area, in that
2 area. Are you talking about your anus, rectum?

3 A Yes.

4 Q Is that what was hurting?

5 A That was the area that was hurting.

6 Q And when you went to the bathroom and you
7 put some tissue or whatever, was there a lot of
8 blood on it?

9 A Yes, I wiped my rectum, and there was a
10 lot of blood on the tissue.

11 Q And again, had you ever experienced that
12 before?

13 A I have not.

14 Q Did you have any tears on your rectum?

15 A At that moment, I didn't know. But I
16 found out later, yes.

17 Q When you go back in the bedroom, let's go
18 back. You have been in the bathroom. There's
19 blood on the tissue. You go back in the bedroom,
20 what happens then?

21 A Again, I had asked what happened. I
22 was very confused.

23 Q And after he said, told you it slipped,
24 what happened after that?

25 A I told him it's bleeding. It is hurting.

Kimberly Baker-Direct by Meadors

1 And he apologized for accidentally slipping and
2 said, let's get into the bathtub.

3 Q He said let's get in the bathtub. Tell
4 them all. Tell them. Did you get in the bathtub?

5 A I did.

6 Q And did you rinse yourself off? Or did he
7 rinse you off or what happened?

8 A I just laid in the water in the tub with
9 him holding me.

10 Q And what happened after that?

11 A We got out of the bathtub. And I
12 remembered him saying that there was blood on the
13 sheets, and that he took those and put those in
14 the washing machine. And I remembered---

15 Q He put them in the washing machine?

16 A Yes. And I remember feeling very faint.
17 And like a wave of nausea came over me. And I
18 remember like literally like kind of falling to my
19 knees. And I don't know if that was just from the
20 trauma or the not having oxygen to my brain or if
21 there was ever anything put in anything I had to
22 drink. I don't know.

23 Q When you got out of the bathtub, did you
24 ever see or did you do anything to your bottom?
25 Your rear end.

Kimberly Baker-Direct by Meadors

1 A Yes. I went upstairs to get into my
2 bedroom or my bed upstairs. And he said I don't
3 want to leave unless I know you are okay. And I
4 remember sitting on -- in my bathroom upstairs
5 looking at the area, and it was just very swollen
6 and black. And he told, let me look at it.

7 Q He said let me look at it.

8 A Because again he had told me he was a
9 nurse at one time. And said that he saw a tear
10 and asked me if I had a hemorrhoid. That maybe
11 his accidental slip had torn the hemorrhoid. And
12 asked if I had any ointment and I had some triple
13 antibiotic ointment. So he used a Q tip and put
14 medicine on it.

15 Q He put medicine on your rectum. What
16 happened after that?

17 A I finally fell asleep. And I kind of fell
18 asleep and he stayed, which was unusual that I
19 would even -- usually when he would he stay over,
20 he slept downstairs. And my counseling kind of
21 helped me process why I even allowed him to stay.
22 But he stayed that night. I remember being like
23 scared of the injury. I didn't know if I should
24 go to the doctor. But it wasn't at that point
25 that I needed to go to doctor because I was

Kimberly Baker-Direct by Meadors

1 assaulted. I just thought I needed to go to the
2 doctor because I had injury from an accident.

3 Q From a slip.

4 A From a slip.

5 Q So did you go to bed? Did you take
6 anything to help you go to bed?

7 A Yes. He actually got me some Ibuprofen.
8 I took 4 Ibuprofen.

9 Q This was on September 19th of 2012.

10 A Yes, sir.

11 Q And again for the record, did you want to
12 have anal sex?

13 A I did not.

14 Q If you were conscious, let me ask this
15 question. If you were conscious, would you have
16 consented to the anal sex?

17 A I would not have.

18 Q Would you have said no, don't put anything
19 in my anus?

20 A I would have said I have no interest in
21 trying that.

22 MR. SNELL: Object to the leading, Your
23 Honor.

24 Q So after you spent the night, what
25 happened?

Kimberly Baker-Direct by Meadors

1 THE COURT: Overruled.

2 Q What happened next, did you go to sleep?

3 A I finally fell asleep, yes. We fell
4 asleep. I woke up the next morning and had to go
5 to the bathroom. He had gone downstairs. And I
6 went to the bathroom in my upstairs bedroom. And
7 it was painful to use the bathroom. And I was
8 unable to wipe the area. So I was unable to wipe
9 my rectum after using the bathroom. So I got into
10 the bathtub and rinsed the area off. And I was
11 walking downstairs with my dirty clothes. I had
12 my underwear that I had bled through all night.
13 And had even said something to him. And he took
14 those and said well they are going to stain and
15 put those in the washing machine too.

16 Q So he put the underwear with the blood in
17 the washing machine.

18 A Yes.

19 Q And at this point is your body hurting?

20 A Yes. I was still having discomfort.

21 Q Did you have to teach that day?

22 A I did not. After he left, I ended up
23 calling my additional instructors to see if they
24 could sub my classes that day.

25 Q So you did have classes.

Kimberly Baker-Direct by Meadors

1 A I ended up having one class that an
2 instructor was able to cover. And then had to
3 cancel one of the classes. There were two classes
4 on the schedule that day.

5 Q So got somebody to cover a class and
6 canceled a class.

7 A Correct.

8 Q What time did the defendant leave?

9 A I would say like 9 or between 9 and 10.

10 Q We're on the morning of the 22nd now.

11 A The 20th.

12 Q I'm sorry, strike that. I apologize. It
13 was the 20th of September 2012?

14 A Yes.

15 Q Did you know where he went?

16 A He told me he was going back to finish up
17 a job in Lake City. And that there was a chance
18 if he could finish that job on time, that he would
19 go to aunt's birthday party in North Carolina if
20 he could finish up that job in time, to leave for
21 North Carolina.

22 Q What did you do that day the 20th?

23 A I stayed home. I did some work from home.
24 And was on my couch with pillows evaluating.

25 Q Did you hear from the defendant again

Kimberly Baker-Direct by Meadors

1 either text or phone?

2 A I did. He was texting and checking on me.

3 At that point I was still thinking.

4 Q Still thinking what?

5 A That it was an accident. And it was in
6 that evening that I just starting saying in text
7 messages like the amount of bruising has me
8 concerned. Can you explain to me what happened
9 when I was unconscious.

10 Q And were there texts back?

11 A Once I started questioning, he stopped
12 responding.

13 Q When is the last time you talked or
14 texted -- talked or texted to the defendant if you
15 remember?

16 A The last time I got a response, the Friday
17 after.

18 Q The 21st of September?

19 A The 21st, yes.

20 Q And then these texts, your texts, you're
21 saying what happened, why did it happen, and you
22 didn't get a response.

23 A Not when I started asking what really
24 happened, the bruising has me concerned. I am
25 still having discomfort and that Saturday.

Kimberly Baker-Direct by Meadors

1 Q Tell these folks, Ms. Baker. You had
2 feelings for the man, right?

3 A I did.

4 Q And initially did you want to think you
5 had been violated?

6 A Not by someone that I trusted and allowed
7 in my home. And was part of my yoga family. No.

8 Q What did your body tell you about whether
9 you had been violated or not? What did your body
10 tell you about whether you had been violated?

11 A That it was more than one accidental slip.

12 MR. SNELL: Object, Your Honor.

13 THE COURT: What's your objection?

14 MR. SNELL: I don't believe the witness
15 has any basis. I don't believe that's a question
16 of fact that this witness can be able to answer.

17 THE COURT: She's saying, overruled.

18 Q Was your body hurting?

19 A Yes. I didn't teach again until
20 Saturday. I had my Friday class subbed as well.
21 And when I went back and taught on Saturday, I was
22 having to tell the people that I mean I was -- had
23 pulled my back out.

24 Q That's what you told them why you hadn't
25 been there.

Kimberly Baker-Direct by Meadors

1 this?

2 A No, sir.

3 Q And was it like that prior to September
4 19th of 2012?

5 A No, sir.

6 Q And this picture was taken when?

7 A Saturday, 3 days after.

8 Q That being September 22nd of 2012?

9 A Yes.

10 Q And you took it?

11 A I took it with my camera phone.

12 Q What did you do with picture, Ms. Baker?
13 What did you do with that picture? Did you send
14 it to anybody?

15 A I sent him that picture from my phone.
16 When I was asking, please, tell me what happened.

17 Q Did you get a response?

18 A No.

19 Q Did you talk to anybody else? Did you
20 show that picture to anybody else, before law
21 enforcement?

22 A I did.

23 Q Who?

24 A My friend Malissa.

25 Q And after showing that to Malissa, did you

Kimberly Baker-Direct by Meadors

1 go down to the police department?

2 A Yes.

3 Q Who went with you?

4 A Malissa.

5 Q What day did you go on?

6 A On Monday.

7 Q Would that be Monday, September 24th 2012?

8 A Yes.

9 Q And on that day, did you have an occasion
10 to see a lady named Ruth Fowler and Billy Lyons?

11 A I did speak with them.

12 Q Just for these purposes, did you give them
13 time and place of a potential assault?

14 A Yes.

15 Q Did you fill out anything that day?

16 A I didn't fill out anything that day. I
17 was sent home with an incident report. I
18 initially spoke with a female officer and told her
19 what happened; got very upset. Even going down to
20 the police station, It wasn't like I want to press
21 charges. I just I started to be very fearful.
22 And I was, I didn't -- I mean if you are capable
23 of that, what else are you capable of. So I
24 started to get scared. And even when I had talked
25 to Malissa, she said well let's just go report it.

Kimberly Baker-Direct by Meadors

1 Because if anything else happens, you've made that
2 report.

3 Q You didn't want to report it, did you.

4 A Not initially, no. I mean it's
5 embarrassing. I had a relationship with this
6 person.

7 (Incident report marked State's No. 2 for
8 ID.)

9 Q Ms. Baker, you testified you went to the
10 police department on Monday the 24th?

11 A Yes.

12 Q And was that later in the evening?

13 A Yes, it was late in the evening.

14 Q Who went with you?

15 A Malissa.

16 Q And I am not clear yet, but I want this
17 clear for the record. Did you fill out an
18 incident report there or what happened about an
19 incident report?

20 A I was given that to take home to fill out,
21 after I spoke with the female officer first. I
22 got really upset. And even, I remember Malissa
23 just putting her hand on me, and saying maybe
24 we've had enough for today. And then that's when
25 she said well just take that with you. And as we

Kimberly Baker-Direct by Meadors

1 were leaving, that's when two other officers came
2 out and said, we don't her leaving this upset.
3 And asked him if I was willing to talk to the
4 victim's advocate Ruth Fowler. And that is when
5 they went and got Detective Billy Lyons as well.

6 Q And you had just a conversation with them
7 about time and place.

8 A Yes.

9 Q And this is State's 2 for ID only. Is
10 that the form you took?

11 A Yes.

12 Q Did you subsequently bring that back to
13 law enforcement?

14 A I did.

15 Q When was that?

16 A That would have been with Sergeant Culick.

17 Q Sergeant Culick back here---

18 A Yes.

19 Q ---where I'm sitting? And did you put a
20 date and time of an assault on State's 2? Did you
21 fill this out?

22 A This is my handwriting, yes.

23 Q Did you put a date when the potential
24 incident happened?

25 A Yes.

Kimberly Baker-Direct by Meadors

1 Q And the assault.

2 A Yes. I see the date on that between the
3 time, yes.

4 Q After you talked with Ruth Fowler and
5 Billy Lyons, you left.

6 A Yes.

7 Q Tell the ladies and gentlemen of the jury,
8 at this point, I think we're at September 24th
9 2012. Tell them what you did next. What did you
10 want to do next? What did you do next? Explain
11 that to the jury.

12 A Basically I just said I just need some
13 time to think about if I even wanted to go forward
14 or what to do. She referred me to counseling in
15 Columbia. And then I had called her back the next
16 day and said that I was ready to do something.
17 And she said that she could come to my home.

18 THE COURT: Sustained.

19 Q You called who the next day?

20 A Ruth. Because I was at that point...

21 Q As a result of that, what happened?

22 A We had set up the meeting to meet with
23 Sergeant Culick.

24 Q What date again was that?

25 A That was October 2nd.

Kimberly Baker-Direct by Meadors

1 Q And on October 2nd, did you go back to the
2 police department to meet with Irene Culick?

3 A Yes.

4 Q And without going over it, did you give
5 her a statement of what happened?

6 A Yes.

7 Q Had you talked to the defendant at all?
8 When is the last time you orally talked to him?

9 A He called 3 weeks after September. After
10 the incident.

11 Q And what was that about? I am sorry for
12 that terrible question. Why did he say he was
13 calling?

14 A To check on me to see if I was okay. And
15 I, at that point, I was telling him I know it was
16 not an accident. I know it was---

17 Q What did he say?

18 A He was still saying it was an accident.

19 (Record of phone calls marked State's
20 Exhibit No. 3 for ID.)

21 Q Do you remember what day he called?

22 A October 11th. It was on a Thursday, I do
23 remember that.

24 Q Do you recognize this State's 3 for ID?

25 A Yes. This is my t-mobile and wi phone

Kimberly Baker-Direct by Meadors

1 that I had at that time.

2 Q And tell me again the substance of that
3 call was what?

4 A He was calling to check on me.

5 Q And you had already been to law
6 enforcement.

7 A I had, but I did not disclose that to him.
8 He did make a comment. He said you probably have
9 a recording device that was given to you by law
10 enforcement.

11 Q Did you at that point?

12 A At the time, I did not.

13 Q I think your testimony earlier was
14 September 21st, the last time he texted you.

15 A Yes.

16 Q Between September 21st and October 11th,
17 did you have any contact with him either way?

18 A No.

19 Q Did you talk to him or text with him?

20 A That was no response on his end, no.

21 Q And after that, when is the last -- the
22 next time you talked to him?

23 A I have never spoken to him since that day.

24 Q And that's October 11th, correct?

25 A Correct. Of 2002.

Kimberly Baker-Direct by Meadors

1 Q Can you explain -- will you, not can you.
2 Will you explain to the jury in your own words,
3 why you didn't immediately go to law enforcement?

4 A I was processing what happened to me that
5 night. My counseling---

6 Q Without the counseling, just tell them
7 why you didn't. What was going through your mind?

8 A Ask me the question again, please.

9 Q Just why you waited a week to go law
10 enforcement.

11 A A week.

12 Q That's all.

13 A I was in the process of processing that.
14 Those injuries were not from one accidental slip.
15 And that someone that I cared about intentionally
16 harmed me and assaulted me. And it just took
17 awhile to wrap my mind around that.

18 Q Were there any other witnesses there?

19 A At the time of when this happened?

20 Q When this happened.

21 A No.

22 Q And during this time were you being
23 recording? Or did you think you were being
24 recorded?

25 A During to night of -- yes, I remembered

Kimberly Baker-Direct by Meadors

1 at one point he had his cell phone propped up
2 against the computer. And I had asked, are you
3 recording this. And initially he said no. And
4 then he said yes. And then I said well what are
5 you recording. And then he played it back. And
6 it really dark. You could here movement and see,
7 you know, vague. And I just asked that he delete
8 it. And he had it and said that he deleted it.

9 Q And that was before this.

10 A That was before this, yes. That is also
11 something that had never occurred.

12 Q What is that? The recording?

13 A Any recording or an attempt to record.

14 Q Did he ever take pictures of you that you
15 know of?

16 A No, not while we were engaged in sexual
17 activity, no.

18 Q Were there any other pictures he took of
19 you?

20 A I remember him taking a picture of me in a
21 dress getting ready to go out one night. And he
22 had some photo shop editing tool, and took a
23 picture of me and a girlfriend that we were out in
24 some dresses and changed some colors or brightened
25 it up.

Kimberly Baker-Direct by Meadors

1 MR. MEADORS: I beg the court's
2 indulgence.

3 THE COURT: Yes, sir.

4 MR. MEADORS: May we approach?

5 THE COURT: You may.

6 (Whereupon, the attorneys approach the
7 bench and confer with judge.)

8 Q Ms. Baker, between May and July, did you
9 have consensual sex with the defendant?

10 A Yes.

11 Q Did you have consensual sex in August one
12 time?

13 A Once in August.

14 Q And did you initially have consensual sex
15 on September 19th?

16 A Initially, yes.

17 Q And after that, and you've got a right to
18 say no, don't you?

19 A Yes.

20 Q And after that initially, did you give
21 consent on September 19th 2012, to the man who
22 initially introduced himself as Jay Gregory, and
23 you came to know as James Gregory Younger, did you
24 give him consent -- did you give him consent to
25 put himself in your rectum?

Kimberly Baker-Direct by Meadors

1 MR. SNELL: Objection, Your Honor,
2 leading.

3 MR. MEADORS: Your Honor, I'm not---

4 THE COURT: Overruled.

5 Q Did you give the defendant James Gregory
6 Younger consent to do that?

7 A No, I did not.

8 Q Were you conscious to give him consent?

9 A I was not conscious.

10 Q Would you have given consent if you had?

11 A I would not have agreed to that.

12 Q And is he in the courtroom? The person
13 that did that to you?

14 A He is.

15 MR. MEADORS: Please point him out for the
16 record?

17 A Sitting next to the defense attorney.

18 Q Mr. Snell?

19 A Yes.

20 MR. MEADORS: We would like the record to
21 reflect.

22 THE COURT: The record will so record.

23 MR. MEADORS: Thank you. That's all we
24 have.

25 THE COURT: Mr. Snell.

Kimberly Baker-Cross by Snell

1 MR. SNELL: Thank you, Your Honor.

2 Cross Examination by Mr. Snell:

3 Q Ms. Baker, I know, if I may approach, Your
4 Honor.

5 THE COURT: You may.

6 Q And I understand that we meet for the
7 first time yesterday and we got to talking in a
8 prior hearing. Is that correct?

9 A That's correct.

10 Q So I kind of want to just -- I want to
11 review the background or the facts in the case,
12 for the benefit of the jury to help them have a
13 complete understanding about the case. Now you
14 first meet Mr. Younger in March of 2012.

15 A That's correct.

16 Q And that's through yoga.

17 A Yes.

18 Q And you're a yoga instructor.

19 A Yes.

20 Q Do you have your 240 or 280 hour
21 certification?

22 A I have a 230 hour certification.

23 Q Can you tell us just in your own words
24 briefly, what yoga is.

25 A Yoga is a practice. I guess the most

Kimberly Baker-Cross by Snell

1 common way to explain it, it's a type of physical
2 exercise that increases flexibility, strength and
3 balance in the body.

4 Q And understand are there, is it fair to
5 say or is it correct that there are four types of
6 yoga or primary schools of yoga?

7 A There are different styles of yoga.

8 Q Or styles, is that correct? In your
9 practice, do you emphasize one style in
10 particular, or do you practice all four?

11 A I teach different styles. Several styles
12 of yoga.

13 Q Now Mr. Younger was coming to the class.
14 And he was participating as a student, is that
15 correct?

16 A That is correct.

17 Q Do you have different levels like
18 intermediate or beginning intermediate, advance
19 type courses?

20 A We have classes that are more appropriate
21 for beginnings. And a few classes that are not
22 as beginner friendly.

23 Q And what type of classes was Mr. Younger
24 attending?

25 A He attended our attended our warm power

Kimberly Baker-Cross by Snell

1 flow, which our most vigorous, strengthening and
2 would be considered a more intermediate practice.

3 Q So that would be suitable for someone with
4 some level of prior experience in yoga and some
5 familiarity.

6 A Correct.

7 Q Now after he had been coming and
8 participating in the classes, at some point you
9 all began going out socially?

10 A Correct, yes.

11 Q Going to restaurants or causal places?

12 A Yes.

13 Q And of course you are not married, are
14 you?

15 A I am not.

16 Q And you understood Mr. Younger wasn't
17 married either, correct?

18 A Correct.

19 Q So you all are two single people.

20 A Yes.

21 Q Is it fair to say that you're in fairly
22 good athletic shape, doing your job and going to
23 teach that.

24 A Yes.

25 Q Is it fair to say that Mr. Younger was

Kimberly Baker-Cross by Snell

1 also in pretty good athletic shape.

2 A Yes.

3 Q A fit guy.

4 A Yes.

5 Q How long did you and him date before from
6 your perspective, it got more serious? If you can
7 put a number of weeks or months on it.

8 A What we --I guess I don't understand more
9 serious.

10 Q How long was it before you all -- you were
11 comfortable enough or serious. You know, you were
12 comfortable enough with Mr. Younger and the
13 relationship before you all became intimate? I
14 will ask it that way.

15 A I would say it was May. So we met in
16 March and started seeing each other in April. So
17 within a month's time frame.

18 Q But not the first time you met him or
19 socially.

20 A No.

21 Q Nothing like that. It was an established
22 history.

23 A Yes.

24 Q And when you first worked together and the
25 relationship got more serious you at that point,

Kimberly Baker-Cross by Snell

1 didn't trust him immediately with the house key,
2 did you?

3 A Not immediately.

4 Q How much later was it before you became
5 comfortable enough with him to trust him with the
6 key?

7 A If I can recall, it would have been in
8 June I asked him to house sit with my dog that
9 weekend.

10 Q And tell us about your dog.

11 A She's a 10 pound shitzu.

12 Q And when you say house sit, you are going
13 to leave him alone in your house.

14 A Yes.

15 Q How long were you be gone?

16 A I left on a Friday morning and returned
17 Sunday evening.

18 Q Where did you go?

19 A Asheville.

20 Q And do you live by yourself?

21 A I lived alone.

22 Q So Mr. Younger is along with your dog and
23 all possessions.

24 A All my possessions, yes.

25 Q The dog most important possession.

Kimberly Baker-Cross by Snell

1 A The most important, absolutely.

2 Q And when you returned was everything in
3 order with your house?

4 A Everything was in order. Yes. He had
5 taken out the trash and emptied my shredder.

6 Q And your dog is healthy and....

7 A He actually cut her face hair.

8 Q Grooming?

9 A Said that she got into -- he took her
10 over to a friend's house, and she played in the
11 backyard and got gum in her facial hair. And he
12 trimmed her facial hair.

13 Q She was -- but the dog had been fed and
14 everything, correct.

15 A Yes.

16 Q Now after that point in June, that's when
17 you testified or said that you understood his
18 complete name, is that correct?

19 A When I came back from that trip that
20 weekend he divulged that yes, his last name was
21 Younger.

22 Q So at that point, you went from
23 understanding him being James Gregory to being
24 James Gregory Younger.

25 A Yes. Before he was Jay Gregory born in

Kimberly Baker-Cross by Snell

1 And then he divulged that he was James
2 Gregory Younger born in

3 Q And that gave you some pause, fair to say
4 some pause. You thought about that, didn't you?

5 A Yes.

6 Q And after having time to think about it,
7 you decided to continue with the relationship.

8 A I did.

9 Q Now after June you continued the
10 relationship, you said up until the July 4th lake
11 trip, correct?

12 A Correct, yes.

13 Q And after that time of the holiday, that's
14 when you mutually decided that the relationship
15 wasn't going any more developed.

16 A He was not ready for any exclusive
17 committed relationship at that point in his life.

18 Q And were you at that point, were you
19 looking for a suitable long term relationship
20 yourself?

21 A Yes.

22 Q You have goal one day of becoming married?

23 A I do.

24 Q Do you currently have any children?

25 A I do not.

Kimberly Baker-Cross by Snell

1 Q And you'd like to at some point settle
2 down?

3 A I would like to spend the rest of my life
4 with someone and share, yes.

5 Q And so if -- would it be fair to say as
6 far as the romance part, would you ever consider
7 yourself boyfriend/girlfriend?

8 A We -- I would say the relationship would
9 be a typical boyfriend/girlfriend. But there was
10 never like, did we ever say we're boyfriend and
11 girlfriend, no.

12 Q No titles.

13 A No titles. There were no titles that were
14 deemed to our relationship. Correct, yes.

15 Q But if boyfriend and girlfriend would have
16 been a good title after July 4th, you would have
17 been broken up?

18 A Yes.

19 Q But on good terms.

20 A Yes.

21 Q And continued to spend time with each
22 other and be around each other. Just for the most
23 part with a lack of physical intimacy at that
24 point.

25 A Yes.

Kimberly Baker-Cross by Snell

1 Q And that continued up until August when
2 there was an intimate encounter, is that correct?

3 A That's Correct.

4 Q And after that August encounter did you --
5 and by the time August came around were you dating
6 anyone else or seeing anyone else at that time?

7 A No.

8 Q And after the August encounter when
9 Mr. Younger left, he still had a house key, is
10 that correct?

11 A Yes.

12 Q And I understand that approximately
13 3 weeks went by before you saw him again, is that
14 correct?

15 A That is correct.

16 Q And he's living in North Carolina back at
17 that time or?

18 A I didn't know where he was living. He was
19 saying he was going back and forth.

20 Q Now there came a time when you invited him
21 back to your house. And it's a duplex, is that
22 correct?

23 A That is correct.

24 Q And you've got a neighbor next door?

25 A At that time I think the duplex may have

Kimberly Baker-Cross by Snell

1 been empty.

2 Q But it's the kind where there's just a...

3 A But, yes. On one side, yes.

4 Q And it's not like an apartment complex
5 type thing.

6 A Correct, no.

7 Q And so there came a time when you invited
8 him back over on September 19th, correct?

9 A Yes.

10 Q And now at that point you and him still
11 would be fair to say, broken up?

12 A Yes.

13 Q And and but you still had feelings for
14 him.

15 A I still had feelings for him, yes.

16 Q And you considered the two of you all on
17 good terms.

18 A Yes.

19 Q And I understand you all cooked some
20 dinner?

21 A We did.

22 Q What did you all cook?

23 A Salmon.

24 Q Did you grill it or oven, or how did you
25 do it?

Kimberly Baker-Cross by Snell

1 A Baked in the oven.

2 Q And did you all eat in the dining room or
3 in front of the TV?

4 A In front of the TV at my coffee table.

5 Q And so it sounds like up to this point,
6 everything was going well.

7 A Very normal for our spending time
8 together, yes.

9 Q And is it fair to say at some point after
10 the meal you all started making out.

11 A He started kissing me in the kitchen, yes.

12 Q And how long did that go on if you can
13 say, was it before you all progressed downstairs?

14 A Several minutes or maybe even longer. I
15 can't recall specific time of how long we were in
16 the kitchen kissing.

17 Q Now at the point that you went downstairs,
18 what did you call him? What was your name for
19 him? I call him Mr. Younger. What did you call
20 him?

21 A Greg.

22 Q At the point you and Greg went downstairs,
23 you went down willingly, is that fair to say?

24 A Yes.

25 Q And that began a consensual sexual

Kimberly Baker-Cross by Snell

1 encounter downstairs.

2 A Yes.

3 Q And you all are in a bed, is that correct?

4 A That is correct.

5 Q And I hate -- and again I hate to be so
6 graphic and I don't mean to embarrass you or
7 anyone else. But people had their clothes off.

8 A Yes.

9 Q And that's something you consented to.

10 A Yes.

11 Q And so you had, as I understand your
12 testimony, you have -- had an initial part of the
13 encounter. Is lovemaking, is that a correct term
14 for what went on?

15 A It's a term I would use.

16 Q So we have kind of first portion of the
17 lovemaking and you testified that Mr. Younger had
18 to stop.

19 A Yes.

20 Q And at that point you and him had a
21 conversation about a video recorder or some type
22 of recording being made.

23 A Yes.

24 Q And he told you at that point there was a
25 recording being made.

Kimberly Baker-Cross by Snell

1 A Yes.

2 Q And you asked him to turn if off, right?

3 A And to delete it if there was anything on
4 there.

5 Q Now at point though you didn't ask him to
6 leave the house or leave the room, did you?

7 A No.

8 Q And so you all continued to be together.
9 And then as I understand he asked to resume the
10 lovemaking session.

11 A To resume, yes.

12 Q He asked, is that correct?

13 A He said can we try again.

14 Q And so you gave him your permission.

15 A Yes.

16 Q And as I understand it that, and again I
17 apologize for the graphic. At some point in the
18 second part of the lovemaking session, you were
19 you on your, kind of on your stomach up on what --
20 you were facing down.

21 A I was not all fours, but I was laying flat
22 on my stomach.

23 Q And you had said that Mr. Younger had at
24 one point had your arms behind your back.

25 A Yes. Like that.

Kimberly Baker-Cross by Snell

1 Q And but then at another point he had, as
2 you can tell, he had an arm around your neck.

3 A Around my collar bone.

4 Q Around your collar bone or on your collar.
5 And he had another hand over your mouth.

6 A Yes. That's when things happened very
7 quickly with the...

8 Q Let me ask you this. At that point that
9 that was happening, because if he's got both of
10 his arms in use, he didn't have -- your arms
11 weren't being, he wasn't using any of your hands
12 with your arms that way.

13 A No, he had let go of my arms.

14 Q And up until at that point everything's
15 still consensual, correct?

16 A Up until that point, yes.

17 Q And I know that in a prior statement you
18 had said that he then placed his right hand over
19 my mouth, but this was not in a forceful manner.

20 A Yes, that didn't alarm me at that moment,
21 yes.

22 Q And then now and you said it happened very
23 quickly that you lost consciousness.

24 A Yes. I remember that. Then that
25 happened. And then arms starting coming up. And

Kimberly Baker-Cross by Snell

1 then he started putting a lot of pressure,
2 bilateral pressure on my carotid artery. Then I
3 went unconscious.

4 Q And while this was going on, are you all
5 in the middle of having intercourse?

6 A He is still penetrating me vaginally at
7 that point, yes. And started getting rougher.

8 Q So he's behind you. And he's a fairly
9 good size I mean, guy.

10 A He's a very -- at that time he was very
11 muscular and much larger than me, yes.

12 Q Is it fair to say at that point, he might
13 have been 200 pounds?

14 A Yes.

15 Q Or more?

16 A Or more.

17 Q And so he's behind you and it's active
18 lovemaking from behind. Correct?

19 A It's active vaginal intercourse.

20 Q Active vaginal intercourse where he's
21 behind.

22 A Yes.

23 Q So that, is it fair to say that when
24 that's going on I mean, that's causing some
25 vibrations and movement. I hate to say it, I

Kimberly Baker-Cross by Snell

1 don't too be graphic, is that fair?

2 A Yes.

3 Q And it's during that kind of the heat of
4 that that you lost consciousness.

5 A Correct.

6 Q Now if I understand correctly just what I
7 understand about the case and what I'm been able
8 to read and learn so far, you don't know exactly
9 how long you were unconscious.

10 A I do not know how long I was unconscious,
11 no.

12 Q And when you came to, that's when you
13 noticed you had some pain and discomfort, correct?

14 A Yes.

15 Q And at that point Mr. Younger, when you
16 came to now, as I understand, you didn't accuse
17 him at that point of doing anything criminally
18 wrong at all, is that correct?

19 A Not at that point, no.

20 Q And so you didn't, you know, jump up and
21 say, on my gosh, what's happened. Get out of the
22 house. Anything like that, correct?

23 A Correct.

24 Q And what your testify is and you asked
25 Mr. Younger, Mr. Younger told you it was an

Kimberly Baker-Cross by Snell

1 accident, correct?

2 A That's correct.

3 Q And not only that, he told you that he
4 didn't realize that you had lost consciousness.

5 A He said he did not realize his arm was
6 around my neck that tight, and did not realize I
7 was unconscious, yes.

8 Q And is it fair to say that that night you
9 believed.

10 A That night I believed that I was -- yes.

11 Q And so If I understand what happened that
12 night and correct me, Mr. Younger actually or
13 Greg, spent the night.

14 A Correct.

15 Q And You all actually slept in the same bed
16 together.

17 A Correct.

18 Q And he made you a bath. Was it that
19 night?

20 A Yes, right after.

21 Q He helped you. Helped you with the bath;
22 with the bath, correct?

23 A Correct.

24 Q And actually came to a time where he
25 actually put ointment on you.

Kimberly Baker-Cross by Snell

1 A Correct.

2 Q And that had to be a fairly sensitive part
3 of your body from your testimony at that point.

4 A Yes.

5 Q And so as I understand from the case, you
6 had kind of characterized that at one point of him
7 being gentle and nurturing in the afterward
8 period.

9 A Yes.

10 Q And he apologized?

11 A He said he was sorry. It was one
12 accidental slip.

13 Q Now the next morning he gets up, or you
14 all both get up, as I understand. And he stays
15 around until like of 9 or 10 in the morning?

16 A I believe so, yes. That time frame.

17 Q Did he cook breakfast?

18 A No.

19 Q Did you cook breakfast?

20 A I did not cook breakfast. I think I
21 recall making cereal.

22 Q Do you recall anything about eggs and
23 turkey bacon?

24 A Not that morning.

25 Q Other mornings perhaps.

Kimberly Baker-Cross by Snell

1 A Other mornings, yes. He would make
2 pancakes and big breakfasts on several occasions,
3 yes.

4 Q But he stayed around that morning. Did
5 you have any cereal or any breakfast with him?

6 A I don't recall having anything to eat.
7 That I can't recall.

8 Q Then at that point he left.

9 A Correct.

10 Q And up until this case today, that's the
11 last time you personally saw him.

12 A Correct.

13 Q And when you all left, I understand that
14 he gave you a hug or you gave him a hug. And
15 there some parting on good terms?

16 A Yes,

17 Q Now the rest of that day and of course
18 you've got a phone, correct.

19 A Correct.

20 Q And it's got -- and you've got a car that
21 runs, correct?

22 A Yes.

23 Q And so the rest of that day, you didn't
24 contact the police or any kind of law enforcement,
25 correct?

Kimberly Baker-Cross by Snell

1 A Correct.

2 Q And you are still in discomfort, is that
3 right?

4 A That is correct.

5 Q But you didn't go to a doctor or seek any
6 kind of medical treatment.

7 A I did not.

8 Q And I understand that you never had kind
9 of marks or bruising on your neck or your throat.

10 A That's correct. But the method that he
11 used to choke me unconscious would not necessarily
12 leave bruising.

13 Q Have you ever been choked unconscious
14 before?

15 A I have not been choked unconscious before.

16 Q And so you don't have any -- is it fair to
17 say I understand what you may have been told or
18 whatever, but is it fair to say that you don't
19 have any personal firsthand knowledge one way or
20 the other.

21 A No firsthand knowledge.

22 Q And I understand and there were some text
23 messages or communications between you Mr. Younger
24 that went on for the next several days?

25 A Yes.

Kimberly Baker-Cross by Snell

1 Q And some point he began to stop replying
2 or responding?

3 A He stopped responding. When I continued
4 expressing my concern and saying please tell me
5 what really happened.

6 Q And so your last text message to him, I
7 guess, the last couple of days you texted, he
8 didn't respond, correct?

9 A Correct.

10 Q And that would have been on September 23rd
11 and 24th?

12 A I think it was the 21st when he stopped
13 responding, on a Friday evening.

14 Q Your last messages to him though were on
15 the 23rd and 24th?

16 A Yes, I was continuing to want to know what
17 happened. What really happened.

18 Q Now you, and during this time, you had
19 gone to -- you didn't -- the day this happened or
20 the morning or that day, you didn't go to a doctor
21 or seek any medical attention, did you?

22 A I did not.

23 Q And up until you had to go to -- until you
24 went for the evaluation or examination the police
25 referred you to.

Kimberly Baker-Cross by Snell ..

1 A Correct.

2 Q You never went to any medical attention or
3 saw any kind of doctor.

4 A Correct.

5 Q And at the time you went to the medical
6 examination, that was at Sumter---

7 A Family Health Center.

8 Q Family Health Center. Had you ever been
9 there before.

10 A I had never been to that location. Not as
11 a patient.

12 Q And at that time you went, was it your
13 understanding of your own injuries, that you had
14 healed?

15 A Yes. The bruising was not visible at that
16 point. And then the STD tests were administered
17 then as well.

18 Q Now the only documentation as far as what
19 this area looked like, was on a photo that you
20 took yourself. Is that correct?

21 A That is correct.

22 Q You didn't have anybody to help you with
23 that.

24 A No.

25 Q And is it fair to say it was like a

Kimberly Baker-Cross by Snell

1 selfie? Is that the term?

2 A Yes. I take the picture the area myself;
3 yes, of my bruised rectum three days later.

4 Q Okay. And I understand that when
5 Mr. Younger left on the morning of the 20th, is
6 the last time you saw him. You were still, fair
7 to say, broken up with him or you consider
8 yourself not -- back as a couple?

9 A No.

10 Q And as I understand from your testimony,
11 over a period of days you began to process what
12 had happened during the last time with him.

13 A That's correct.

14 Q And as I understand correctly, you talked
15 to your friend?

16 A Yes.

17 Q And after talking to your friend and the
18 time of processing, you began to feel like this is
19 more than an accident.

20 A Yes.

21 Q Now you testified you don't have anything
22 personal experience with anal sex, correct?

23 A Correct.

24 Q Other than this single incident, correct?

25 A Correct.

Kimberly Baker-Cross by Snell

1 Q And so as far as your body responds or
2 reacts, this is the only experience you have.

3 A That is correct.

4 Q And so is it fair to say that you don't
5 have any way of knowing what it would like if it
6 was a slip versus something more.

7 A That's correct.

8 Q Now you next went -- now you and your
9 friend, after talking with your friends in the
10 time of processing this, the following Monday,
11 you went for the first time to the police station,
12 correct?

13 A Yes.

14 Q And that's the Sumter City Police.

15 A That's correct.

16 Q And you spoke to the regular city, I
17 guess, the police, I guess the detectives and the
18 personnel they have there, correct?

19 A That's correct.

20 Q And so that would have been -- we have
21 Thursday night this happened.

22 A Uh-huh. (affirmative.)

23 Q And then Friday, and then Saturday and
24 Sunday and on this Monday, correct?

25 A That's correct.

Kimberly Baker-Cross by Snell

1 Q And you were able to tell kind of your --
2 you were able to tell what you understood what
3 happened to a police officer and a detective.

4 A Detective Lyons, yes.

5 Q And at that point, the city didn't -- to
6 best of your knowledge they didn't file a formal
7 report at that time, did they?

8 A Not on my initial visit.

9 Q And they didn't open up an investigation
10 or start a case, correct?

11 A They did not. But did pull his record and
12 confirmed.

13 Q Let me stop you there. On Monday and,
14 Your Honor, I guess I just move to strike the
15 last. It's nonresponsive.

16 THE COURT: Sustained.

17 Q I am trying the evidence, so forgive me, I
18 didn't mean to interrupt. After the Monday you
19 actually -- the police actually just let you to
20 leave with a kind of fill in the blank at home
21 form, is that correct?

22 A That's correct.

23 Q And if I understood correctly, you didn't
24 bring the form back until October 3rd?

25 A October 2nd.

Kimberly Baker-Cross by Snell

1 Q October 2nd.

2 A Sergeant Culick. But I had been in
3 communication with Ruth Fowler several days
4 following that initial visit.

5 Q And Ruth Fowler's job, you understand her
6 job to be somebody that helps people that contact
7 the police. Help -- just help them with their
8 side of events?

9 A Yes.

10 Q And so she's probably a nice encouraging
11 person.

12 A She was extending support. She's the one
13 that got me the information for the counseling
14 that I had utilized for 6 months.

15 Q So who went back on October -- in October
16 to meet with the detective, your understanding
17 that's the first time that an actual formal report
18 was filed, correct?

19 A Correct.

20 Q And would you disagree if the report is
21 dated October 3rd?

22 A If that's the date, that's the date.

23 Q Okay. And then the very first day you
24 went for the first medical screening or medical
25 examination, correct?

Kimberly Baker-Cross by Snell

1 A Correct.

2 Q And that was two weeks after the fact.

3 A Correct.

4 Q So in the -- in that block of time between
5 the time, and so you went on October 3rd, that was
6 your, at that point you were kind of processing
7 the event.

8 A Yes.

9 Q And you had determined that this was not a
10 slip or accident, but you had been intentionally,
11 seriously assaulted by Mr. Younger.

12 A Yes.

13 Q Correct. In between September 19th and
14 October 3rd or September 21st, when the last text
15 messages came, you didn't have any contact with
16 Mr. Younger, correct?

17 A Could you repeat that question?

18 Q Between September 21st, when he last, you
19 said he last texted you on October 3rd, you didn't
20 have other communication with him.

21 A No.

22 Q And you didn't have communication with the
23 doctor or a medical staff, correct?

24 A When?

25 Q Between October -- between September 21st

Kimberly Baker-Cross by Snell

1 and October 3rd when you went to the police and
2 met with the detective.

3 A Correct, no.

4 Q But you did talk to your friend, Ms.
5 McIntosh.

6 A Yes.

7 Q And did you tell her that Mr. Younger had
8 stopped responding to you or communicating with
9 you?

10 A Yes.

11 Q And did she know how important your
12 relationship with Mr. Younger had been during that
13 time period?

14 A She was my closest friend so yeah, she
15 knew that I cared for him, yes.

16 Q When Mr. Younger had left and after when
17 he stopped responding to you, is it fair that if
18 perhaps he had stayed in contact or continued the
19 relationship, you might not have ever gone to the
20 police?

21 MR. MEADORS: Your Honor, objection.
22 That's speculation.

23 THE COURT: Sustained.

24 Q After speaking to your friend and the time
25 of processing, other than talking to your friend

Kimberly Baker-Cross by Snell

1 in the time of processing, that's what had you
2 change your mind from believing this was something
3 that was an unintentional mistake to something
4 that happened intentionally.

5 A Correct. What I processed what happened
6 and realized it was not an accident and that I was
7 intentionally assaulted by someone I trusted and
8 cared for, when I ultimately decided to press
9 charges and go through this and sit here today, I
10 did not want this to happen to another woman.
11 That is why I am here today.

12 Q But I and I appreciate that and I
13 appreciate your change. I just want make sure
14 I'm -- we're clear. From between the time this
15 happened until the time you reported it, you just
16 needed more time to get by.

17 A I was processing what happened to me, yes.

18 Q And if I understand you correctly, there
19 was never any kind of rape kit performed.

20 A No, not a rape kit. But there was a
21 vaginal and rectal examination when I went to the
22 doctor.

23 Q And that at the Sumter Center, Health
24 Center on October 4th.

25 A Weeks after, yes.

Kimberly Baker-Cross by Snell

1 Q And other than the single photograph that
2 you took of yourself, that's the only picture
3 taken of any part of this, correct?

4 A That would be the only physical evidence,
5 yes.

6 Q And so there is no other evidence, no
7 other pictures taken by the doctor or by the
8 police, correct?

9 A Correct.

10 Q And is it fair to say other than your
11 version or what you -- your version and the
12 picture you took, that's the only evidence in the
13 case that Mr. Younger did anything wrong.

14 A The only physical evidence, yes. In my
15 case.

16 Q In your story.

17 A Yes.

18 Q And just so we're clear, on
19 September 19th, that night, you never asked
20 Mr. Younger to leave your house, correct?

21 A Correct.

22 Q And you didn't believe at that point that
23 a crime had occurred.

24 A Not at that point.

25 Q And he told you it was an accident and it

Kimberly Baker-Cross by Snell

1 had slipped and you believed him.

2 A At that time, yes.

3 Q And you continued to trust him. Correct?

4 A At that time, yes.

5 Q And he apologized, correct?

6 A He said he was sorry for the accidental
7 slip, yes.

8 Q And did nothing that was characterized as
9 being anything other than gentle and nurturing.
10 Like he was concerned and cared for you.

11 A Gentle, nurturing, manipulative.

12 Q But and other than what he did physically
13 that night as far as baths and ointment and trying
14 to look out after you, everything you can tell
15 from that night he was trying to be nurturing and
16 gentle and helpful to you, is that right? Is that
17 a yes?

18 A Yes, that night.

19 Q And he was nice to you the next morning
20 too, the last time you saw him.

21 A Yes, he was not unkind.

22 MR. SNELL: I have no other questions.

23 Please answer, thank you.

24 THE COURT: Any redirect?

25 MR. MEADORS: Very briefly redirect, Your

Kimberly Baker-Redirect by Meadors

1 Honor.

2 Redirect Examination by Mr. Meadors:

3 Q Was he gentle and kind when he choked you
4 unconscious?

5 A No.

6 Q Mr. Snell asked you about when you learned
7 his new name. And did he also give you a
8 different date of birth?

9 A Yes. On the intake form that I have the
10 students fill out at the studio when they come in,
11 his date of birth was month he was born and

12 Q It isn't clean so to speak, he told you
13 his birthday was when?

14 MR. SNELL: I'm going to object, Your
15 Honor. Exceeding the scope of cross.

16 THE COURT: I'm going to give him a little
17 leeway.

18 MR. MEADORS: Your Honor, this is direct.
19 He brought -- I didn't even know about this.

20 THE COURT: Overruled.

21 Q So did he when he told you his real name,
22 did he tell you his real birthday?

23 A In June, yes. He said he 42 and not 32.

24 Q So a 10 year difference?

25 A A 10 year difference, yes.

Kimberly Baker-Redirect by Meadors

1 Q And he asked you so you just stayed with
2 him after that. Did he ask for your forgiveness?
3 I mean....

4 A He did. And explained why he was
5 dishonest, because nobody ever would give him a
6 chance when they found out the things that he did
7 in his past.

8 Q How -- and my mama told me to ever ask
9 this, and maybe that's I didn't before. But how
10 old are you?

11 A I am 37.

12 Q So when this happened, you were how old?

13 A 35.

14 Q Now he asked you, Mr. Snell asked you
15 about the last contact you had had I believe with
16 the defendant after the 19th, correct?

17 A Correct.

18 Q And I believe your testimony was
19 September 21st, was the last direct contact,
20 correct? The last time you texted each other.

21 A When he was responding back?

22 Q Yes.

23 A On Friday, yes. Yes.

24 (Text messages marked State's Exhibit No.
25 4 for id.)

Kimberly Baker-Redirect by Meadors

1 Q Are these your text message back and forth
2 with the defendant?

3 A Yes.

4 MR. SNELL: Your Honor, I'm not aware of
5 any rule of evidence allowing these. And number
6 two, these are not new matters that came out on
7 cross. I don't think they are subject to the
8 introduction on redirect. If they are admissible,
9 ordinarily he would have had to admit them on
10 direct.

11 MR. MEADORS: Judge, I think he's
12 specifically about texts.

13 THE COURT: I'm going to overrule your
14 objection.

15 THE COURT: I am going to overrule your
16 objection.

17 Q Were these texts between you and the
18 defendant?

19 A Yes.

20 (Text messages marked State's Exhibit No.
21 4 into evidence.)

22 Q Just a couple of more questions.
23 Mr. Snell asked you about you about going to see
24 somebody. Asked you whether or not had an
25 examination.

Kimberly Baker-Recross by Snell

1 A Correct.

2 Q Did somebody look at your body and examine
3 it?

4 A Doctor Saunders, yes.

5 Q Did you have to get naked?

6 A Yes.

7 Q And did they examine your whole body and
8 look at you?

9 A Yes.

10 Q Had you ever met her before?

11 A I had not.

12 Q Just a couple more. Mr. Snell asked you
13 if you had ever had that -- asked you about your
14 anal sex. Had you ever had injuries and he was
15 asking you about when the defendant was entering
16 you vaginally from behind, had you ever had any
17 injuries like this before?

18 A No.

19 MR. MEADORS: Thank you. That's all.

20 THE COURT: Any recross based on his
21 redirect?

22 MR. SNELL: Very briefly.

23 Recross Examination by Mr. Snell:

24 Q Ms. Baker, with regard to the whole
25 examination, by nurse Saunders and you understood

Kimberly Baker-Recross by Snell

1 her as a nurse practitioner, correct?

2 A I called her Dr. Saunders.

3 Q As part of the full evaluation, had you
4 told her that you had your last menstrual period
5 approximately 2 weeks ago?

6 A From the incident?

7 Q On October 4th, when you saw the -- when
8 you saw Nurse Saunders. Do you recall telling
9 her that.

10 A I don't recall telling her that, but if
11 she asked that question that was the response I
12 gave her. I know my cycle.

13 Q If that was documented in the record, do
14 you have any reason to dispute that?

15 A No, I would not.

16 MR. SNELL: Thank you. No other
17 questions.

18 THE COURT: Thank you. You may step down.

19 MR. MEADORS: Judge, May we approach?

20 THE COURT: You may.

21 (Whereupon attorneys confer with judge.)

22 THE COURT: Ladies and gentlemen, at this
23 time, we are going to take a lunch break. Please
24 do not discuss the case with anyone over lunch or
25 with other each. Be back here, I've got another

Kimberly Baker-Recross by Snell

1 case I have to handle at 2 o'clock. So be back
2 here at 2:30, and then we will continue the
3 testimony in this trial. Thank you.

4 (Whereupon, At 12:35 p.m. jury goes to
5 lunch.)

6 THE COURT: Before we bring the jury back
7 is there anything that we need to take up?

8 MR. MEADORS: Nothing from the State.

9 MR. SNELL: Nothing from the defense.

10 THE COURT: Let's bring our jury back in.

11 (Whereupon, the following takes place
12 within the presence of the jury.)

13 THE COURT: Thank you, Mr. Bradley.

14 Ladies and gentlemen, I hope you didn't eat too
15 much. One juror in a trial I was in, fell sound
16 asleep after lunch. So I tell that you that
17 because you don't want to be that juror who is
18 sound asleep. Are you ready for your next
19 witness?

20 MR. MEADORS: Yes, sir.

21 THE COURT: You may call your next
22 witness.

23 MR. MEADORS: The State of South Carolina
24 would call Malissa McIntosh.

25 Malissa Duke McIntosh, Being first

Malissa McIntosh-Direct by Meadors

1 duly sworn, testified as follows.

2 THE BAILIFF: Please state your full name
3 and spell your last name for the record.

4 A Malissa Duke McIntosh. M-C-I-N-T-O-S-H.

5 Direct Examination by Mr. Meadors:

6 Q Good afternoon, Ms. McIntosh. As I do
7 with every witness, would you please tell the
8 ladies and gentlemen of this jury about you.
9 Where were you born?

10 A I was born here.

11 Q And where were you raised?

12 A Here.

13 Q Where did you go to school? Where did you
14 to high school?

15 A Sumter High.

16 Q And what year did you get out of Sumter
17 High, if you don't mind me asking.

18 A Sumter High, 95.

19 Q What did you do after that?

20 A I went off to Clemson. Then I ended up
21 finishing here in Natural Resources at Central
22 Carolina.

23 Q And what year? In what year?

24 A That was 2000, when I finished.

25 Q In Natural Resources?

Malissa McIntosh-Direct by Meadors

1 A Yes, in the forestry. But natural
2 resources was more like what I wanted.

3 Q What kind of practical jobs back in that
4 time you have?

5 A I worked in the forestry commission as an
6 intern. And while I was going to school, I was
7 the manager at the country club and grill and the
8 pool. And then I didn't know, I had hoped to be a
9 park ranger. And got married and had my first
10 child, so that kind of changed things for me.

11 Q I understand that. And how many children
12 do you have?

13 A Three.

14 Q So did you have any other type jobs,
15 office jobs or anything?

16 A Well I ran the office at the forestry
17 commission, which is here in town. It's actually
18 in Wedgefield. I've been the aquatic instructor
19 at the YMCA. And that's pretty much it.

20 Q Tell the ladies and gentlemen of the jury
21 about your background in yoga.

22 A Well I started yoga 10 years ago. When my
23 second child was born, I need something a little
24 more restorative to repair.

25 Q What?

Malissa McIntosh-Direct by Meadors

1 A Restorative. I was looking for a
2 different -- I had been an athlete my whole life
3 and had a lot of injuries that can produce
4 themselves during pregnancy. So when my first
5 son, second child was born, I was you know, being
6 at a stay home mom, and I found yoga. And with
7 all the fitness and everything, it just really
8 fit. So I went away for a weekend certification
9 and just fell in love. It was just wonderful
10 practice. It was more challenging than I had ever
11 expected. And then was offered a few teaching
12 jobs. Right away it was really a nice fit for me
13 my family at the time.

14 Q So did you turn that into a career?

15 A Yes. And it has been a nice one.

16 Q When did that -- when did you go from just
17 starting and practicing, to teaching?

18 A Well what happened was, when I started
19 practicing, I went into teaching right away. And
20 started, Sumter is new to yoga at time, so I
21 started working in five facilities.

22 Q In what facilities?

23 A Five different facilities in town. So
24 everybody was kind of looking for that style of
25 practice. And I also personally trained with it.

Malissa McIntosh-Direct by Meadors

1 So it was a very nice. Well I am certified in so
2 many fitness, it just all went hand in hand. So I
3 actually personal trained, taught yoga and
4 spinning, swim lessons, everything at the Y. And
5 it just kind of bloomed into that.

6 Q And how did you come in contract with
7 Southern Bliss?

8 A Well Kimberly had finished her Asheville
9 training and I had been in facilities that we
10 just -- our names keep crossing. So we met at
11 Baker's Sweets one day. And we just had a world
12 of information. I was just leaving for Asheville
13 to go to their particular teacher training. So
14 it's a really nice meeting of the minds. And I
15 started teaching for her.

16 Q At Southern Bliss.

17 A I did.

18 Q And you didn't know her before.

19 A I didn't. Even though we grew up here, we
20 knew people in common, but we had known each
21 other.

22 Q So when did you first meet her?

23 A It was around June.

24 Q What year?

25 A In the spring time of, It must have been

Malissa McIntosh-Direct by Meadors

1 2011.

2 Q And so you started teaching at Southern
3 Bliss.

4 A I did. When they opened.

5 Q And who owned it then?

6 A Kimberly Baker.

7 Q And how often were you teaching?

8 A I was on a rotation with her when my
9 schedule about once a week or once a month,
10 depending on what my three children and the YMCA
11 and the other jobs were doing. So as often as she
12 would let me. I enjoyed it.

13 Q And did you end up purchasing or you own
14 Southern Bliss now?

15 A I do.

16 Q When did you buy it?

17 A June 1st.

18 Q Just a few days ago.

19 A Yeah, we've been talking about it for some
20 time, because she's moved forward and I just was
21 taking a little bit more time to decide.

22 Q She now owns a place in Columbia.

23 A She does.

24 Q And just briefly, how many classes do you
25 have there now?

Malissa McIntosh-Direct by Meadors

1 A Oh, let's see. We have 2, 3, 4, 5,
2 ranging in about 12 a week.

3 Q And how many students do you have?

4 A Last week we had 54 students come through
5 in that week. So we expect more. It was the
6 first week of summer. You can imagine, everybody
7 is glad to stay home.

8 Q Let me ask you this much do you know the
9 defendant?

10 A I do.

11 Q Had you ever met him?

12 A In passing at the yoga studio.

13 Q And when was that?

14 A We went to a Sadie Nardini workshop in
15 Columbia, so I don't remember the exact.

16 Q A what?

17 A Sadie Nardini is one of the people giving
18 a workshop, and I just met him there briefly. I
19 don't remember the exact date. I know she was the
20 instructor.

21 Q Who was?

22 A Sadie Nardini.

23 Q That's where you passingly met him.

24 A Uh-huh. (Affirmative.) I said, hello.

25 Q When was that?

Malissa McIntosh-Direct by Meadors

1 A I don't remember the exact date. It was a
2 Saturday morning.

3 Q Other than that incident, did you have any
4 other contact with him?

5 A I did not.

6 Q Just generally, did you learn that
7 Kimberly Baker had a relationship with him? Or
8 did you know that?

9 A Yes, she expressed that to me in general.

10 Q Now going specifically to September 19th,
11 and a few days after that of 2012.

12 A Right.

13 Q Where were you working?

14 A I was working at Southern Bliss.

15 Q Were you working anywhere else?

16 A At the YMCA and the academy of marital
17 arts. And then adult ed. I do have a contract
18 with the district.

19 Q And did you have an occasion to hear from
20 Kimberly Baker on either the 19th, 20th, 21st,
21 22nd, somewhere in the time period of September
22 2012?

23 A Yes.

24 Q And how did you hear from her?

25 A She called me Thursday. And the initial

Malissa McIntosh-Direct by Meadors

1 discussion was about a sub for her class.

2 Q About a what?

3 A A sub for her class. She wanted me to
4 take her class at that point and teach it for her.

5 Q And was that arranged where somebody else
6 taught her class?

7 A Yes. She found another sub, I was unable
8 to do it.

9 Q Did you she tell you anything that day or
10 the day after about anything that may or may not
11 have happened to her, as it refers to time and
12 place?

13 A On Thursday she told me that she was
14 unable to teach because she was very sore.

15 MR. SNELL: Your Honor, I object to
16 hearsay.

17 THE COURT: Sustained.

18 Q Did she tell you anything about time and
19 place of an assault that she had?

20 A She had told me that Wednesday night.

21 MR. SNELL: Objection, Your Honor.

22 Q Just answer the question yes.

23 A Yes.

24 Q Don't say where or the time.

25 A Yes.

Malissa McIntosh-Direct by Meadors

1 THE COURT: Just limit it.

2 Q And did she tell you anything about an
3 assault, yes or no?

4 A Yes.

5 Q Did she tell you about a time or place of
6 that assault?

7 A Yes.

8 Q And specifically, what did she tell you?

9 A She told me that Wednesday night she was
10 assaulted.

11 MR. SNELL: Object, hearsay.

12 THE COURT: He can ask limited questions.
13 And, Mr. Meadors, if you would make sure the
14 witness.

15 MR. MEADORS: I'm trying, Judge.

16 A I'm sorry.

17 Q Did she tell you a date when she was
18 assaulted?

19 A Wednesday the 19th.

20 Q Of what year?

21 A 2012.

22 Q Did she tell you a place where she was
23 assaulted?

24 A Her bedroom.

25 Q I'm sorry?

Malissa McIntosh-Direct by Meadors

1 A Her bedroom.

2 Q And do you know where she lived?

3 A Yes. On, her address has---

4 Q That's fine.

5 A ---slipped my mind.

6 Q She told you in her bedroom. But you took
7 it to mean her residence.

8 A Her residence, yes.

9 Q And when had she told you that?

10 A Thursday.

11 Q Now did you ever receive anything else
12 from her?

13 A Yes, phone calls. And then a text.

14 Q Did you receive anything else from her?

15 A Yes.

16 Q What?

17 A The text and the phone calls, both.

18 Q Maybe I not saying, following it the way
19 you are. Did you receive a picture from her?

20 A Yes, that's with the text.

21 Q I am not technology. So that's what---

22 A Uh-huh. (Affirmative.) She sent me a
23 picture on Saturday.

24 Q I'm showing you what is State's Exhibit
25 No. 1, is that what she sent you?

Malissa McIntosh-Direct by Meadors

1 A Yes.

2 Q When did she send you that?

3 A Saturday.

4 Q Did you see her on and again for the
5 record and I apologize. Would that have been
6 Saturday the 22nd of September 2012?

7 A It was.

8 Q After that, did you accompany her to the
9 hospital, Ms. Kimberly Baker? Excuse me, strike
10 that, Judge, I apologize. Did you accompany her
11 to the Sumter Police Department.

12 A On Monday morning.

13 Q Do you know when it was Monday? What
14 time?

15 A It was around the mid-morning Monday. The
16 exact time, I don't.

17 Q So you went with her to the police
18 department.

19 A I did.

20 MR. MEADORS: I beg the court's
21 indulgence. That's all. Thank you. Oh, I'm
22 sorry, and, Judge, if you don't mind.

23 Q Is this Kimberly Baker?

24 A Yes.

25 MR. MEADORS: Thank you.

Malissa McIntosh-Direct by Meadors

1 THE COURT: Mr. Snell.

2 Cross Examination by Mr. Snell:

3 Q Ms. McIntosh, is it fair to say, well
4 first of all, I am Jim Snell. And I represent
5 Mr. Younger. And I don't think we've ever met or
6 spoken before. Is that correct?

7 A Yes.

8 Q Is it fair to say that you and Ms. Baker
9 are very good friends.

10 A Yes.

11 Q And you all talk regularly about just
12 things that friend's talk about.

13 A Yes.

14 Q You talked to her on Thursday. That would
15 be September 20th, is that correct?

16 A Yes.

17 Q Did you talk to her ever day between then
18 and the Monday you all went to the police
19 department?

20 A Sunday, we did not speak Sunday to my
21 knowledge.

22 Q But you talked to her Friday and Saturday.

23 A Yes.

24 Q And did you all talk on the phone?

25 A Yes.

Malissa McIntosh-Redirect by Meadors

1 Q Did you talk in person?

2 A No.

3 Q How many separate conversations did you
4 all have?

5 A Three.

6 Q The night that Ms. Baker was last with
7 Mr. Younger, you weren't present at the house
8 during that time.

9 A No.

10 Q And so you don't have any firsthand
11 personal knowledge of what exactly happened that
12 night between the two of them.

13 A No.

14 MR. SNELL: Thank you. No other
15 questions.

16 THE COURT: Any redirect?

17 MR. MEADORS: Yes, sir.

18 Redirect Examination by Mr. Meadors:

19 Q He just asked you if you talked to her on
20 Thursday?

21 A On Wednesday.

22 Q Thursday.

23 A Thursday I talked to her, yes.

24 Q Friday.

25 A Yes, Friday.

Malissa McIntosh-Redirect by Meadors

1 Q Saturday.

2 A Yes.

3 Q And even on Sunday, right?

4 A No, we didn't speak on Sunday. We had --
5 we spoke Monday. So it was---

6 Q I understand that. I said he asked you
7 that.

8 A Yes, he did.

9 Q I was just trying to preface the question.
10 And when you saw State's 3, that wasn't consistent
11 with what she told you had happened, was it?

12 A No.

13 Q And it was after that you went to the
14 police department.

15 A Yes.

16 MR. MEADORS: That's all. Thank you.

17 THE COURT: Any recross based on his
18 redirect?

19 MR. SNELL: No, recross.

20 THE COURT: Thank you. You may step down.

21 MR. MEADORS: Ruth Fowler.

22 Ruth Ellen Fowler, being first duly
23 sworn, testified as follows:

24 THE BAILIFF: State your full name and
25 spell your last name for the record.

Ruth Fowler-Direct by Meadors

1 A Ruth Ellen Fowler. F-O-W-L-E-R.

2 Direct Examination by Mr. Meadors:

3 Q Good afternoon, Ms. Ruth Fowler.

4 A Good afternoon.

5 Q Tell these folks about yourself. Where
6 are you from?

7 A I'm from Minnesota. I grew up there. I
8 went to the Michigan State after I graduated. Had
9 gotten a degree in criminal justice and a master's
10 degree in education. I worked as a police officer
11 in Michigan. And later went to Pittsburgh where
12 I entered the U.S. Postal inspection service and
13 served as postal inspector. Being a little tired
14 of traveling, I moved back to Pittsburgh and began
15 the financial aid director University of
16 Pittsburgh School of Medicine. About 19 and a
17 half, 20 years ago, I moved down here when my dad
18 became ill. And I cared for him up until about
19 4 years ago when he died at the age of 93. And I
20 love the weather down here and that's why I didn't
21 move back up north.

22 Q I'm sorry about loss. I'm glad you're
23 here.

24 A Thank you.

25 Q And when you came here, other than tending

Ruth Fowler-Direct by Meadors

1 to your dad, what did you do?

2 A Initially I worked at this YWCA safe house
3 as the manager and dealt with victim's of domestic
4 violence. And then started working with the
5 Sumter City Police Department.

6 Q And when did you start that?

7 A About a little over 18 years ago.

8 Q And your job there is, is now what?

9 A I am senior victim advocate.

10 Q And you've been around, I don't mean that
11 in a bad way.

12 A Yes.

13 Q And no Monday on September 24th 2012, were
14 you working at the Sumter Police Department?

15 A Yes, I was.

16 Q And which hours do you work, Ruth?

17 A Normally I work 8:30 to 5.

18 Q And did you have an occasion to see this
19 young lady back here next to Mr. Allsbrook,
20 Kimberly Baker that day?

21 A Yes, I did.

22 Q And in what capacity did you see her?

23 A She came in and I met with her in a
24 conference room, because she was very upset about
25 an incident that had occurred.

Ruth Fowler-Direct by Meadors

1 Q And you have been through this before.

2 Did you gather information from her specifically
3 regarding the time and place of an assault?

4 A Yes. She explained to me that she had
5 been sexually assaulted at her residence the prior
6 week.

7 Q So the prior week from that Monday.

8 A Yes.

9 Q And did she tell you that with her own --
10 you heard her say that.

11 A Oh, yes, I did.

12 Q And said it a minute ago. You describe
13 her demeanor as what?

14 A She was very upset. Crying.

15 Q Who else did you meet with her with?

16 A She was Malissa McIntosh I believe is her
17 last name, and Detective Billy Lyons.

18 Q Did you all or did anybody give her an
19 incident report or something to take home?

20 A I believe the officer did that had
21 initially met with her.

22 Q So she had orally told you about a time
23 and a place.

24 A Yes, she did.

25 Q Now did you subsequently after that see

Ruth Fowler-Cross by Snell

1 her -- did you see her after that?

2 A Yes, I did.

3 Q And where did you see her?

4 A I met with her and Detective Sergeant
5 Irene Culick in the office and had talked to her
6 several other times about counseling, doing
7 referrals.

8 Q And is that part of your job?

9 A Yes, it is.

10 Q You line up victims with counseling and
11 other services?

12 A Yes. We do crisis intervention, but we
13 don't do long term counseling.

14 Q You mean in house.

15 A Right.

16 MR. MEADORS: I think that's all I want to
17 ask you. Thank you.

18 Cross Examination by Mr. Snell:

19 Q Ms. Fowler, and I understand your role
20 with the police department is to help people that
21 come in and say that they've been a crime victim.
22 Is that right?

23 A Yes, it sir.

24 Q And you're not an investigator. And it's
25 not your role investigate or figure out what's

Ruth Fowler-Cross by Snell

1 happened. Just simply help those people, is that
2 correct?

3 A Yes.

4 Q And is it fair to say that you weren't
5 there the night of September 19th, between
6 Ms. Baker and Mr. Younger, correct?

7 A Correct.

8 Q And you don't have any firsthand knowledge
9 of what did or didn't occur, correct?

10 A Correct.

11 Q And when she came in on that Monday, did
12 you or anyone else talk to her about going and
13 seeing a doctor and getting any medical attention?

14 A I am trying to think specifically if we
15 did. I don't believe so.

16 Q Okay. So when she came on the Monday, as
17 far as you know, to the best of your knowledge, no
18 one at the police department suggested that she go
19 see a doctor to get an examine or anything looked
20 that.

21 A I didn't tell her that.

22 Q And you didn't hear anyone else tell her
23 that.

24 A No.

25 MR. SNELL: Thank you. No other

Ruth Fowler-Cross by Snell

1 questions.

2 THE COURT: Any redirect?

3 MR. MEADORS: I beg the court's
4 indulgence.

5 THE COURT: Yes, sir.

6 MR. MEADORS: That's all.

7 THE COURT: We will take a 15 minute
8 recess. So, Ladies and gentlemen, please go back
9 to your jury room.

10 (Whereupon, the court takes a recess.)

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

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

14 THE COURT: Ladies and gentlemen of the
15 jury, it's looks like we are just going to have
16 two more witnesses for today and then we will let
17 you all out earlier. So that because you are
18 doing your constitutional duty of being jurors, I
19 want to make sure you get out of here in time to
20 exercise your constitutional right to vote today.
21 So is the State ready to proceed?

22 MR. MEADORS: Yes, sir. Detective Billy
23 Lyons.

24 Detective William Lyons, Being first
25 duly sworn, testified as follows.

1 THE BAILIFF: State your full name and
2 spell your last name for the record.

3 A William Lyons. L-Y-O-N-S.

4 Direct Examination by Mr. Meadors:

5 Q Good afternoon, detective.

6 A Good afternoon.

7 Q What is your rank?

8 A Sergeant.

9 Q Sergeant. Sergeant, please tell the
10 ladies and gentlemen of this jury briefly about
11 yourself, your background, where you are from.
12 Where you were raised. Your education and
13 training. And your training specifically in law
14 enforcement.

15 A Yes. I was born here in Sumter County.
16 Graduated from Sumter High School. Attended the
17 University Of South Carolina. I got a bachelor's
18 degree in Business Administration from the
19 University of South Carolina. Went to the
20 criminal justice academy. Started working in law
21 enforcement in 2004. I have been at the Sumter
22 Police Department the entire time. I have served
23 as a detective since 2007. Mainly in violent
24 crimes involving homicides, armed robberies,
25 carjackings, gang related crimes. Was promoted to

Detective Lyons-Direct by Meadors

1 detective sergeant back in 2013. And that's what
2 my current duties are as far as daily functions,
3 activities in regards to investigative services
4 division.

5 Q And back in September of 2012, detective
6 sergeant, you were a----

7 A I was a senior detective back in 2012.

8 Q And during the week of September 24th of
9 2012, were you working that week?

10 A I was.

11 Q And did you have an occasion to see the
12 victim, Kimberly Baker?

13 A I did.

14 Q And I am allowed to only ask you time and
15 place, primarily, you understand that.

16 A Correct.

17 Q You understand. And did you see her at
18 the police department.

19 A I did.

20 Q And was anybody else with you?

21 A Ms. Ruth Fowler.

22 Q And can you describe Ms. Baker's demeanor?

23 A Ms. Baker appeared visibly upset.

24 Concerned about an incident that had occurred.

25 Q And did she relay to you a time of an

Detective Lyons-Direct by Meadors

1 alleged assault on her?

2 A She did. She stated that she was the
3 victim of a sexual assault that had occurred at
4 her residence the week prior.

5 Q And do you remember, did she give you a
6 date the week prior? Or do you just remember the
7 week prior?

8 A The Wednesday of the week prior.

9 Q At that point did you, you had that oral
10 information. Did she take a document or anything
11 else with her?

12 A She did not take anything from myself. I
13 did not provide her with a document or anything at
14 that time.

15 Q And subsequently did she come back and
16 meet with Investigator Culick?

17 A She did. But during which that time my
18 official report was generated.

19 Q Did you know her besides this?

20 A Yes.

21 Q From just previous being raised in Sumter?

22 A Yes, being raised in Sumter.

23 Mr. MEADORS: That's all thank you.

24 THE COURT: Mr. Snell.

25 Cross Examination by Mr. Snell:

Detective Lyons-Cross by Snell

1 Q And, Detective, my name is Jim Snell. And
2 I don't think I've had the opportunity to meet
3 with you or talk to you before. Certainly not
4 about this case, is that correct?

5 A Correct.

6 Q And I don't think we've had any other
7 cases together.

8 A No, sir, I don't believe.

9 Q And just a couple of questions first of
10 all. I'm not trying to be silly. You yourself
11 don't have any personal, firsthand direct
12 knowledge of what occurred between Ms. Baker and
13 Mr. Younger, is that correct?

14 A No, sir, I do not.

15 Q And when she came in to the police
16 station, that was on Monday, correct?

17 A Correct.

18 Q And if I understood correctly, there
19 wasn't, at that point, there wasn't a report
20 filed?

21 A It's not a document, not a report; no,
22 sir.

23 Q Do you recall if anyone -- if you or
24 anyone else then referred her or recommended she
25 go see a doctor or get any kind of medical

Detective Lyons-Cross by Snell

1 attention?

2 A No, I didn't refer her to a physician. I
3 believe Ms. Ruth Fowler talked with her about
4 victim's advocacy and services. And then victim's
5 advocacy can provide. But as far as referring to
6 a doctor, no, I did not.

7 Q And didn't take any photographs or have
8 any photographs taken.

9 A No, sir.

10 Q That you are aware of. And you have got
11 training and experience before in investigating
12 serious crimes, correct?

13 A Correct.

14 MR. SNELL: Thank you. No other
15 questions.

16 THE COURT: Any redirect?

17 MR. MEADORS: No, sir. Thank you.

18 THE COURT: Thank you. You may step down.

19 MR. MEADORS: Kathy Saunders.

20 Kathy Saunders, being
21 first duly sworn, testified as follows:

22 THE BAILIFF: Please state your full name,
23 and spell your last name for the jury.

24 A Kathy Saunders. S-A-U-N-D-E-R-S.

25 Direct Examination by Mr. Meadors:

Kathy Saunders-Direct by Meadors

1 Q Good afternoon.

2 A Good afternoon.

3 Q Can you tell the ladies and gentlemen of
4 the jury, about you, where you are from, your
5 background and training. In particularly your
6 training in the area I am asking you to testify to
7 about today, please, Kathy.

8 A I actually live in Florence, South
9 Carolina. I am currently employed at the Sumter
10 Family Health Center, and work in the Pinewood
11 office for the purpose of providing medical
12 services as a family nurse practitioner. Prior to
13 my employment at Sumter which began in August of
14 2011 as a full-time employee, I was employed at
15 the Sumter Family Health Center part-time from
16 2007 until 2011, as a forensic medical examiner.
17 More specifically in the field of child abuse than
18 adult abuse. Prior to 2007 or yeah, probably
19 about 2007. In 2005, I opened a child abuse
20 clinic in Florence, and was there as the primary
21 medical examiner four days a week, examining
22 children who had been sexually and or physically
23 abused. Prior to that, I worked at a child abuse
24 center in Florence from 1996 until 2005, as a
25 primary forensic medical examiner there, examining

Kathy Saunders-Direct by Meadors

1 children that were both sexually and physically
2 abused.

3 My training specifically is in nursing. I
4 hold a bachelor's degree, a master's degree. And
5 both certified, nationally certified by the
6 American Nurse's Credentialing Center, as a family
7 nurse practitioner and pediatric nurse
8 practitioner. In 2009, I received my Doctorate of
9 Nursing degree in nursing practice as part of my
10 family nurse practitioner degree as well.
11 Throughout the years from 1996 even until present,
12 I still see children who are sexually and
13 physically abused, as well as, adult cases of
14 sexual assault. Not domestic violence, but just
15 sexual assault. I have been specifically trained
16 in the field of child abuse in San Diego,
17 California in 1995, prior to me starting my career
18 child abuse by child abuse medical experts in
19 California. Did an internship there that lasted
20 for about 3 months.

21 And then in 2002, completed the sexual
22 assault nurse examiner that was specific to adult
23 victims of sexual assault. And then later
24 completed my training in pediatrics as well.

25 Q How many sexual assault victims have you

Kathy Saunders-Direct by Meadors

1 examined?

2 A Probably more than 10,000.

3 Q And that's children and adults?

4 A Yes, sir, that's correct.

5 Q Did you have an occasion to see Kimberly
6 Baker?

7 A I did.

8 Q When was that?

9 A In October 4th 2012.

10 Q How did that come about?

11 A I received a call from Irene Culick. She
12 was the investigator at the Sumter Police
13 Department and she asked me to evaluate Kimberly.
14 In part as a follow-up examination from the
15 assault that occurred.

16 MR. MEADORS: I beg the court's
17 indulgence.

18 Q Had you ever meet her before?

19 A No, sir, I had not.

20 Q So where specifically was this that you
21 examined her?

22 A I examined her at the Sumter Family Health
23 Center at the Pinewood site.

24 Q And where is that?

25 A In Pinewood, South Carolina.

Kathy Saunders-Direct by Meadors

1 Q In Pinewood.

2 A Yes, sir.

3 Q And you have a satellite office there.
4 And that's your office, right?

5 A I am there two and a half days a week. So
6 I co-share it with another provider.

7 Q And tell the ladies and gentlemen, when
8 you are examining someone, I mean, what's that
9 mean when you examine somebody. Specifically, a
10 potential sexual assault victim.

11 A Well the first thing I like to do is
12 collect a history, to kind of gather information
13 about what occurred at the time of the assault,
14 any information that she can recall or he, the
15 patient, can recall. And then, how are they
16 today, the day that I examine them. How do they
17 feel. Any past medical history that may
18 contribute to part of the exam findings of that
19 day or may influence what I do as a part of my
20 diagnosis and treatment.

21 Q And did you get a history from her as to
22 the alleged incident?

23 A Yes, sir, I did.

24 Q And is that important to you in conducting
25 the examination?

Kathy Saunders-Direct by Meadors

1 A Yes, sir.

2 Q Why?

3 A Well for several reasons. First of all,
4 it helps me understand what happened during the
5 assault. Because I don't just look at the area
6 where the injury may or not have occurred. But I
7 look at the entire body. But it also guides me as
8 to diagnostic testing that I may do with the
9 patient. Special x rays that I may order of the
10 patient. And certainly for follow up and future
11 evaluations that may necessary for the patient.

12 Q And for purposes and to prepare for your
13 examination, where had she said she was assaulted?

14 A What she described to me was having felt
15 pain in the rectal area with bleeding.

16 Q So let's -- we're in your room now. Your
17 examination room. What's the -- what do you --
18 what's the first thing you ask her to do? You
19 get a history of the alleged assault.

20 A Yes, sir.

21 Q What do you do next?

22 A Well that would also include a lot of past
23 medical history and information.

24 Q And you took that down from her.

25 A Yes, sir.

Kathy Saunders-Direct by Meadors

1 Q And did you have any trouble understanding
2 her, when you were talking to her?

3 A She was very tearful during the time that
4 she was providing me with the information of the
5 event. But, no, sir. She was very understandable
6 and coherent.

7 Q And you take that down and provide a
8 report, right? Which is provided, that I provide
9 to the defense, correct?

10 A Yes, sir.

11 Q What is the next thing you do in your
12 examination? You get a history from her?

13 A Right.

14 Q Past history, right?

15 A Yes, sir.

16 Q Any infections, illnesses that sort of
17 thing, correct?

18 A That is correct.

19 Q And did she say she had any?

20 A No, sir. She reported none.

21 Q What do you next?

22 A Then I would have conducted the general
23 physical exam, just looking at her eyes, ears,
24 nose, throat. Listening to her heart and lungs.
25 Doing a skin inspection. Palpating her abdomen.

Kathy Saunders-Direct by Meadors

1 Looking at her arms and legs. Her extremities.

2 Looking then at her genital area, Including both
3 her vaginal and rectal area.

4 Q And at this point, it's just so obvious a
5 question, I apologize. But they have to take
6 their clothes off.

7 A Yes, sir, they do. Completely disrobe.

8 Q And when they're -- is there anyone else
9 with you in the examination room?

10 A Yes, sir. I would had my medical
11 assistant or my nurse with me.

12 Q And that person didn't know Ms. Baker that
13 you know of.

14 A Not to my knowledge.

15 Q So Ms. Baker disrobes and you start
16 looking at her body.

17 A Yes, sir.

18 Q Specifically in her genital area.

19 A Well I did a complete physical examine.
20 But yes, sir, I did look at her genital area.

21 Q Tell us the exam you conducted please.
22 Specifically what you did.

23 A On this examine it was conducted on
24 October 4th 2012. She appeared to be well
25 nourished, well developed. Looked to be her

Kathy Saunders-Direct by Meadors

1 stated age. Was very tearful as she described
2 the incident of the assault. On her skin survey
3 she had approximately one sonometer yellow, brown
4 bruise to the left upper margin of her breast at
5 the 2:00 o'clock position. Otherwise unremarkable
6 skin survey. Her head was found to be without
7 trauma. Normal cephalic. Just being a normal
8 shape and size. Her eyes, the visual fields were
9 grossly normal.

10 Q What does that mean grossly normal?

11 A That she was able to move her eyes in all
12 directions without any issues. Her neck, there
13 was no nodes. Meaning the lymphatic system.
14 There were no enlargement of her lymph nodes. Her
15 thyroid was of normal size and texture. Her chest
16 was clear to oscillation, meaning as I listened to
17 her lungs there were no wheezing, crackles or
18 rails. Her breast tissue, there were no dominate
19 mass, no tenderness, no axillary adenopathy. It
20 just means there no enlarged lymph nodes under her
21 arms. No nipple discharge. No skin changes. And
22 then I put see skin survey for details, as far as
23 the bruising went for her breast tissue.
24 Listening to her heart, she had normal heart
25 sounds with a normal rate, rhythm. No murmurs.

Kathy Saunders-Direct by Meadors

1 Her pedal pulse or the pulse in her feet were
2 present. And she had no peripheral, which means
3 in her feet or legs or angles. There was no
4 swelling or edema.

5 In her abdomen or her stomach area, the
6 bowel sounds were present. Her stomach was
7 non-tender. And there was no presence of an
8 enlarged spleen or liver or mass. In the genital
9 area specific to her vaginal area, there were no
10 external lesions or masses present. No bladder
11 tenderness. No anopsia tenderness or masses. It
12 just means when you push over the genital area,
13 there was no tenderness. The uterus was
14 anteverted. It just means it was a little rotated
15 on the inside as I looked at it. It was of normal
16 size. It was mobile. No tenderness.

17 The urethra where she voids from, appeared
18 normal. The cervix was normal in appearance. And
19 I did collect cultures for sexually transmitted
20 infections.

21 Q Now when you're -- I've got to cover it
22 all in this trial. But when you're examining this
23 part of her body, was she up in one of these
24 chairs with her legs spread?

25 A She would have been laying back on the bed

Kathy Saunders-Direct by Meadors

1 on her back with her stomach facing toward the
2 ceiling and her feet would have been in the
3 stirrups.

4 Q The stirrups.

5 A Yes, sir.

6 Q What is next part of her body you
7 examined?

8 A The rectal area, there were no masses
9 noted. There was normal sphincter tone. Meaning
10 the external opening to her rectum was found to be
11 normal. That muscle was of normal tone. There
12 were no hemorrhoids noted. The internal digital
13 exam was completed without lesions, mass or
14 hematoma, which are blood clots under the skin.
15 None of those were noted as well.

16 Q When you saw an internal digital
17 examination, what does that mean?

18 A I would have inserted my finger into her
19 rectum. The neurological exam she had normal
20 gate, normal balance and normal motor skills.
21 Psychiatric exam she was alert. No difficulty
22 with her speech, her language. She was tearful
23 during the history. And reports that she has her
24 first counseling session in Columbia scheduled for
25 the following week.

Kathy Saunders-Direct by Meadors

1 Q Let's go back to her rectum and your
2 examination of it.

3 A Yes, sir.

4 Q And you've done how many of these exams?

5 A Probably more than 10,000.

6 Q If there had been rectal entry on
7 September 19th 2012, would that have been
8 inconsistent with your findings and your
9 observations of Kimberly Baker's rectum?

10 A No, sir, it would not.

11 Q If there been a violent entry on
12 September 19th 2012, would that be inconsistent
13 with your findings of her rectum on October 4th of
14 2012?

15 A No, sir, it would not be.

16 Q Why not?

17 A Well if you think about the rectum itself,
18 it's basically a muscle. And it will stretch and
19 accommodate objects to go in even force is used.
20 If that muscle is stretched beyond its ability to
21 accommodate, that muscle can rip and tear and
22 there can be bruising around the area, stretching
23 of that tissue. But because of it being a muscle
24 and the type of cells that make up the lining of
25 the rectal area of that rectal column at the very

Kathy Saunders-Direct by Meadors

1 entrance of it, it heals very quickly. And it
2 depends on how quickly as to each individual
3 person. Some people may heal as quickly as two or
4 three days. Some may take 5 to 7 days to
5 completely heal. But it heals very, very quickly
6 even with forced entry into the rectal area.

7 Q I am going to show you what has been
8 admitted as State's No. 1. Have you seen this
9 before? For the record, we have entered a picture
10 of the rectum of Kimberly Baker.

11 A Honestly I don't recall if I've seen it or
12 not. I may have, and I just don't recall that.

13 Q I don't know how else to ask this, but ask
14 it. When you looked at her rectum on October 4th
15 did it look like that?

16 A No, sir, it did not.

17 Q And based on your examinations and all and
18 this is Kimberly Baker's rectum as of the 21st of
19 September. Can you describe those injuries based
20 on your training and education?

21 A What appears to me is, there is some
22 swelling around the rectal opening about the 7
23 o'clock position. Also appears to be purple kind
24 of red, blue bruising along the entire perianal,
25 meaning the outside of the rectal tissue up into

Kathy Saunders-Cross by Snell

1 the perineum which divides the area between the
2 rectum and vagina. And then on the lateral side
3 of the rectal tissue, some more distal or away
4 from the rectal area, some bruising as well.

5 MR. MEADORS: Thank you. That's all.

6 THE COURT: Mr. Snell.

7 MR. SNELL: Thank you, very much.

8 Cross Examination by Mr. Snell:

9 Q And, ma'am, I am Jim Snell, a lawyer for
10 Mr. Younger. And I don't think we've ever met or
11 spoken before, is that correct?

12 A That is correct.

13 Q Now let me ask you this. Professionally
14 does that mean you have a Doctorate of Nursing.
15 Do you go by Dr. Saunders?

16 A I do.

17 Q And I guess the first thing is I would
18 like to ask. And I appreciate your work here.
19 And of course you were not present with Ms. Baker
20 and Mr. Younger the last time they were together.
21 And you don't have any firsthand personal
22 knowledge of what actually occurred, correct?

23 A That is correct.

24 Q And so the only thing you know is that
25 based on what you were told by Ms. Baker and what

Kathy Saunders-Cross by Snell

1 you observed on your examination of October 4th,
2 is that correct?

3 A Law enforcement would have shared
4 information with me in the referral process.

5 Q So other than -- so other than you were
6 told and what you saw on the 4th, that's your
7 entire limit of your understanding, correct?

8 A That is correct.

9 Q And I notice you used the word assault
10 when you testified. But do you would agree with
11 me you don't have any firsthand knowledge of
12 whether or not there was an actual assault.

13 A Based on the information the patient
14 shared with me, that is correct.

15 Q And since you use the term which is simply
16 based on what you were told by Ms. Baker, correct?

17 A That is correct.

18 Q And again, I don't want to, the photograph
19 that's been marked as State's Exhibit 1, which you
20 looked at before, you testified that's not the
21 type of -- you never got to see the same
22 observation on October 4th, when you conducted
23 your evaluation, correct?

24 A There was no bruising, that is correct.

25 Q And so you can't say that that picture

Kathy Saunders-Cross by Snell

1 shows, for certain you can't say that picture
2 shows Ms. Baker at all, can you?

3 A That is correct.

4 Q You were told it shows Ms. Baker, but
5 that's just what you know. And you saw Ms. Baker
6 for the first time, you understand that the
7 incident complained or their date was on last date
8 was on September 19th, correct?

9 A Yes, Sir.

10 Q And you've only seen Ms. Baker one time.
11 Is that correct?

12 A I saw the day of the examination on
13 October 4th, and she did return on two other
14 occasions for follow up ST, sexually transmitted
15 testing.

16 Q And without getting into that, between the
17 September 19th and October 4th, you saw her one
18 time on October 4th. Correct?

19 A That is correct.

20 Q And up that point you hadn't been her
21 regular medical service provider, correct?

22 A That is correct.

23 Q And so you were just referred by the
24 police.

25 A That is correct.

Kathy Saunders-Cross by Snell

1 Q And you would agree with me that your
2 single point with her was 15 days after she had
3 the incident with her last date with Mr. Younger.

4 A Yes, sir, that's correct.

5 Q And was it your understanding from the
6 time you conducted your examination that she
7 hadn't gone to any other medical -- hadn't sought
8 any other medical attention at that time?

9 A Yes, sir, that is correct.

10 Q And was the appointment set for her, if
11 you know for the October 4th, was that appointment
12 actually set on October 3rd?

13 A I do not recall.

14 Q Now when you did your examination you
15 didn't photographs of her, is that correct?

16 A No, sir, I didn't.

17 Q And you didn't observe any kind of
18 bruising or ligature marks on her neck or throat
19 area, did you?

20 A No, sir.

21 Q And a ligature mark, that's just a
22 bruising on the neck area, kind of a low lying
23 type?

24 A That's what I would use the term to
25 describe, yes, sir.

Kathy Saunders-Cross by Snell

1 Q And so your medical examination didn't
2 reveal any signs that she had been forcibly
3 choked, correct?

4 A She had been forcibly---

5 Q Choked.

6 A Choked. Not on the exam on October 4th.

7 Q And before you testified, you conducted an
8 examination of her rectal area. And used the
9 word, hematoma. And I think you talked about a
10 collection of blood vessels under the skin, is
11 that correct?

12 A Yes, sir.

13 Q Is hematoma, could that be a fancy way of
14 saying bruise?

15 A Actually it's larger collection of blood
16 under the skin that is similar to a bruise, but
17 it's a much deeper and larger, because of the
18 collection of blood that pools in the area.

19 Q To a lay person or just a regular person
20 who may see hematoma they might think it's
21 similar, very similar to a bruise or you can call
22 it a bruise?

23 A I am not sure of that.

24 Q Now looking at the report prepared, was a
25 two-page report you prepared on October 4th 2012.

Kathy Saunders-Cross by Snell

1 And do you have a copy of that---

2 A I do.

3 Q ---to refresh your recollection.

4 A Yes, sir.

5 Q And I understand that part of what you
6 told by Ms. Baker was she didn't have a
7 recollection or a memory of a rectal assault, is
8 that correct?

9 A That she?

10 Q Did not have a memory? That patient
11 reports that she still does have a memory of the
12 rectal assault. And that's the second to the last
13 sentence on the first paragraph.

14 A Yes, sir. That's part of the history that
15 she gave me.

16 Q So part of the history was she had no
17 memory of the assault.

18 A Right. But that she had remembered
19 bruising and bleeding for days after the incident
20 occurred.

21 Q Now in the second paragraph, she had
22 reported to you that she had her last menstrual
23 period two weeks prior.

24 A That is correct.

25 Q And then your report goes on to say that

Kathy Saunders-Cross by Snell

1 she denies vaginal or rectal pain at present.

2 A That is correct.

3 Q When you did your complete assessment, you
4 never saw, you did a complete evaluation kind of
5 looking at the entire body, correct?

6 A Yes, sir.

7 Q And you didn't see bruises or other
8 indications, physical indications, related to her
9 allegations or accusations in this case, did you?

10 A The only skin finding bruising that was
11 present was on her breast, on the left upper
12 margin that was a yellow brown color.

13 Q Did you ask her how she got that?

14 A Specifically, I did not.

15 Q And so to the -- and to the best of your
16 knowledge, and that's when you say on her breast
17 area, that's below the neck, correct?

18 A Right.

19 Q And kind of that yellowish color, did
20 that indicate to you it might more recent than?

21 A The only thing you can say about color of
22 bruises is that if it's red in color, it's recent
23 within about 24, 48 hours. And beyond that it
24 represents a healing injury that could be days or
25 weeks.

Kathy Saunders-Cross by Snell

1 Q But you weren't given any information that
2 that mark had anything to do with the allegations
3 in this case.

4 A The only thing that she recorded was there
5 were no other accidents or injuries of
6 consequence. So she did not specifically report
7 that it was or was not there. But there had been
8 no other injuries or accidents.

9 Q Okay. And you said before that your
10 finding was consistent with her accusation, is
11 that correct?

12 A That is correct.

13 Q And by that you mean two weeks had passed.
14 And even if she -- something had happened, you
15 wouldn't expect to have seen it, is that correct?

16 A That is correct.

17 Q So a normal examination showing no
18 injuries, you took that to mean consistent.

19 A Yes, sir, based on the history that she
20 provided.

21 Q Okay. And based on the history that she
22 provided and as I've heard you describe the
23 healing process for these type of injuries, rectal
24 injuries, you would not have expected to see
25 injuries, any visible injuries, on October 4th,

Kathy Saunders-Cross by Snell

1 correct?

2 A That IS correct.

3 Q Would it have been more -- would you
4 expect that your examination -- let me ask you a
5 different question. Going on to the assessment
6 which is on page 2, It looks like you had two sort
7 of findings as a result of your examination. And
8 the first you put down that there was -- that she
9 had reported or she had said there was an assault,
10 correct?

11 A Yes, sir.

12 Q And then the only other assessment you had
13 since it says BMI between 1924. And that just
14 refers to body mass index, correct?

15 A That is correct.

16 Q And 1924 I guess compared to me that's
17 kind of skinny.

18 A It is thin, yes, sir.

19 Q And those are you only two findings?

20 A Yes, sir.

21 Q So far as your examination goes, just to
22 be clear, you saw nothing, you have no personal
23 observation as a result of your examination that
24 showed there was any physical evidence of the
25 accusation she made about September 19th.

Kathy Saunders-Redirect by Meadors

1 A The physical exam of October 4th, there
2 was no physical injury other than the skin of her
3 breast.

4 Q But you weren't told directly related to
5 that allegation.

6 A That is correct.

7 MR. SNELL: Thank you. No other
8 questions.

9 THE COURT: Any redirect?

10 MR. MEADORS: Just very briefly. May It
11 please the court.

12 Redirect Examination by Mr. Meadors:

13 Q Mr. Snell was asking you about this
14 picture, State's 3. And he was asking you about
15 the prior history and the history she provided.
16 Did she provide you with the information about how
17 she was entered in the anus?

18 A Yes, sir, she did.

19 Q Would State's 3 be consistent with a slip
20 in the anus?

21 MR. SNELL: Your Honor, may we approach?

22 MR. MEADORS: It's State's 1, I apologize.

23 (Whereupon, the attorneys approach and
24 confer with judge.)

25 Q How many sexual assaults have you done?

Kathy Saunders-Redirect by Meadors

1 A More than 10,000.

2 Q Adults and children?

3 A Yes, sir.

4 Q Looking at genitalia?

5 A Yes, sir.

6 Q Filling out reports?

7 A Yes, sir.

8 Q Coming and testifying?

9 A Yes, sir.

10 Q Have you testified as an expert in the
11 field of sexual assaults before?

12 A Yes, sir, I have.

13 Q And of course in the records of this
14 state?

15 A Yes, sir.

16 Q Numerous times.

17 A Yes, sir. More than 400 cases.

18 THE COURT: Is there any objection to her
19 being deemed as an expert in sexual assault?

20 MR. SNELL: A couple of questions, voir
21 dire questions, If I may, Your Honor.

22 THE COURT: Yes, you may certainly voir
23 dire.

24 Cross Examination by Mr. Snell:

25 Q Ma'am, just so I'm clear. Your training

Kathy Saunders-Recross by Snell

1 is, you are licensed as a nurse practitioner,
2 correct?

3 A That is correct.

4 Q And your doctorate degree is in nursing?

5 A That is correct.

6 Q And when you say you are referred to
7 professionally as Dr. Saunders. That's a Doctor
8 of Nursing.

9 A That is correct.

10 Q And so your field and your expertise is in
11 nursing?

12 A That is correct.

13 MR. SNELL: Thank you no other questions.

14 THE COURT: Do you have any objection.

15 MR. MEADORS: No, sir.

16 THE COURT: No.

17 MR. MEADORS: I'm sorry.

18 THE COURT: Do you have any objection,
19 Mr. Snell, to her being deemed as an expert?

20 MR. SNELL: Your Honor, just for the
21 purpose of the record, I would object to a witness
22 being called as an expert at this stage of the
23 examination. We had direct, cross, now redirect.
24 I think the witness was improperly suited to be
25 qualified on direct. So with that because of

Kathy Saunders-Recross by Snell

1 course my recross is limited. It's certainly
2 atypical. So I would object on that ground.

3 THE COURT: I'm going to overrule your
4 objection. As you can see, she would have been
5 able to be an expert earlier on and that wouldn't
6 be a problem. Ladies and gentlemen, normally a
7 person cannot testify to or give opinion
8 testimony. A witness can only testify as to what
9 they heard, saw, smelled, tasted or felt.
10 However, when somebody has an extra amount of
11 education and experience, we allow them to testify
12 as experts, and they can give an opinion and the
13 reasons for their opinion.

14 Now, Ladies and gentlemen, just because
15 she is deemed an expert, does not mean that you as
16 jurors have to accept her testimony. And, Ladies
17 and gentlemen, you should not give it any greater
18 weight simply because she is an expert, but you
19 should take it along with all the evidence that is
20 presented in this case and gave it the weight that
21 you as jurors believe it should be. Thank you.
22 Mr. Meadors.

23 MR. MEADORS: Thank you, sir.

24 Redirect Examination by Mr. Meadors:

25 Q Looking back at State's 1, and I apologize

Kathy Saunders-Redirect by Meadors

1 not State's 3, the picture. Can you describe
2 these injuries?

3 A Yes, Sir. There is the area of the
4 perianal tissue, which is the skin right around
5 the opening to the rectal area with kind of red,
6 it appears to be kind of a purply blue color
7 pattern bruising around the entire perianal area,
8 with swelling of the perianal tissue. It appears
9 to be in the 7:00 o'clock position. And also
10 lateral on the skin or just outside of the
11 perianal area. Bruising of more of the buttocks
12 tissue as well. And a linear kind of pattern.

13 Q And based on your training and your
14 observations, in viewing State's 1, and
15 considering the history you got from the victim,
16 if there was one slip in her anus, is that
17 consistent with that?

18 A Anytime, and I can't really answer that
19 yes or no. Anytime there is a bruise, what it
20 shows to me as a forensic examiner, is there has
21 been an impact injury. There has been something
22 that hit the skin, wherever it is, on the body,
23 with enough force to cause rupture of the blood
24 cells to that area of the skin. Certainly if it
25 was a general slip, it wouldn't have caused a

Kathy Saunders-Redirect by Meadors

1 bruise that appears to be a significant is what is
2 resembled on this photograph. It would have taken
3 substantial force to cause such bruising both to
4 the perianal, which is around the opening of the
5 buttocks, as well as to the lateral, the side
6 tissue, of the rectum. I mean of the buttocks
7 tissue. How much force, I don't know. But people
8 in general that are touched very gently and very
9 easily, do not bruise. It takes a considerable
10 amount of force or some force exerted against the
11 skin. And the second component to bruising in the
12 genital area is that it does not lie against a
13 bony object. Meaning if you hit your arm against
14 the bone of this part of your arm, the forearm,
15 you may bruise easier with less force, because
16 it's going against a solid object as it hits the
17 skin versus if you twist your arm around and hit
18 more of the fatty meaty part, that's skin against
19 skin not skin against bone.

20 So the impact injury is going to kind of
21 cushion some of the impact that the body takes
22 against the object that's either struck against or
23 hit against that part of the body. So certainly
24 you have to consider that when looking at injuries
25 too, and the possible force that was used to

Kathy Saunders-Recross by Snell

1 create the injury.

2 MR. MEADORS: Thank you. That's all.

3 THE COURT: Any recross?

4 MR. SNELL: Yes, Your Honor.

5 Recross Examination by Mr. Snell:

6 Q And, ma'am, just and again I apologize for
7 this line of questioning. And if I may approach,
8 Your Honor.

9 THE COURT: You may.

10 Q Is it fair to say that in sexual
11 intercourse between a man and a woman, that a man
12 can be quite forceful in vaginal penetration and
13 not cause physical harm or injury to the woman?

14 A There again, it depends on the amount of
15 force that's used.

16 Q But if people are for lack of a better
17 term, hot or heavy going at it, that wouldn't be
18 expected, necessarily going to lead to a woman
19 being hurt or injured, correct?

20 A I cannot agree with that statement.

21 Q Would you agree that women's bodies are
22 designed, I mean, the vaginal areas are designed
23 to accommodate men for sexual purposes?

24 A Under the influence of female hormones, it
25 makes natural intercourse, non-traumatic

Kathy Saunders-Recross by Snell

1 intercourse, pleasurable. It does.

2 Q And I'm not talking about pleasurable.

3 I'm just saying the physical act of the man---

4 A Without pain, yes, sir.

5 Q With a man entering a woman in a

6 consensual going at it kind of session, I mean the

7 man can be -- it can be vigorous without the woman

8 becoming injured or harmed, correct?

9 A I have seen females that have been injured

10 consensual vigorous sexual intercourse. So that

11 is not a correct statement.

12 Q Let me ask you this way. Is it possible

13 that the amount of force that would not injure a

14 vagina in a consensual sexual experience, if the

15 same amount of force is applied to the anus, it

16 would cause bruising or injury?

17 A Well because the anus does not have the

18 estrogenized protection, vigorous intercourse

19 could cause bruising and tearing and bleeding of

20 the rectal area. Yes, sir, It could.

21 Q And of course, the anal area of the rectum

22 is not a self lubricating orifice, correct? For

23 sexual purposes.

24 A There is mucous production in the lower

25 colon, column, so that as we have bowel movements

Kathy Saunders-Recross by Snell

1 if they are hard stools or if we have diarrhea and
2 it is irritated to the mucosa, it can produce a
3 mucus like substance for lubrication so that as we
4 evacuate our bowels, it is atraumatic.

5 Q But you would agree with me that is
6 separate than a woman's arousal for the vaginal
7 area for lubrication purposes. That that mucus
8 works differently than the lubrication in the
9 vaginal area, correct?

10 A During arousal---

11 Q Yes, ma'am.

12 A ---the vagina can produce secretions for
13 lubrications, that is correct.

14 MR. SNELL: Thank you. No other
15 questions.

16 THE COURT: Mr. Meadors.

17 MR. MEADORS: No, sir.

18 THE COURT: Thank you, ma'am. You may
19 step down. Any objection to this witness being
20 excused?

21 MR. SNELL: No, sir, Your Honor.

22 THE COURT: Ladies and gentlemen, after
23 conferring with the attorneys, I think we will
24 start at 10 o'clock tomorrow morning. So, Ladies
25 and gentlemen, you can sleep in a little bit.

1 THE COURT: Is there anything before we
2 bring the jury in?

3 MR. SNELL: Nothing from the defense, Your
4 Honor.

5 MR. MEADORS: No, sir.

6 THE COURT: Let's bring our jury in.

7 (Whereupon, the following takes place
8 within the presence of the jury.)

9 THE COURT: Good morning, Ladies and
10 gentlemen. I hope you all had a nice evening.
11 And we are ready to hear some more testimony.
12 State ready to proceed?

13 MR. MEADORS: Yes, sir.

14 THE COURT: The State may calls it next
15 witness.

16 MR. MEADORS: May it Please the Court.

17 THE COURT: Yes, sir.

18 MR. MEADORS: The State would now call
19 Irene Culick.

20 THE BAILIFF: Please state your full name
21 and spell your last name for the record.

22 A It's Irene Culick. C-U-L-I-C-K.

23 DIRECT EXAMINATION by Mr. Meadors.

24 Q Good Morning.

25 A Good morning

1 Q And what is your rank?

2 A I am a staff sergeant.

3 Q Staff Sergeant, will you please tell the
4 Ladies and Gentlemen of this jury, about yourself.
5 About Irene Culick. Where you born and where you
6 were raised? Your background, education, training
7 and in particular, your training in law
8 enforcement please.

9 A Well I grew up here in Sumter. I attended
10 school here. I went to Furman. After that, I
11 went to St. Leo's. I went to work for DHEC for a
12 little while coming to law enforcement. I have
13 been with the Sumter Police Department for a
14 little over 16 years now. And I have been in
15 investigations since June of 02. And I am
16 currently the staff sergeant over the detective
17 division for the Sumter Police Department. I've
18 attended the criminal justice academy. I have
19 continued follow up classes in reference to
20 investigations of all types of crimes from sexual
21 assault to domestic violence, to child abuse, to
22 property crimes, forgeries. I've worked all types
23 of cases.

24 Q Thank you, ma'am. In October of 2012, did
25 you have the same rank?

Sergeant Culick-Direct by Meadors

1 A I was a sergeant at that time.

2 Q And in that capacity did you have an
3 occasion to get involved in this case against the
4 defendant James Gregory Younger?

5 A Yes, I did.

6 Q When did you get involved?

7 A I got involved on October the 2nd 2012,
8 when our victim's advocate came and asked me if I
9 would meet with a victim, Kimberly Baker. And I
10 told her I would.

11 Q Is that Ms. Ruth Fowler in the courtroom?

12 A Yes, it is.

13 Q And as a result of that introduction you
14 met Kimberly Baker.

15 A I did.

16 Q And where did you first talk to her?

17 A At the law enforcement center.

18 Q And at that point did she give you
19 information and time of an assault and background?
20 Did she tell you what happened?

21 A Yes, she did. We spoke for approximately
22 3 hours that day. She gave me information about
23 being sexually assaulted on September 19th 2012,
24 at her residence which is Arnaud Street in
25 the city of Sumter.

Sergeant Cullick-Direct by Meadors

1 Q In Sumter County.

2 A Yes.

3 Q And you documented that?

4 A I did.

5 Q And at that point, you said September
6 19th, you knew the assault had been prior to the
7 date you met her obviously.

8 A Correct.

9 Q And what did you do next in your -- what
10 do you do generally, specifically, what did you do
11 next after you met with the victim and you're an
12 investigator and detective, deciding what to do
13 next and go forward, what did you do next?

14 A Well anytime we have a victim that comes
15 down that's talking about being a victim of any
16 type of crime, not just sexual assault, we want to
17 gather as many facts as we can, all the details
18 that we can, to see if there is any evidence that
19 can collect from them.

20 Also we want to try to find out who the
21 suspect is in the case. Some people don't know
22 they are suspect. In this case, she did know who
23 her assailant was. So what I did from there was
24 just started asking her a series of questions
25 based on the information she was giving me of the

Sergeant Culick-Direct by Meadors

1 incident that occurred on the 19th of September.

2 Q So she was able to identify who she says
3 assaulted her.

4 A Yes.

5 Q And did you ask background questions like
6 in addition to where it happened, was there other
7 potential evidence of the assault?

8 A Yes. I went through the events that
9 occurred that night. We talked about her
10 bleeding, and the information she gave me about
11 tears. So from an evidence standpoint, I was
12 asking about the sheets. Did she still have
13 those. I asked about clothing that was worn,
14 which is something we do commonly with sexual
15 assault victims, collect their clothing. And
16 that's when I learned that the defendant had
17 washed them immediately after the incident.

18 MR. SNELL: Hearsay.

19 THE COURT: Sustained.

20 Q Were you looking for potential evidence?

21 A Yes, I was.

22 Q During the course of the investigation did
23 you learn they had been washed?

24 A Yes.

25 MR. SNELL: Object, Your Honor. Hearsay.

Sergeant Cullick-Direct by Meadors

1 THE COURT: That's already been testified.

2 MR. MEADORS: She's testified in cross.

3 THE COURT: Overruled.

4 Q Was there any other garments that you
5 learned may have potential evidence, and what had
6 happened to them? Her underwear?

7 A Yes. I learned that her underwear had
8 potential evidence in them. And upon---

9 MR. SNELL: Object, Your Honor. Hearsay.

10 THE COURT: That's going further. I'm
11 going to sustain that.

12 Q Were you able to gather any underwear?

13 A No, I was not.

14 Q Did you learn in the course of your
15 investigation whether or not they had been washed?

16 A Correct, I did.

17 Q And are these basic things you ask as a
18 detective?

19 A Yes, we have to ask questions to try to
20 get evidence to help support the case that we are
21 building.

22 Q And the purpose of what I am asking you,
23 you went through those steps.

24 A I did. And in addition to those steps,
25 you also want to try to identify the person that

Sergeant Culick-Direct by Meadors

1 has done this, where they live, what they look
2 like. Things like that. So I attempted to get
3 the paperwork that was filled out by the defendant
4 and given to Southern Bliss Yoga Studio, just to
5 find out the information that he put on there
6 using the name Jay Gregory, and what address if
7 any that he put. Any kind of identifying
8 information is what I was trying to get from this.

9 Q So in the course of your investigation you
10 learned he had initially given a wrong name.

11 A Correct, and age.

12 Q Now is it -- what about whether or not the
13 victim had been to a doctor? Did you discuss that
14 with her? And what if anything---

15 A I did.

16 Q ---happened as a result of that?

17 A I did. It's always a concern of mine when
18 a victim comes and tells me they have been
19 sexually assaulted. My first thought is, okay,
20 have you gotten treatment, has a doctor checked
21 you out and make sure you are okay. Even if it
22 it's delayed reporting, which is not uncommon.
23 That's majority of my cases. We have victims
24 that---

25 MR. SNELL: Objection, Your Honor.

Sergeant Cullick-Direct by Meadors

1 THE COURT: What's your objection?

2 MR. SNELL: Talking about other cases and
3 what's common or uncommon.

4 THE COURT: I'll let her go that far and
5 leave it from there.

6 A I want to make sure that they are okay.
7 If they report to me that they had injuries, I
8 just want to make sure that they are treated.
9 They are seen. And also there's a concern of
10 course pregnancy. Did a person use a condom.
11 There's a concern of sexually transmitted
12 diseases. Things like that. So I'd like to be
13 seen and followed up. And so that's what I did in
14 this case when I had learned that she had not been
15 seen yet by a medical provider.

16 Q I'm going to show you what is marked as
17 State's 2 for ID only. Are you familiar with
18 that?

19 A Yes, I am.

20 Q And how did you become familiar with that?

21 A When Ms. Kimberly Baker came in to the law
22 enforcement center on the 2nd to see me for the
23 first time, she had this in her possession and
24 gave it Ms. Fowler and myself when she met with
25 us.

Sergeant Culick-Direct by Meadors

1 Q And there may have been some -- when did
2 you meet with her, the 3rd of the 2nd of October
3 2012?

4 A I met with on the 2nd, and we met for
5 several hours. And in the course of me meeting
6 with her and getting medical appointments
7 scheduled for her after that, the report was
8 actually completed and signed off on the 3rd.

9 Q So your report actually had 2nd at the top
10 and 3rd at the bottom.

11 A Yes, it has the 2nd where it's dispatch
12 time. And then of course the date the incident
13 occurred, which was the 19th.

14 Q Did you in the course of your
15 investigation ask or learn how the victim and the
16 potential suspect had communicated during this
17 time?

18 MR. SNELL: Object, Your Honor. Hearsay.

19 MR. MEADORS: Judge, I am not offering for
20 the truth of the matter asserted.

21 Q Let me just do this, do you what---

22 THE COURT: Rephrase your question.

23 Q What's State No. 4? That's already in
24 evidence.

25 A These are text messages that I received

Sergeant Cullick-Direct by Meadors

1 from the victim. As part of my investigation, I
2 am trying to find any type of evidence. I am
3 trying to locate the defendant in this case, the
4 suspect. And so I am asking questions not only
5 about any type of forensic's evidence like blood,
6 things like that. But I ask about pictures, cell
7 phone, facebook, text messages, all the technology
8 that's out there today. And this is what I was
9 able to get to from the victim's phone, along
10 with, when she described to me her injuries, she
11 also told me that she had taken a picture of
12 her---

13 MR. SNELL: Objection, Your Honor.

14 A ---injuries.

15 THE COURT: It's not offered for the facts
16 asserted. Overruled. It's already in evidence.

17 Q What's State's No. 1?

18 A This is the picture that was provided to
19 me by Ms. Kimberly Baker showing her area, her
20 anal area. And showing the bruising she had
21 3 days after the assault had taken place. She was
22 able to provide me with this picture through her
23 cell phone, which is the same place I was able to
24 get to these text messages.

25 So just through my investigation and

Sergeant Cullick-Direct by Meadors

1 talking to her about the events and things that
2 happened that night, I learned about her trying to
3 communicate, continue to communicate with him. I
4 learned about her taking a picture and trying to
5 figure out her injuries down there. It's not an
6 area that's easy to get to and look at. Also I
7 learned about a potential video that may have been
8 deleted by the suspect prior to the assault taking
9 place. So that is something I wanted to look for
10 also.

11 Q And did you try to do that?

12 A Yes, I did.

13 Q And how did you try to do that?

14 A When we were able to locate the suspect in
15 another state, in North Carolina, I had the
16 officers in that area do a search warrant. And
17 they were able to collect his cell phone and some
18 other items, media items and things. And we
19 brought that back here. I contacted the State Law
20 Information Division, while we call sled. And
21 asked them if they could recover any data from the
22 phone that might have been deleted. At that time
23 back in, this was 2013, because we had gone
24 through the December into the January time frame.
25 We asked if they were able to do that for us, and

Sergeant Cullick-Direct by Meadors

1 they were not able to, because the phone had a
2 passcode on it at that time, and they had no way
3 of unlocking that on the iPhone. They had ways to
4 do Android phones, but at that time they could
5 not, I don't know if you want me continue.

6 Subsequently, we had some detectives that
7 recently took a class that learned that there's a
8 possibly learned if a phone has been synched or
9 linked into a computer, that you may be able to
10 get a passcode from that. And so I sent both his
11 personal computer and that phone to the law
12 enforcement division, and they were able to get
13 into the phone.

14 Q So you sent it to sled to see if they can
15 get in the phone, and they did.

16 A They were able to, yes.

17 Q Did you find -- or did they find a video
18 from this day?

19 A No.

20 MR. SNELL: Object. Hearsay.

21 MR. MEADORS: Judge, I don't know how else
22 to answer that.

23 THE COURT: Overruled.

24 Q Was a video found September 19th 2012, in
25 the defendant's phone?

Sergeant Culick-Direct by Meadors

1 A No.

2 Q But you looked.

3 A Correct.

4 Q Sled looked.

5 A Correct.

6 Q And getting back this is State's which is
7 already in evidence, State's No. 4. State's 4,
8 these are text messages between the defendant and
9 the victim.

10 A Correct.

11 Q And you got those from her phone?

12 A I did.

13 MR. MEADORS: I beg the court's
14 indulgence.

15 Q Do you recognize this?

16 A Yes, sir.

17 Q Is this the defendant's phone?

18 A Yes, it is.

19 MR. SNELL: Object, hearsay. There's no
20 firsthand knowledge.

21 A This was the phone---

22 THE COURT: Expand your questions to lay a
23 foundation.

24 Q Do you know what State's 5 is?

25 A This phone was taken on search warrant

Sergeant Cullick-Direct by Meadors

1 that was executed at the defendant's residence in
2 North Carolina.

3 MR. SNELL: Objection, Your Honor.
4 Hearsay. No personal knowledge.

5 MR. MEADORS: Judge, we've got witnesses
6 we can bring in.

7 Q This was taken from the search warrant.

8 A Correct.

9 Q What is this State's 5?

10 A Yes, it is.

11 Q For ID.

12 A The iPhone, yes.

13 Q What other items were taken from the
14 search warrant in North Carolina for the
15 defendant, wherever the defendant was caught?

16 MR. SNELL: I would object to the same.

17 THE COURT: Sustained those would be the
18 same objections. You need to bring them in.

19 Q Were there other items?

20 A Yes, there were.

21 MR. SNELL: I would object.

22 THE COURT: Overruled.

23 Q Were those items examined at sled?

24 A Two of the items were.

25 Q Now at this point you had met the victim.

Sergeant Culick-Direct by Meadors

1 She's provided you with pictures and text messages
2 on her phone at least, correct?

3 A Correct.

4 Q What did you do next in your
5 investigation?

6 A Next in my investigation, of course, I
7 attempted to get the form that was filled out
8 using the information with the false name and
9 date of birth. And the victim was not able to
10 locate the form. These forms she stated were
11 commonly kept at her residence. And because the
12 yoga studio is not very big and out of all of her
13 waivers, that form was the one missing that was
14 kept in the downstairs bedroom.

15 So I attempted to identify and make sure
16 that that was his real name that she was given at
17 a later time, after she confronted him on the
18 son's last name being different from his. So I
19 did a search for James Gregory Younger out of
20 town in North Carolina. And was able to get a DL
21 from North Carolina, which is the driver's
22 license, and show that to the victim to make sure
23 that we're talking about the same person, that
24 that person on that DL and that picture matched.
25 And after that then I met with---

Sergeant Cullick-Direct by Meadors

1 Q And that's what you do, just trying to
2 identify---

3 A Yes.

4 Q ---somebody. In this case through a DL,
5 correct?

6 A Right. And from there, I met with the
7 assistant solicitor that was working here at this
8 time. Her name was Darla Pierce. I had the
9 victim meet with her. We talked about---

10 Q And that's good.

11 A Yes. You know, just, we did a number of
12 things in reference to our investigation.

13 Q Did you recommend she see a doctor or a
14 nurse practitioner?

15 A I did. I called and scheduled an
16 appointment that day. The first day I saw her on
17 the 2nd. And I talked with -- I call her
18 Dr. Saunders. She has a Ph.d. but she is a nurse
19 practitioner. And she works with the Sumter
20 Family Health Center. And since I have been in
21 investigations since 02, she has seen victims for
22 me; that are victims of abuse both physical and
23 sexual. So I called her that day, and the
24 earliest she could get her in was the 4th. And we
25 scheduled that appointment that day.

Sergeant Culick-Direct by Meadors

1 I also through the investigation, Kimberly
2 Baker called and told me that she received a---

3 MR. SNELL: Objection.

4 A ---phone call from the defendant.

5 THE COURT: Sustained.

6 Q When did Ms. -- without saying what she
7 said, when did Ms. Baker call you?

8 A She called me October the 11th.

9 Q And -- that's okay. And did you document
10 that she called you?

11 A I did.

12 Q Was it important in your investigation
13 what she told you?

14 A It was.

15 Q Had she come in contact with the defendant
16 again either on the phone or in person after you
17 met with her?

18 A Yes, she had.

19 MR. MEADORS: Judge, can we approach?

20 THE COURT: You may.

21 (Whereupon, the attorneys approach the
22 bench and confer with judge.)

23 Q Was the defendant arrested in North
24 Carolina by the U.S. Marshal's?

25 A Yes, he was.

Sergeant Culick-Cross by Snell

1 Q Do you know what date?

2 A Yes. That was on December 6th 2012.

3 December 6th 2012.

4 Q And that was -- is this the defendant in
5 the courtroom next to Mr. Snell?

6 A Yes, it is.

7 MR. MEADORS: Thank you, judge.

8 THE COURT: Mr. Snell.

9 Cross Examination by Mr. Snell:

10 Q Detective Culick, good morning.

11 A Good morning.

12 Q You're probably one of the few witnesses
13 that's gotten to sit through and kind of watch
14 everything so far in this trial, is that correct?

15 A That is correct.

16 Q And just a few questions. And you would
17 agree you weren't there when Ms. Baker and
18 Mr. Younger had their last meeting on
19 September 19th, correct?

20 A Correct.

21 Q And so you don't have any personal
22 firsthand knowledge of what occurred between them.

23 A No, I do not know either one of them. Or
24 didn't know them until this case, either one them.

25 Q And you would agree with me that your

Sergeant Culick-Cross by Snell

1 investigation indicated that she went downstairs
2 willingly and began willingly engaging in
3 consensual sex with Mr. Younger.

4 A Yes.

5 Q And you'd agree that it wasn't -- I think
6 we heard some testimony that it wasn't until the
7 following Monday that she first went into the
8 police station to talk about this, correct?

9 A Correct.

10 Q But it wasn't until she met with you on
11 October 2nd, and had the October 3rd date of
12 report. That was the first actual report filed on
13 this case, correct?

14 A Yes, it was. Which is not uncommon for
15 people to come down and ask for advice and talk to
16 law enforcement about things, and then come back
17 later. That's something we see.

18 Q Right. They have to be sure -- let me ask
19 you, as part of your investigation, I understand
20 there were no photographs taken at all?

21 A No photographs of?

22 Q Mr. Baker.

23 A Oh, we don't photograph those type of
24 areas. We have medical people who photograph---

25 Q And I understand---

Sergeant Culick-Cross by Snell

1 A ---victims and injuries of that type of
2 nature.

3 Q And I understand in this case, there
4 weren't any photographs by the police medical
5 people of her injuries of her at all, correct?

6 A I didn't know if Dr. Saunders did
7 photographs. I know that we did not photograph
8 that area on her body. That's not something we
9 do.

10 Q And you were in court yesterday when
11 Ms. Saunders testified that she hadn't taken any
12 photographs.

13 A I was here. I don't know if she took
14 photographs or not. I didn't hear that.

15 Q So you weren't paying attention to that
16 portion of your testimony.

17 MR. MEADORS: Your Honor, I object to
18 that.

19 A I didn't---

20 THE COURT: She's on cross examination.
21 I'll give him a little leeway.

22 A I didn't hear if she stated she took
23 pictures or not. The only thing that was provided
24 to me was her report. When I send children to her
25 and victims, she never provides me with pictures,

Sergeant Culick-Cross by Snell

1 because due to the graphic nature of those, they
2 have to be kept safe and secure. You just don't
3 get pictures of especially, we deal with a lot of
4 children too, you don't get those pictures.
5 So...

6 Q Is it fair to say you never saw any
7 pictures that she took.

8 A Correct. And I don't see pictures she
9 takes of any of my victims.

10 Q Okay. So even in a sexual assault case
11 where someone is allegedly injured as a result of
12 an assault, you don't look as part of the
13 investigation.

14 A Correct. Even when she's testified in
15 court before with other victims of mine, adult
16 victims, she doesn't bring the pictures. She
17 describes them. She has like a diagram that has
18 drawing of the female anatomy. And she has it
19 marked on there if she sees injuries or bruises,
20 something of that nature. And that's what she
21 would present. That's how she's presented before.

22 Q Now as an investigator investigating these
23 types of crimes, so it's your testimony that you
24 don't look at photographs of the injuries in
25 determining, as part of your determination or

Sergeant Cullick-Cross by Snell

1 investigation as to whether or not it's likely the
2 injuries actually occurred.

3 A What I do is, I send them to expert for a
4 forensic medical exam and such as Dr. Saunders.
5 And she determines and gives a report in reference
6 to injuries. That's not my area of expertise.

7 Q Thank you. Now the -- so as far as you
8 understand other than Ms. Baker's version of
9 events that she's told you, you would agree there
10 is no other medical evidence that she was ever
11 unconscious or choked in unconsciousness,
12 correct?

13 A No other medical evidence. I don't
14 understand.

15 Q You don't understand the question?

16 A Could you say that again?

17 Q Yeah, sure. You would agree with me that
18 there's no medical evidence that Ms. Baker was
19 actually choked unconscious by Mr. Younger.
20 That's just her story.

21 A Correct. That's what she reported
22 happened that night. Correct.

23 Q And so other than the photograph which is
24 marked as State's 1, which is in front of you.

25 A Correct.

Sergeant Culick-Cross by Snell

1 Q And her story, that's the evidence in this
2 case.

3 A Pretty much.

4 Q Now let me ask you this now. You have
5 testified briefly, I guess, that there was some
6 forensic analysis done of device and equipment
7 from Mr. Younger, is that correct?

8 A Correct.

9 Q Now as I understand it, that was done by
10 sled, is that correct?

11 A Yes, the State Law Enforcement Division.

12 Q Out in Columbia, I think on Broad River
13 Road, correct?

14 A Well they have a couple of locations in
15 Columbia. Uh-huh. (Affirmative.)

16 Q As I understand the report from that was
17 just provided to you Monday.

18 A Correct.

19 Q So after the jury had been selected in
20 this case.

21 A The examination was done the week prior,
22 and the report -- well the report and the thumb
23 drive which contains over 4 gigabytes worth of
24 data was returned---

25 Q And so it's fair to say that---

Sergeant Culick-Cross by Snell

1 A ---on Monday.

2 Q ---the sled evaluation report was not even
3 completed in this case until this jury had been
4 selected.

5 A Yes, we were not able to get his passcode,
6 the defendant's passcode. And it wasn't until
7 talking with detectives in reference to a recent
8 class they went to -- the information was provided
9 about a computer, possibly getting that. And so
10 we just sent it as a chance. And said, hey, let's
11 try.

12 Q Was it your understanding then that sled,
13 which is a main South Carolina central law
14 enforcement agency, and you'd agree they've got
15 the most as far as technologically advanced labs
16 and process either in state or top of the field in
17 state, correct?

18 A Well I can't testify to that. I do know
19 that they have equipment that we don't have at our
20 local law enforcement center. And when I spoke
21 with the agents and I spoke to them again when I
22 was told this case was being called, they still
23 stated without passcodes, that it's difficult to
24 get into iPhones. And that they have to be
25 shipped actually to the factory. And the search

Sergeant Cullick-Cross by Snell

1 would have to be done in their facility. And they
2 would have to fly someone to testify as to that
3 information if they cannot get into the phone.

4 Q And so but regardless of what they had to
5 do just to be clear, that report wasn't done until
6 this jury was selected.

7 A Correct. We were not provided a
8 passcode.

9 Q And your understanding was sled up until
10 very recently, didn't have the ability to hook a
11 phone up to a computer and do this the back way.

12 A They can -- no, I had no knowledge about a
13 computer or anything like that. I just had
14 knowledge about the phone and what they can do as
15 far as trying to recover any deleted videos. And
16 there's different types of phones that are easier
17 to unlock. And security levels are different
18 phones are different. So without cooperation and
19 passcodes, it's hard to---

20 Q Thank you.

21 A ---to get in.

22 MR. SNELL: No other questions. Thank
23 you.

24 THE COURT: Any redirect?

25 MR. MEADORS: I beg the court's

Sergeant Cullick-Redirect by Meadors

1 indulgence.

2 Redirect Examination by Mr. Meadors:

3 Q He asked about it and what evidence there
4 was. Is State's 1 evidence?

5 A Yes.

6 MR. MEADORS: That's all.

7 THE COURT: Any recross based on his
8 redirect?

9 MR. SNELL: No, Your Honor.

10 THE COURT: Thank you. You may step down.

11 MR. MEADORS: Your Honor, we just need a
12 few minutes. That next witness will be here in
13 just a few minutes, I'm sorry.

14 THE COURT: Why don't we take a 10 minute
15 and then come back. Thank you. Please do not
16 discuss anything while you are back in the jury
17 room. Anything about this case. You can talk
18 amongst yourselves.

19 (Whereupon, the court takes a short
20 recess.)

21 THE COURT: You may bring the jury.

22 (Whereupon, the following takes place
23 within the presence of the jury.)

24 THE COURT: You may call your next
25 witness.

Heath Gardner-Direct by Meadors

1 MR. MEADORS: The State calls Heath
2 Gardner.

3 Heath Gardner, being first duly
4 sworn, testified as follows:

5 THE BAILIFF: State your full name and
6 spell your last name for the record.

7 A Heath Gardner. G-A-R-D-N-E-R.

8 Direct Examination by Mr. Meadors:

9 Q Good morning.

10 A Morning.

11 Q Thank you for being here. Can you tell
12 the folks briefly your background. Where you were
13 born and your background and your experience in
14 law enforcement, please.

15 A Born and raised here in Sumter, South
16 Carolina. Went to school here. Graduated from
17 Sumter High in 2002. Became a police officer in
18 2006. In 2009, I transferred over to
19 investigation's division, where I have been ever
20 since working with investigators and doing cases
21 as well.

22 Q And did you have occasion to get involved
23 in this case against the defendant, James Gregory
24 Younger?

25 A Yes, sir.

Heath Gardner-Direct by Meadors

1 Q And did you travel to North Carolina?

2 A I did.

3 Q Did you execute a search warrant?

4 A I did.

5 Q And where was that?

6 A Spruce Street in High Point, North
7 Carolina.

8 Q And was the defendant also arrested at
9 that time?

10 A Yes, sir.

11 Q And as part of the items, did you
12 recognize State's 5 and State's 6?

13 A The computer that was seized from the
14 search warrant and a phone that seized during the
15 search warrant.

16 Q And you took possession of these?

17 A Yes, sir.

18 Q And what did you do with them after you
19 got them?

20 A Once I got back into town, I filled out a
21 out a chain of evidence and turned them over to
22 our evidence technician James Allsbrook.

23 Q And this is 5 and 6 for ID at this point.
24 That's all we have, thank you.

25 Cross Examination by Mr. Snell:

Jim Allsbrook-Direct by Meadors

1 Q And, officer, very briefly. I think we
2 talked about 5 seconds before the jury came back
3 in for the first time. Correct?

4 A Yes, sir.

5 Q As far as the case goes, you weren't there
6 the night that Mr. Younger and Ms. Baker were last
7 together, correct?

8 A No, sir.

9 Q And you don't have any direct first hand
10 personal knowledge of what actually occurred,
11 correct?

12 A No, sir.

13 MR. SNELL: Thank you. No other
14 questions.

15 THE COURT: Any redirect?

16 MR. MEADORS: No, sir. Jim Allsbrook.

17 THE COURT: Thank you. You may step down.

18 Jim Alsbrook, being first duly sworn,
19 testified as follows:

20 THE BAILIFF: State your full name and
21 spell your last name for the record.

22 A Jim Allsbrook. A-L-L-S-B-R-O-O-K.

23 DIRECT EXAMINATION by Mr. Meadors:

24 Q What is your rank?

25 A Pardon me?

Jim Allsbrook-Direct by Meadors

1 Q What do I refer to you at the law
2 enforcement?

3 A Mr.

4 Q Are you an evidence technician?

5 A That is my title, yes, sir.

6 Q And how long have you been with the Sumter
7 Police Department?

8 A Since 2006.

9 Q In what capacity?

10 A From day one, evidence technician.

11 Q And if evidence is brought in, are you the
12 person who logs it in and keeps it and monitors it
13 and brings it in to court?

14 A Yes, sir, I do.

15 Q And for State's 5 and 6 for ID at this
16 point, did you receive them Heath Gardner?

17 A Yes, sir, I did.

18 Q Any did you log it in to the Sumter Police
19 Department?

20 A I did.

21 Q And did you take it to him back from sled?

22 A I did.

23 Q Yourself.

24 A I did.

25 Q And are State's 5 and 6 what you

Jim Allsbrook-Cross by Snell

1 collected, kept, took to sled, brought back and
2 offering for this jury right now?

3 A They are, yes, sir.

4 MR. MEADORS: Your Honor, we would offer
5 State's 5 and 6.

6 THE COURT: Any objection?

7 MR. SNELL: Your Honor, may we approach?

8 THE COURT: You may.

9 (Whereupon, attorneys approach and confer
10 with judge.)

11 MR. SNELL: No objections.

12 (iPhone and computer marked State's
13 Exhibit Nos. 5 and 6 into evidence.)

14 Q And was the information from the phone and
15 computer downloaded and provided to the State's
16 representatives and the defense?

17 A Yes, they were.

18 MR. MEADORS: That's all. Thank you.

19 THE COURT: Any recross based on his
20 redirect?

21 Cross Examination by Mr. Snell:

22 Q And, sir, I think I met you I think
23 yesterday, briefly?

24 A Briefly, yes, sir.

25 Q Just, this is going ask to just to

1 confirm, you weren't there personally the last
2 time that Mr. Younger and Ms. Baker were together,
3 correct?

4 A That is correct.

5 Q And you don't have any direct personal
6 firsthand knowledge of what actually occurred.

7 A That is correct.

8 MR. SNELL: Thank you. No other
9 questions.

10 THE COURT: Thank you. You may step down.
11 Mr. Meadors.

12 MR. BROWN: The State rests, Your Honor.

13 THE COURT: Thank you. Ladies and
14 gentlemen, I am going to give you a little more
15 exercise. I'm going to send you back to the jury
16 room for a few minutes while we take up a few
17 matters of law, and then I will bring you back in.
18 Thank you Ladies and Gentlemen.

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

21 THE COURT: Are there any motions?

22 MR. SNELL: Yes, Your Honor. And at this
23 time, we would -- If I make them please the court,
24 can make them I guess on each charge separately
25 just to keep them straight. At this time we'd

1 make a motion for a directed verdict on the CSC
2 third charge. We believe that the submit that the
3 evidence taken in the light most favorable to the
4 State fails to meet the sufficient standard.

5 And, Judge, I'll tell you, I think the
6 evidence in this case at best we would submit,
7 rises to the level of suspicion. But not enough
8 to create a genuine question of fact as would be
9 required to submit it to the jury. We think the
10 evidence in the case shows that there was a
11 consensual sexual encounter. They were
12 willingly -- Ms. Baker was willingly in the bed
13 with him. Willingly engaging in sexual activity.
14 She had testified that she lost consciousness.
15 Was never able to offer an explanation of exactly
16 how that occurred. Did not testify as to any
17 indication other than what she said -- told later
18 to Mr. Younger that she had lost consciousness.
19 And that the evidence was at that time, he said he
20 didn't realize or didn't know.

21 I don't think there's evidence at all to
22 suggest or to show that Mr. Younger knew that at
23 any point during a consensual sexual encounter
24 that she was unconsciousness. She never gave any
25 -- there's no testimony as far as far duration.

1 We don't have any way of determining from the
2 witness' testimony whether or not she -- if she in
3 fact unconscious, whether or not it was a half
4 second, 5 seconds, 10 seconds. That just wasn't
5 there. And without some evidence or some
6 testimony from that witness, I don't think there's
7 enough to allow that to be submitted.

8 Further the witness testified at the time
9 she didn't even believe a crime had occurred or
10 she had in fact believed she was assaulted. Based
11 on the standard looking at the statute, there is
12 no testimony that there would be a reason. They
13 haven't presented any evidence that Mr. Younger
14 would know or have reason to know that she was
15 unconscious. I think there's clearly an absence
16 of evidence at that point. And again, Your Honor,
17 this is a consensual encounter. It remained
18 consensual. And the evidence shows that she
19 consented to his sexual interaction before and she
20 continued to consent in his presence afterwards.

21 That's an unusual kind of mood to be
22 thrown in a CSC case. At no point was there any
23 evidence of any struggle, resistance, telling him
24 no, anything of the sort. Based on that and the
25 facts presented and the evidence in the case, we

1 would submit that we're entitled to a directed
2 verdict on the encounter.

3 THE COURT: Mr. Meadors or Mr. Brown.

4 MR. BROWN: May it please the court, Your
5 Honor. Your Honor, we would of course object to
6 the directed verdict motion at this time. We
7 believe the evidence is absolutely is the
8 standard. Citing 16-3-654. It qualifies as a CSC
9 when the actor knows or has reason to know the
10 victim is mentally defective, mentally
11 incapacitated or physically helpless. Your Honor,
12 we would offer to the court that the victim was
13 physically helpless. She had been passed out
14 because of the defendant's actions in choking her
15 out.

16 The defense relies on the fact that there
17 was consent. We don't object to the fact that
18 there was consent at the beginning of it. But it
19 was consent for vaginal intercourse which had been
20 the normal means by which they did. What we have
21 here in this case was an anal assault after the
22 fact of passing out. There was testimony from the
23 doctor that there was a lot of force used to cause
24 the bruising that was presented to them. That was
25 offered yesterday by our nurse practitioner. Your

1 Honor, also I would take exception to the fact
2 that the victim said that she didn't want to bring
3 charges. That's just simply not the case. She
4 was processing. That's been clear. She
5 testified to that. She made it abundantly clear
6 that she was trying to struggle with the fact that
7 someone that she cared about and loved would do
8 this to her. And that takes times. And that's
9 common practice of this. But this is an Absolute
10 CSC third degreed. We believe that this is a
11 question for the jury to determine. And we
12 believe there is more than enough facts to rise to
13 the standard of a question of material fact.

14 THE COURT: Would you like the last
15 argument?

16 MR. SNELL: Judge, very briefly. Two
17 things on the expert. Their expert testified that
18 she could not state whether or not that showed
19 anything more than a slip or an accident. She
20 wasn't able to -- there was no evidence presented
21 it was anything but. The only evidence in the
22 record is that the defendant said it was an
23 accident. Medically they can't say more. No. 2,
24 again without any type of evidence or suggestion
25 as to how long she was unconscious, there is no

1 way a jury could determine if Mr. Younger had any
2 reason to know that he either knew or had a reason
3 to know. And I think there's an absence of
4 evidence on that point and we'd be entitled
5 accordingly.

6 THE COURT: And the court is more
7 concerned about any evidence at this point and
8 time, not the weight of the evidence. And
9 therefore, I am going to respectfully deny your
10 motion.

11 MR. SNELL: Thank Your Honor. If I may on
12 the assault section.

13 THE COURT: Yes, sir.

14 MR. SNELL: Your Honor, on the second
15 degree assault and looking at the proposed
16 charges, you know, kind of two tracks for assault
17 second. We have the moderate bodily injury track
18 and we have the nonconsensual touching of a
19 private area. And it says the act involves a
20 nonconsensual touching of the private parts of a
21 person either under or above the clothing. The
22 evidence and testimony presented, I think there's
23 an absence of evidence of a moderate injury. And
24 I look at the definition of moderate injury where
25 it's a physical injury requiring treatment to an

1 organ system of the body other than the skin,
2 muscles and connective tissues of the body, except
3 when there a penetration, skin, muscles and
4 connective tissues that require surgical repair of
5 a complex nature or of treatment of the injuries
6 requires the use of regional or general
7 anesthesia.

8 This is a case where this is no surgical
9 repair, no anesthesia and the allegations are
10 simply that there was an injury to the rectal area
11 which fails to meet the standards of a moderate,
12 bodily injury. So there is medical attention, no
13 nothing. There is not enough to meet that level.
14 It's a complete, I would submit an absence of
15 evidence. On track 2, which is the nonconsensual
16 touching of the private parts of the person either
17 under or above the clothing, Judge, she had
18 consented to touching and touching her body based
19 on the virtue of the consensual sexual encounter.

20 She may not have -- I think the State
21 could argue that there was a it might have been a
22 legal. I believe she might have consented or not
23 consented to be injured. But again the injury
24 doesn't meet the definition of the statute for a
25 moderate bodily injury. She consented by virtue

1 of the consensual encounter to being touched.
2 Being touched all over the body. And so we
3 believe that we're entitled to a directed verdict
4 on that track as well.

5 So we believe the entire assault second,
6 for all those reasons stated, should be dismissed.

7 MR. BROWN: May it please the court, Your
8 Honor.

9 THE COURT: Yes, sir.

10 MR. BROWN: As to moderate bodily injury,
11 the statute goes on to say that either moderate
12 bodily injury is caused or could have been caused
13 by what occurred in this particular event. We
14 would point the court's attention to not only the
15 rectal assault that occurred on that particular
16 day, but also the choking out on which it could
17 easily lead to not only loss of conscious for a
18 period of time, but even up to permanently. We
19 also point out the fact the defense keeps pointing
20 and saying that there was consent to the touching.
21 There was consent to the vaginal intercourse.
22 There was not consent to anal penetration. That
23 has been abundantly clear. That has been
24 testified to numerous times. And consent to one
25 thing is not consent to everything. We again

1 believe that there is more than enough facts and
2 evidence to go forward to the jury and let the
3 jury make the determination as to whether or not
4 this gives rise to a criminal offense.

5 THE COURT: Again I am going to
6 respectfully deny your motion based upon any
7 evidence at this point and time. And the jury
8 will make a decision as to the weight it will give
9 it. And I am going to respectfully deny your
10 motion. Any other motions?

11 MR. SNELL: None from the defense, Your
12 Honor.

13 THE COURT: I am going to need to question
14 your client now.

15 MR. MEADORS: Judge,---

16 THE COURT: Yes, sir.

17 MR. MEADORS: ---before we get to that,
18 had you decided about a lesser A and B since we
19 have talked about the other two?

20 THE COURT: Did you talk to your client?

21 MR. SNELL: I did. If I may.

22 THE COURT: All right.

23 (Mr. Snell confers with defendant.)

24 MR. SNELL: Your Honor, during the
25 previous breaks in the trial today, I have

1 evidence that you are you going to hear in this
2 case has now been presented to you. Now is the
3 time where the attorneys will give you their
4 closing arguments. After that, I will charge you
5 on the law that is applicable to this case and
6 then you will begin your deliberations. I have
7 taken the liberty of ordering lunch for you. So
8 we will just have a working lunch today. So I
9 won't make you deliberately hungry. Is the State
10 ready?

11 MR. MEADORS: Yes, Your Honor.

12 THE COURT: Is the defense ready?

13 MR. SNELL: Yes, Your Honor.

14 THE COURT: Mr. Meadors.

15 MR. MEADORS: Mr. Brown, Mr. Foreman,
16 Ladies and gentlemen good afternoon.

17 THE JURY: Good afternoon.

18 MR. MEADORS: I say it once now, and I'll
19 say it again, thank you again for being here.
20 Thank you for paying attention. I'm not a jury
21 watcher. I don't sit and look at jurors, but when
22 I glanced over briefly, I've seen that you all are
23 paying attention. And that's all we can ask that
24 you pay attention and listen, and you have. Thank
25 you.

1 This is so important. This case is so
2 important. It is important to the defendant.
3 Important to the victim. Important to the State.
4 Please don't let the fact that it was short in
5 time, take away the importance of this case. This
6 is important, Ladies and gentlemen. And as all
7 cases come down to, in every case, every case
8 comes down to credibility and believability from
9 what you hear at this stand by its nature, by its
10 form. And that's all you can consider what came
11 from this stand. And credibility and
12 believability. And that's true in every case.

13 Jay Gregory born in No, sir. No,
14 ma'am. James Gregory Younger born in
15 Credibility and believability. Well, that was a
16 lie. A lie only said initially for the business
17 and the form which we can't find, but said in
18 person to Kimberly Baker that she believed for
19 weeks. Think about that, pretending you are
20 somebody else. Another name. For weeks. And
21 being successful at it. And convincing somebody
22 of it. I am Jay Gregory. Well no, sir, no,
23 ma'am. Sleeping with somebody under the wrong
24 name. Credibility. Believability. Well somehow
25 a job involves with a last name Younger, so there

1 is a reason he has to tell her the truth of his
2 other name. And then we find out why he told her
3 the other name. And why he says he told her the
4 other. He didn't want her looking into his past
5 and see. Well the defense may argue, well she
6 stayed with him. He's good. She's already been
7 with him four to six weeks with the wrong name.
8 And she says he asked -- did he ask for
9 forgiveness. Yes, we talked about religion. We
10 did all that. She stayed with him. He courted
11 her. They had a relationship.

12 I submit to you he knew what he was doing.
13 Maybe even when he walked into her place and gave
14 the wrong name. Tell her who you are. Tell here
15 it is. Tell who you are. Let's get a
16 relationship. And that's specifically in cases
17 like this what you have to look at. Because there
18 is nothing else you can look at, is the person
19 credible here. Are they credible here. No. Then
20 how can you believe them in other cases. And
21 right off the bat, I mean initially. Hey, I'm Jay
22 Gregory. How are you doing. Well no you aren't.
23 You're a liar. A misrepresentation to develop a
24 relationship. And watch the dog, and develop a
25 relationship.

1 And I am saying that is because all of you
2 can weigh credibility in cases like this. And the
3 judge will tell you in his charge, a victim's
4 testimony alone, the law is, you can consider a
5 victim's testimony alone, and that can be enough
6 to get reasonable doubt by itself. That's what
7 the law is, if you believe it and you believe it
8 is credible, you don't have any other evidence.
9 Her testimony alone could be enough to reach the
10 burden beyond a reasonable doubt. Listen to when
11 he says that. You don't have to find it is
12 credible. And we have proved our case beyond a
13 reasonable doubt. But if you do, that's enough,
14 you don't have to have all these other witnesses.

15 And you know why the law says that, Ladies
16 and gentlemen, because in CSC cases it's just
17 these two folks. And the perpetrator takes
18 advantage of the situation with those folks. And
19 when a sexual assault occurs, there aren't any
20 other witnesses usually. And there is a lot of
21 wait to report. People are told to come forward.
22 There's several reasons she did this. I am going
23 to go over that. But that's why the law says
24 that, because usually there is not any other
25 witnesses. So if you believe her, if it's

1 credible, that's enough. Her story never changed.
2 Not one time. To the time and place, witnesses,
3 to her friend, to the police, to in here, her
4 story was always the same. The same.
5 Credibility. Believability.

6 So the relationship goes into April, May
7 into June. I think she said they had 10
8 consensual relationships. At some point she
9 learns his identity. Shortly after or July 4th,
10 it's platonic. Stays where they are still
11 friends. They are still texting. Then in August
12 they have one encounter. And then we go to the
13 day in September. I don't know if Mr. Snell would
14 argue this or not. I don't know, you don't have
15 to prove motive in this state. I don't know if he
16 will argue, well she didn't want him to leave.
17 That's why she did this. She didn't him to leave.

18 Well I want you all to remember something,
19 she asked for the key back. She wanted the key
20 back. She said okay, you can stay. Then she
21 said, nah, no, you can't stay here. Maybe stayed
22 there on and off. I want my key back. So any
23 argument you might have well she really, the fact
24 that he was leaving, is why she is doing all this,
25 I call that smoke screen, trying to divert your

1 attention. Trying to divert your attention from
2 this because she asked for the key back. So she
3 was saying, well no, don't come on in. You're
4 not going to live here.

5 So if she had wanted him all and was doing
6 anything, do you think she would have said, come
7 on and stay. Just come on and stay. You can
8 stay. But no she backed up. So don't let that
9 be a reason thinking she did. I don't even know
10 if you will argue that. Hopefully you won't. But
11 she said give me the key back. And, folks, its
12 not on direct. You know, I don't I know if I have
13 ever, and this is the last time I will say it.
14 And I apologize for all this. You told it all.
15 Everything. Everything consensual, encounter.
16 Everything. Told it all. Positions.

17 You wonder why if maybe that's why some
18 victims don't come forward. You have to tell it
19 all to tell it. Maybe why it's a delay. You've
20 got to take that stand and go through it. What
21 was his favorite position, from behind. What did
22 we learn, and I think it's relevant and the
23 inference is three. What did we learn between
24 April and May, May and June. And I don't want to
25 talk about this stuff. But it's the evidence and

1 I think it relates to the final act. I think it
2 relates to the final act.

3 We learn that 70 to 80 percent of time, he
4 goes limp and can't finish. I am not saying that
5 to be mean, that's what the evidence said. He
6 gives an excuse, well I masturbate all the time.
7 But we learned that about their intimate and
8 physical relationship. We learned that his
9 favorite position is from behind. Not in the anus
10 but from behind. It's an unusual case. Against
11 the one thing. Against the one thing doesn't mean
12 against everything. And you got to have the
13 opportunity to say yes. She didn't even have the
14 opportunity to say yes at this point. I submit to
15 you literally she wouldn't say yes.

16 So we go up to the 19th. I don't know how
17 much more detail I need to go up to the 19th.
18 They are texting. I am going to go over a few of
19 these texts later on. I think she feels for him.
20 I wish we could sit here and talk back and forth.
21 It's called closing arguments. But it's just a
22 crazy name for it. But I get to tell you what I
23 think the reasonable inferences are and he does.
24 When you all get back there, ask yourselves
25 questions. If he raises something I didn't bring

1 up, sit back there and try to make common sense
2 out of it. Because it's like the C's in here.
3 It's credibility and common sense. Credibility
4 and common sense. There's other way to tell it,
5 except telling it all.

6 So they are at the house on
7 September 19th, bringing the key back. What else
8 is going on the evidence shows. He lost his job.
9 She's told him you can't stay here. He's staying
10 somewhere mainly in Dalzell. She doesn't know
11 what his future. He's looking for a job. She
12 says you can't stay here. They haven't seen each
13 other for a few weeks prior to it. Here is the
14 encounter. They have consensual sex. He can't
15 finish it. He goes limp. And then what
16 happened? And I don't care if they had sex one
17 time, 10 times, 50 times, a 1,000, a million
18 times. It doesn't matter. Because after they
19 stopped, and he said can we start back, and he
20 said, get on the -- lay on your stomach. That
21 started a new time.

22 Then what does she say? My hands were
23 behind. And you all saw her. And when you saw
24 her, you witnessed it. That's what you have got
25 to decide on. Did this happen. Puts the hands

1 behind her. It's a little rougher to start with.
2 Puts his hand over my mouth. Go back there and
3 put your hand over your mouth. Puts his arm
4 around me. I think she said one time. At first
5 this wasn't much. So then he puts his hand over
6 her mouth and then he starts choking me. His hold
7 of choice. Then he starts, somebody said he was
8 in jiu jitsu. I think that came out here.

9 Now, folks, at that point, hand over
10 mouth, turned down. Hadn't finished before. Hand
11 around -- arm around neck, that ain't lovemaking,
12 folks. That ain't intimacy. That's when we turn
13 to violence. That's when we turn to a criminal
14 act that is fixing to happen. It's serious,
15 Ladies and gentlemen. This is serious what we are
16 here about. It don't get any more serious. And
17 at that point he is behind her. He chokes her.
18 Puts his hand over her mouth and she goes
19 unconscious. And what -- how do we -- you saw
20 her, she said I went unconscious. And you
21 evaluate her. That's up to you all. You all
22 decide it. it's a beautiful system. And what
23 happened then. She's out. Is that love? And
24 we've asked, what about his caretaking and all
25 that. Was that caretaking and love when he puts

1 you out. When he can then do what he wants to.
2 Instead of saying, can we have anal sex. He
3 didn't ask. He takes anal sex. He forces
4 himself on her. Puts his penis inside her anus.
5 It ain't to say it's getting easier. Said it so
6 much. It sure wasn't easy for her when she woke
7 up. But that's not intimacy. That's not
8 consensual. That's a violation of the law if you
9 believe her. And why do I say that? Well when
10 she gets up, and this hit me in the shower this
11 morning. He admitted to it. He confessed to it.
12 Oh, he said it slipped. No, sir. No, ma'am.
13 Common sense, remember we talked about yesterday
14 what you bring in here, your life experiences,
15 your common sense. That ain't no slip. That's no
16 slip. Look at the picture. Pictures, what do
17 they say, a picture paints a thousand words. This
18 picture spells one word. That's not a slip. It's
19 that gentle air to confessing. No,
20 Jay Younger. No, Jay Gregory.

21 Credibility, you have to consider
22 everything. That just slipped. I didn't realize
23 I choked her that hard. I choked her unconscious.
24 Are you kidding me. You heard how big he was on
25 top of her. Chokes her and then takes her. And

1 takes her hard enough. Nurse practitioner,
2 doctor, whatever she is. Kathy Saunders talks
3 about bruising. Anytime a bruise, it shows on
4 the body. It shows hitting the body to cause an
5 injury. That's what a bruise shows. It shows up
6 about a few days later. That showed up about a
7 few days later. It would take significant force
8 to cause bruising to the rectum and lateral
9 bruise.

10 You remember she talked about bone and
11 all. And the genitals don't lie against the bone,
12 so it takes more force to cause bruising when it's
13 not against a bone. This is serious. This isn't
14 consensual lovemaking. And it's set up perfect.
15 They have consent and then take her out and do
16 what you really want to do. Get what you can get.
17 Take that to get him off. The power. The
18 dominance. The power. The dominance in her anus
19 when she doesn't even know it against her will.
20 Doesn't have chance to say okay, do it. Doesn't
21 have a chance. Doesn't give her a chance to do
22 it.

23 That's when it goes into his world. It
24 can't get any more serious. Vigorous intercourse
25 of the anus could cause that tear. That's what

1 she said on redirect. Have you ever had this
2 kind of damage before Kimberly. No. It's up to
3 you all. It's serious. It doesn't get any more
4 serious. And then I don't know if he'll bring it
5 up. She talked about being on her period. She
6 testified that she was bleeding. And the nurturer
7 got up with her the next day. Gets up and helps
8 put stuff on her rectum. Cleans her tear. There
9 is no dispute there is a tear on her. She was
10 bleeding. No dispute. And he washes the clothes
11 and gets rid of -- excuse me, washing the sheets
12 to get rid of the evidence maybe. He sees in her
13 underwear bleeding. Let me go wash them the next
14 morning. And then she doesn't, and I am sure he
15 will argue this. Maybe you all will talk back
16 there, I don't know. And then what happened.
17 What happened. This is rhetorical but what
18 happens next. Somebody may see her. He leaves
19 the next day. Never to be seen in person until
20 this week by her.

21 And she starts, she uses the word, she
22 starts processing. And you see we are back to
23 where we started, that word. And he says it was a
24 slip. If you all think that's a slip, let him
25 go. If you think a slip caused that damage, let

1 him go. And she starts processing. Calls work.
2 Well that's okay to do, isn't it. Did she do the
3 right thing then. I'm hurting so bad. I'm going
4 to call work and get somebody to teach my classes.
5 Well that's good if somebody has been injured.
6 And she started processing.

7 Her friend Malissa gets up here. Outcry.
8 The law says hearsay is not admissible except in
9 sexual assault cases. And the law allows people
10 that the victim told this happened at a certain
11 time and place to come and say they told them
12 that. This is what the law allows. This
13 happened. So that's what she did. And this is
14 what these witnesses were told and that's
15 allowable. This happened at my house on this day.
16 And Malissa came in on redirect I believe. And
17 Mr. Snell had asked questions about had it been
18 Thursday, Friday, Saturday.

19 I think he's just trying to show she
20 didn't go right down to law enforcement. If that
21 bothers you, let him go. She went down, because
22 she was processing. She couldn't believe he would
23 do this. She thought at first he said, well it's
24 just a slip. Her body is telling her different.
25 And on recross Ms. Malissa McIntosh, did you ever

1 get a picture. Yeah. And after he asked her
2 about Thursday, Friday, Saturday, I said well is
3 this consistent with what you have been told. No.
4 What's your reasonable inference on that. Huh?
5 That ain't no slip.

6 So they go down to the sheriff's
7 department. Excuse me, police department.
8 Talked to Ruth Fowler. Talked to Billy Lyons.
9 She tells a time and place. So she's kind of
10 doing what a victim is supposed to do. Are they
11 going to hammer her because the woman got
12 something put up her anus without her permission.
13 Are they going to hammer her because she didn't go
14 when she was supposed to. She didn't go right
15 away. I think Irene, you heard her say, that's
16 not unusual late reporting with victims. She
17 didn't go when she was supposed to, Ladies and
18 gentlemen. Well she went down there. Did she
19 know whether or not she wanted to report him. No.
20 Maybe she still loved him. I think she did still
21 love him. Couldn't believe he would do this to
22 her body. Couldn't believe he would do it to
23 her. Well he did. She didn't want to believe
24 it. But she's now realizing this wasn't a slip.
25 And then she gets back with Ruth Fowler. Goes to

1 counseling. Comes back to Irene September --
2 excuse me, October 3rd, makes a report, an
3 official report. And says yes, I was assaulted.
4 My body tells me I was assaulted. I can't --
5 don't hold it against her that he put her
6 unconscious. And it doesn't have to be
7 unconscious for any particular amount of time.
8 Don't let anybody argue that.

9 She lost consciousness and that's when he
10 put his penis inside of her without her
11 permission. It's that dadgum simple and he
12 admitted to it. He's trying to say it was an
13 accident but she took the proof to show this isn't
14 an accident. It's really that simple, isn't it.
15 If you believe that. I lost my train of thought.
16 But I think I was talking about, she then went
17 down to see Kathy Saunders. Now do I wish she had
18 gone to the doctor right away. Well sure. But
19 that's not unreasonable that she didn't. She
20 explained to you why she didn't. She wasn't sure.
21 She goes to see Kathy Saunders. What do victims
22 do, and what do they have to do is another reason
23 some of them don't come forward. They go see
24 somebody they've never before. They look at their
25 body, examine the body. They look in their body.

1 They look at everything and examine what it is.
2 And they did it. And she said that her findings
3 would not be inconsistent with this. And she
4 described these; that it would take violence to do
5 this.

6 Now they are here now on October 3rd. Is
7 that unusual, doctor. Would that be inconsistent
8 with what happened. No, it would not at all.
9 Why. Because it heals. Thank God, God heals us
10 when we are injured. But It wouldn't be unusual
11 that it didn't. And we have to show that so there
12 won't be argument. It could have easily
13 happened. It doesn't mean it didn't happen. He
14 admitted it happened. And then we prepared for
15 court. Well then State's 4. Things just got out
16 of control the other night. I needed to be
17 nurtured and gentle right after what happened. So
18 thank you for that. The whole passing out,
19 choking is not what I would ever wanted to have
20 happened.

21 So I am left with some bruising and
22 blurred body. Why did you hurt me that way?
23 Question mark. I know it was more than slip. I'm
24 not sure if you even care, but I am finally
25 starting to feel back to normal, minus the

1 bruising. That will just take a little longer to
2 go away. Not reporting in case -- not reporting
3 anything in case you are freaking out. I just
4 wish things would not have gone as far as they
5 did. I'm having a hard time dealing with the
6 black out, et cetera. The black out. And I sure
7 as heck can't talk to anyone about it. Feeling
8 rough. My mind is all over the place. I need to
9 talk through this with you. That is the least you
10 can do for me. I want to move past this and hope
11 to forget everything about Wednesday night. I am
12 too embarrassed to talk to anyone. Can you do
13 this for me. I'm not suggesting talking in
14 person. Just one final conversation. I need
15 closure. My head is spinning. I've been on a
16 crazy, emotional roller coaster since Thursday. I
17 want off. I don't hate you or want to be afraid
18 of you. Well that's telling. I don't hate you
19 or want to be afraid of you. Credibility.
20 Believability. Did he just take her, and move on
21 to the next job. His job was over. Was this the
22 last time he was going to see her. He was going
23 to take what he really wanted, and move on. She
24 wanted the key back. He knew he couldn't stay
25 there. I just have a question. Lastly, if I had

1 any intention of causing legal trouble for you, I
2 would not be trying to contact you. You have no
3 ideal what I am going through. It's like I am
4 walking around all day stuck in bad dream. I
5 cannot wake up. Will you please return my phone
6 call so this can be put to rest. I guess, I am
7 sorry I hurt you, is asking too much.

8 Did she want to do it? No. Did her body
9 tell her you have been violated. Yes, ma'am.
10 Ladies and gentlemen, in a minute, the judge is
11 going to charge you on the law. Criminal sexual
12 conduct first, there has got to be a sexual
13 battery. There was no question that happened.
14 That's intercourse, fellatio, cunnilingus, anal
15 intercourse. There is no question that happened.
16 Then there has to be force or coercion. Or the
17 person knew or had to reason to know that the
18 person was helpless. I submit there are both of
19 those. We don't have to have but one. Choked her
20 out. I didn't realize that I choked you out that
21 hard. Really. It just slipped. Really. Force
22 or coercion. It doesn't matter how many times
23 before. Don't get caught up in that. A lady has
24 got a right to say no her whole life. My God, you
25 have got to have the opportunity to say no. And

1 that's what this statute says if you believe it.
2 Renders helpless so you can't say no. An assault
3 and battery second, an unlawful injury on another
4 person. And there's moderate bodily injury or
5 nonconsensual touching. This case was, the
6 statute was written for this case.

7 Ladies and gentlemen, I don't know what
8 else to say. I want to thank the victim, law
9 enforcement, Mr. Brown. And I want to finally
10 thank you again. And I know you will go back to
11 these things here. I know you will go back and
12 talk about the credibility and believability.
13 Talk about Kimberly Baker's testimony. And that's
14 what it boils down to. Talk about this. And you
15 leave -- you don't leave your common sense here,
16 you take it back there. And when get through, the
17 State respectfully asks that you find on
18 September 19th 2012, that he took what he really
19 wanted. And the only way he knew he could take it
20 is if she was out of it. And he raped her. Not
21 even giving her the chance to say yes. He raped
22 her against her will after rendering her
23 unconscious. She struggled with it. She
24 struggled with it, folks. She didn't want to come
25 forward. Her body knew it was. She finally

1 figured out the slip doesn't make sense. He ain't
2 slipped in there. And she said, I am not going to
3 let him get away. And that's all we are asking
4 you, don't let him get a way. Don't let him get
5 away. Thank you.

6 THE COURT: Thank you, Mr. Meadors.
7 Mr. Snell, for the defendant.

8 MR. SNELL: Thank, Your Honor. May it
9 please the court and good afternoon. From the
10 beginning yesterday, yesterday morning when we
11 started, I told you why we are here. And we were
12 here Mr. Younger, James Gregory Younger, who I
13 have the privilege of representing. And I can't
14 begin to tell you as an attorney, what kind of
15 honor it is for someone to trust you with a case
16 this important, to come in and say I want you to
17 come and advocate for me. I want you to protect
18 me. I want you to make sure that an injustice is
19 not done.

20 He has pled not guilty, because that's
21 what he is. He is not guilty of the criminal
22 sexual conduct charge. And he is not guilty of an
23 assault second degree charge. Those are criminal
24 offenses, and the State is asking you to find
25 beyond a reasonable doubt that he should be a

1 criminal based on the circumstances you've heard
2 about.

3 What I would like to do is first, during
4 my opening statement I reviewed with you the story
5 and the facts that lead us here today. I hope you
6 found that that -- that I told you what you've
7 heard, and I told you what the case was going to
8 be about. What I've tried to do is just lay it
9 out and tell you exactly what happened.

10 I want to talk to you kind of about the
11 witnesses and the evidence that you've heard in
12 this case. And I want to start and kind of go
13 backwards from the last witness who testified this
14 morning up through yesterday morning. The last
15 witness that testified was a police officer named
16 Heath Gardner. He was here to testify about
17 something, about chain of custody, introducing
18 these two items which were moved into evidence.
19 Mr. Gardner doesn't know anything about the facts
20 in the case. He can't tell you, has no knowledge
21 of what happened. Doesn't know anything else
22 except he was in possession of those items.

23 The next witness that testified was James
24 Allsbrook. The same thing. He's working on the
25 chain of custody. He doesn't know anything about

1 the facts of the case. You heard me ask everybody
2 that testified, do you have personal firsthand
3 knowledge, were you there. And that means, look,
4 do you know whether or not Mr. Younger is guilty.
5 And they all said no. Now then this morning we
6 had Detective Culick who was the main investigator
7 on the case. Ms. Culick again has no personal
8 firsthand knowledge. She doesn't know for a fact.
9 Ms. Culick said that she normally doesn't look at
10 photographs that are taken. But of course in this
11 case there were no photographs taken. The police
12 didn't take any photographs. We know that nurse
13 Saunders didn't take any photographs.

14 All she knows and she when I asked her
15 what is the evidence in the case. And of course
16 all these items, the judge is going to tell you
17 that everything is marked, and if you carry it
18 back in the jury room and everything here on the
19 witness' evidence. What's the evidence. What's
20 the proof. Is there anything more than the story
21 that Ms. Baker said in a photo. And she said no.
22 That's what they made the case on. She also
23 talked about having a phone and other items taken
24 to sled and analyzed to see what was on them. And
25 I understood that when she talked that that was

1 part of the investigation, but then we found out
2 from her own cross, that report didn't come in
3 until you already had been selected to serve as a
4 jury.

5 I would submit to you that's indicative of
6 the investigation and the evidence in this case.
7 It's speculative. It's slapped together and
8 doesn't meet the burden. Leaving off yesterday,
9 we heard from nurse practitioner Saunders who has
10 a Doctorate in Nursing and wants to be called
11 Dr. Saunders. She is someone that the police
12 refer folks to for evaluations that come in and
13 make complaints. Of course, again, she has no
14 knowledge of what happened other than what she was
15 told by Ms. Backer. She just has her story. What
16 she did say if you will recall, she had not seen
17 this photograph up until she was on the witness
18 stand. So that picture was not something that
19 Ms. Baker had brought to her or the police had
20 sent her, and she didn't see it until today. And
21 she was asked well isn't this more than a slip.
22 Doesn't this prove that there was more than
23 accidental, she couldn't say that It was. She
24 could not disagree or dispute with that premise.
25 And that was their expert. That's who the police

1 used. Law enforcement used. The prosecutor put
2 her on the stand. She could not as a medical
3 expert say that it was more than a slip. And it's
4 important.

5 Her ultimate assessment was, and I asked
6 her, looking at her report, what her findings
7 were, the official findings, expert findings were
8 in this case. She had two findings. One was,
9 that she was told a story. And the other one was
10 Ms. Baker on the stand. That it was. There was
11 no physical evidence. No medical evidence.
12 No observations. No indication that Ms. Baker had
13 been assaulted. Again that was two weeks after.
14 But there was no indication of any injury to neck,
15 throat, genital area, rectal area, nothing.

16 And I understand the prosecutor would say
17 there is a reason people wait. And maybe there
18 is. But they have come today and asked you to
19 find Mr. Younger guilty, guilty beyond a
20 reasonable doubt. And they should be required to
21 prove their case to the standard. Now before
22 nurse Saunders was a Defective Lyons. He met with
23 her on Monday. I believe it was September 24th,
24 thereabouts. But it was the Monday following
25 Ms. Baker and Mr. Younger's last time together or

1 last date. Again, he didn't know anything more
2 than what she told him. This is on a Monday
3 though. It's just a few days after that last day
4 on Thursday.

5 You heard from nurse Saunders that you can
6 still have marks or bruising or injury. He didn't
7 ask to take pictures. He didn't refer to any kind
8 of medical screening. He didn't refer to any rape
9 kit. So what you ask yourselves why not. And
10 what was the story actually told to them at that
11 point. They didn't even file a report. They
12 didn't open a case, start a case, file anything.
13 They talked to her. And he's not a road cop
14 that's out working traffic or a school crossing
15 guard. This is real violent crimes detective. I
16 think he had been promoted a couple of times. I
17 have absolutely no reason at all and would submit
18 to you he's anything other than an excellent,
19 fine, upstanding police officer trained in
20 investigation. And what he do. He talked to her
21 and listened. No photography. He didn't want to
22 gather evidence, didn't see the need. Didn't file
23 a report.

24 We also heard before that from Ruth
25 Fowler. She is an advocate with the police

1 department. I think she testified or agreed with
2 the premise that it's her role to help people that
3 come in court crimes and say something bad
4 happened to me. She's not an investigator. It's
5 not her job to figure out right from wrong and who
6 did what or whose guilty or not guilty.

7 And so she has nothing other than no
8 firsthand knowledge, no personal knowledge.
9 Doesn't know what happened. Just knows the story.
10 But she also said she didn't recall referring
11 Ms. Baker for medical attention. And didn't
12 overhear anybody else do it either. Now I submit
13 to that, because it wasn't done. And that would
14 have been just a few days after. And if there had
15 been a violent choking, tap on the throat even
16 though that's not a personal area, if there ever
17 were bruises they would have been. I submit to
18 you there weren't. And neither one of them
19 testified they saw it. They didn't testify to any
20 kind of injury or anything on her. Testify to any
21 kind of, I think they testified she was upset. I
22 didn't anything about physical distress.

23 Prior to Ms. Fowler was Ms. Baker's
24 friend, Malissa McIntosh. And Ms. McIntosh, I
25 don't know if you recall, I think compared to

1 everybody that testified, she was the happiest to
2 be here. And she said that -- she also agreed she
3 had no personal firsthand knowledge, didn't know
4 Mr. Younger. Maybe met him in passing, and didn't
5 know what happened. Only what she had been told.
6 But she is the one that talked to Ms. Baker
7 Friday, Saturday. I think they stopped on
8 Thursday. Friday, Saturday and went with her to
9 the police station on Monday. She's the one that
10 talked to Ms. Baker during the time that she was
11 processing her word. Going from not believing
12 that a crime had occurred or that she was the
13 victim or anything unlawful happened, to where she
14 is today believing that a horrific, awful serious
15 assault had been committed.

16 I submit to you that's a great big chasm.
17 That's a huge divide. You know, it's not like was
18 the car going 50 or 55 miles an hour. This is
19 like, is your house on fire or not. And Ms.
20 McIntosh was the one that talked. And use your
21 common sense about how people talk. And they
22 talked about the fellow that she was dating.
23 Maybe Ms. McIntosh had reservations about him all
24 along, I don't know. But talked about him. And
25 talked about he came over. And we had been broken

1 up, and I thought it was over. And I think
2 Ms. Baker had said, she's the kind of person that
3 doesn't like intimacy outside of relationships.
4 There were broken up at that point, using kind of
5 her words. But then Ms. McIntosh talked to her.
6 We have that big chasm, and it got to where it was
7 an awful, terrible accusation. I can't imagine
8 anything worse to be accused of coming out of
9 something like this or coming out of a
10 relationship in this. And was happy to be here.

11 So I would just use your common sense and
12 just think about what kind of influence that was.
13 Whether it was an influence leading us to the
14 truth or to an allegation that was unsubstantiated
15 and resulted in a false -- Mr. Younger being
16 falsely accused. And then their initial witness
17 was Ms. Baker. She agreed that on Thursday night
18 she didn't believe that had been illegally
19 unlawfully choked. She didn't believe she was the
20 victim of any crime. She didn't believe that she
21 had been assaulted. She's there. She is in the
22 moment. She knows Mr. Younger. She has the
23 opportunity there to talk to him, see how he's
24 acting before they agreed and she agreed to have
25 sex with him. She knew his moods that evening.

1 She knew what they been talking about. She had
2 been with him all that time. And didn't agree,
3 didn't believe that she had been victimized or any
4 crime had occurred.

5 This was consensual sex. So what we're
6 talking about the accusation in this charge, is
7 about what happens in the middle of a consensual
8 encounter. At no time did you hear there was any
9 type of struggle. At no time did you hear that
10 there was -- that she ever said no. We heard
11 before some testimony that he had -- that she had
12 her arms behind her back. But then I think we
13 heard the story that at some point she says that
14 he didn't use both her arms. Which means her
15 hands are free. No evidence of any kind of
16 struggle, fight, anything of the sort. In fact
17 she agreed with her statement that when he put her
18 around her mouth, it was not in a forceful manner.
19 I want you all remember that, she testified to it.
20 It's a non-forceful event.

21 Now Ms. Baker liked Mr. Younger. I think
22 she had feelings for him. You heard I think the
23 case they're trying to build and what they're
24 trying to make out of this; is that, he's a bad
25 guy and you can't trust him because he gave her an

1 abbreviation or a short version of his name. Ms.
2 Baker is there. This happened in June. You know
3 that she had time to think about that, sort that
4 out. Decide what ever she needs to do, what an
5 intelligent woman. She's a college graduate. We
6 heard that; was presented with that. And she was
7 okay. And it wasn't enough for her to want to
8 terminate or stop the relationship. And that's
9 just with somebody that she's just met for a few
10 months.

11 And she agreed she had invited him over.
12 Had that dinner that consensual time. She had
13 agreed that she had asked him to stay over, to
14 sleep in the same bed with her after, that he
15 was -- cared for her, apologized. Explained what
16 had happened and she accepted the explanation; had
17 Mr. Younger, he stayed overnight. Never heard
18 about an argument, yelling, threats, intimidation.
19 We heard what sounded like something happened very
20 fast. She never said -- she said she was
21 unconscious, but never said how long. Was it one
22 second, 10 seconds, we don't know. But it was
23 fast; asked Mr. Younger he said he didn't know,
24 didn't realize, that he had an accident. She is
25 there. She is in the moment at the time. And

1 accepted the explanation. I'll tell you what that
2 means. She had doubts that any crime had
3 occurred. I think rape is an exceptionally
4 serious matter. I don't disagree with the
5 prosecutor at all saying how serious it is. And
6 it is serious matter. And it's serious for
7 everyone. I'll tell you it's not more serious for
8 anyone else than the accused Mr. Younger. Being
9 choked intentionally until you passed out
10 unconscious, and then being anally violated. And
11 I hate to use that kind of strong language, is a
12 serious accusation.

13 And I would submit to you it's not the
14 kind of event that if it happened in a violent
15 criminal, illegal manner you have to have time to
16 process and talk to your friend and figure it out.
17 Just like if your house is on fire, you know.
18 That's how serious there is. That's not what we
19 have in this case. It's not like we have somebody
20 that a crime happened or something terrible, they
21 felt awful and didn't know what to do, didn't know
22 how to get to the police, didn't know. It's not
23 that. It's somebody who doesn't believe a crime
24 happened at all. So I'll submit to you, this is
25 not a crime that happened or a criminal act that

1 occurred. It's a criminal act that Ms. Baker
2 decided later had happened, after having
3 consensual sex with Mr. Younger. I think taking
4 everything into account, I wanted to break this
5 down kind of witness by witness and talk to you
6 about specifically the other evidence you are
7 going to have. You've got a photo laptop. They
8 don't turn on. There's nothing on them. There's
9 physical objects. Just because there is some
10 testimony about trying to look into the computer
11 system or look into the phone. And we heard that
12 report just came out while you were struck.

13 We have a photograph that was not taken in
14 any kind of medical or professional or law
15 enforcement capacity. The only one who can say
16 for certain, the nurse practitioner couldn't even
17 say for certain. Other than she was told --
18 Ms. Baker told it was her. That's the only thing
19 that she was told. And we have a series of text
20 messages, which you will have back in the jury
21 room to read as you deliberate. And those text
22 messages show over the following days having a
23 friendly conversation. You will see, you will
24 read -- you can actually read everything from just
25 before and further back than that and see how they

1 communicate. I think A lot of those texts back
2 and forth. She finally the last messages, you
3 will see the last couple of days, it's her
4 messages and he's not responding. And you can
5 kind of see that he's failing to satisfactorily
6 respond further to her. The relationship is
7 over. He's back in North Carolina talking to a
8 friend when this accusation or allegation comes
9 up.

10 I would submit to you if Mr. Younger
11 probably had stuck around in town, had not broken
12 up with her, had gotten -- just continued to be
13 honest as far as -- indicated the relationship had
14 reason of continuing on other beyond the
15 consensual sex she had with him, I don't think she
16 would have gone to the police. I don't think she
17 would have ever had her mind and events
18 recalculated to where it went from a consensual
19 encounter to something that was unlawful. So
20 that's what we have.

21 This case is predicated and based solely
22 on Ms. Baker's story. Even though her first
23 impressions from being there in the moment did not
24 indicate that a crime had occurred. Just like I
25 told you in opening what the evidence will show,

1 she invited him over. They had the dinner. They
2 went downstairs. She agreed. They were kissing.
3 Lovemaking. It stopped. It stopped. He asked
4 for permission to resume. She said yes. He asked
5 her to roll over. She said yes. All that is
6 consensual. That's all we heard. This is why,
7 this is kind of case and I told you so I think in
8 the opening, that makes me glad to live in
9 America. Glad I live in South Carolina. I tell
10 you we have got -- you can talk about this country
11 having a great legal system, which generally is
12 true. We have a great in South Carolina as far
13 as our ability to have trials and juries and the
14 presumption of innocence. It's vigorously
15 enforced and protected by our courts and our
16 judges and our system.

17 It's makes me glad I am here, because when
18 we recognize in society how important it is to
19 defend our citizens against false accusations. I
20 am awful thankful for the jury system. You all
21 are the best and really only line of defense
22 anyone has, any citizen has against a serious,
23 false accusation. The State has the burden of
24 proof of proving their case beyond a reasonable
25 doubt. The only two people there were Ms. Baker

1 and my client, James Gregory Younger. The
2 prosecution brought a lot of other witnesses, put
3 them on the stand. They don't know what happened.
4 They can't tell you for certain. They don't know.
5 Just those two, just Ms. Baker and Mr. Younger.

6 In order to convict him, all 12 have to
7 unanimously decide beyond a reasonable doubt. The
8 judge is going to instruct you or advise you in
9 the charges and instruct you what the law is. And
10 a reasonable doubt is the kind of doubt which
11 causes a reasonable person to hesitate before they
12 act. She had a doubt. She had a hesitation. And
13 the reason she did is simply because no crime
14 occurred. And the State through yesterday and the
15 testimony you've heard this morning, has failed to
16 proof beyond a reasonable doubt that a crime
17 occurred.

18 I think we understand the facts. It's
19 consensual encounter. She has an injury that
20 their doctor said she can't tell if it's a slip or
21 not. That's it. And at time she accepted his
22 explanation and understanding. And it was only
23 after thinking, dwelling talking to her friend,
24 this guys moved away. I'm not going to see him
25 again. The relationship is over. I had sex with

1 him. And I don't like having sex outside of
2 relationships. Then we can get to this allegation
3 and this accusation. This is the most important
4 day in my client's life. I can't tell you, begin
5 to tell you how serious it is. We've had his
6 mother and sister come down and been supportive.
7 You can imagine how difficult that is for family
8 or for anybody involved.

9 I would ask you all to all thank you for
10 to your attention that you've shown. I can tell
11 you've listened to everything I have had to say
12 and listened attentively to the witnesses as
13 they've testified. I would thank you for that.
14 In a few minutes you get a chance to take the, I
15 think, the four physical items and go to jury room
16 with the jury form and begin discussing and
17 deliberations on the case.

18 The judge is going to instruct you. You
19 are going to see a jury form with two separate
20 crimes on it. They've got the criminal sexual
21 conduct, which is basically an allegation that he
22 had sex with her knowing or should have known
23 while she was unconscious or out of it or
24 something. And then you can have -- see this for
25 an assault based on her having moderate injury or

1 nonconsensual touching of a private part. The
2 judge is going to instruct you on that. But
3 here's the thing about this case. And I'll tell
4 you the thing about, I submit doesn't make sense
5 for somebody who has these kind of accusations.
6 This happened she alleges on Thursday night.
7 Doesn't go to any kind of doctor on Friday.
8 Doesn't go to any kind on doctor on Saturday,
9 Sunday. Talks to the police Monday with a friend.
10 They don't go to the hospital or med. clinic or
11 Doc in the Box, any of those places. She never
12 went. I don't believe that -- I don't believe how
13 you can prove there was a moderate injury, which
14 is just something more than a -- it's a higher
15 level of injury. The judge will instruct you is
16 the law.

17 I don't believe how you can say, I had a
18 serious violent assault, when you never have to go
19 get checked out or to the doctor. It just
20 doesn't make sense. I think at the end of the day
21 what we have is, we have a story uncorroborated,
22 unsubstantiated. And I agree with the prosecutor,
23 there are cases when that's all you need is
24 somebody's accusation. Somebody is who is there
25 who experienced something and come out and say it

1 happened. And in some cases that's all the
2 evidence a jury should need. This is not that
3 case. This is a case where she had been
4 certain -- didn't believe it. Didn't at the time,
5 and there were so many questions lacking about her
6 conduct if this occurred. We didn't get the
7 police who didn't do anything. Didn't finish up
8 to even start it. I would ask the State that
9 that's not enough. And that's what we should --
10 that's not enough of a case that we should
11 convict a citizen or convict anybody of such a
12 serious crime. The State simply failed to meet
13 the burden. There is reasonable doubt. There is
14 more than reasonable doubt. What I am going to
15 ask you to do is when you have chance is to take
16 your jury deliberation form and your verdict form,
17 and I am going to ask you to find him not guilty
18 of any type of criminal sexual conduct charge.
19 And find him not guilty of any type of assault
20 second charge.

21 The other point I would like on the
22 assault charge before I forget. The second part
23 is nonconsensual touching. I think we've heard
24 enough about consent in this case, so we already
25 know what that involves or entails. So on my

1 client's life, please return a verdict of not
2 guilty. Thank you very much.

3 THE COURT: Ladies and gentlemen, all of
4 the testimony and other evidence in this case has
5 been presented. Now is the time where I will
6 charge you the law that is to be applied to this
7 particular case. Ladies and gentlemen, I remind
8 that you that during this trial, you and I have
9 certain duties to perform. As the trial judge it
10 is my responsibility to preside over the trial of
11 this case. And I also have the duty to rule on
12 the admissibility of evidence that has been
13 offered during this trial. And you are to
14 consider only the competent evidence before you.
15 If here was any testimony ordered stricken from
16 the record in this case during the trial, you must
17 disregard that testimony. You are to consider
18 only the testimony from -- presented from the
19 witness stand and any other documents that may be
20 placed into evidence.

21 Ladies and gentlemen, I remind you that I
22 have the additional duty to charge you on the law
23 that is applicable to this case. And as the
24 presiding judge, I am the sole judge of the law in
25 this case. And it is your duty as jurors to

1 can we have a copy of the incident report is.

2 MR. MEADORS: I thought that's what it is.

3 THE COURT: And it's not in evidence. And
4 all I am going to do is tell them it is not in
5 evidence. And send it back and tell them to start
6 their deliberations.

7 (Whereupon, at 2 o'clock p.m jury
8 continues deliberations.)

9 THE COURT: The bailiff has informed us
10 that the jury has reached a verdict. You may
11 bring the jury.

12 (Whereupon, at 3:38 p.m. jury reaches
13 verdict.)

14 THE COURT: Mr. Foreman, have you reached
15 a verdict?

16 THE FOREMAN: Yes, sir.

17 THE COURT: Is it unanimous?

18 THE FOREMAN: Yes, sir.

19 THE COURT: Please pass it to the bailiff.
20 please publish the verdict. The defendants will
21 stand.

22 THE BAILIFF: For the State of South
23 Carolina, County of Sumter, in the Court of
24 General Sessions, Docket No. 2013-GS-43-0315. The
25 State of South Carolina versus James Gregory

1 Younger, defendant. As to Count 1, as to the
2 charge of criminal sexual conduct in the third
3 degree, we the jury unanimously find the
4 defendant, guilty. As to charge No. 2, as to the
5 charge of assault and battery in the second
6 degree, we the jury unanimously find the
7 defendant, not guilty. Signed William R.
8 Foxworth, foreman dated the the 11th day of June,
9 2014.

10 Ladies and gentlemen of the jury, is this
11 your verdict. So say you all by raising your
12 right hand, please. Thank you.

13 THE COURT: Thank you. Does the defense
14 request polling of the jury.

15 MR SNELL: Please, Your Honor.

16 THE COURT: Please poll the jury.

17 THE BAILIFF: Ladies and gentlemen when I
18 call you name, please stand and answer two
19 questions for me Maxie Cockerill, is this your
20 verdict and still your verdict?

21 THE JUROR: Yes, sir.

22 THE BAILIFF: Thank you. You may be
23 seated. Harry Russell, is this your verdict and
24 still your verdict?

25 THE JUROR: Yes, sir.

1 THE COURT: You know in these cases, I am
2 often awestruck by the bravery of the victims who
3 come forward with these types of case. What was
4 presented in public is how, what everyone would
5 consider to be their worst nightmare. So it took
6 a lot of bravery for this victim to come forward
7 and present the facts. And obviously the jury
8 believed her. And again, it was a credibility
9 issue. You know, this defendant just didn't know
10 when to stop. He just didn't know when he stop.
11 He didn't know when he had something good. And he
12 always wanted -- see in this situation, he wanted
13 it his way. And he was going to get it his way no
14 matter what.

15 I find that to be very offensive. And I
16 am going to give him the maximum sentence. He
17 will be committed to the State Department of
18 Corrections for a period of 10 years. He will be
19 given credit for time served of 35 days. That is
20 the sentence of the court. Court's adjourned
21 until 10:00 o'clock tomorrow morning.

22 --End Of Requested Transcript of Record--

23

24

25

WITNESSES

Sumter Police Dept.
Irene Culick

ARREST WARRANT NUMBER

2012A4320100577 2012A4320100578

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: 4-4-13

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-43-0315

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

April TERM 2013

THE STATE

vs.

JAMES GREGORY YOUNGER

Indictment for

Criminal sexual conduct - Third degree
Assault and Battery 2nd Degree

[Signature]

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF SUMTER)

INDICTMENT FOR

Criminal sexual conduct - Third degree
Assault and Battery 2nd Degree

At a Court of General Sessions, convened on April 4, 2013 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE - CRIMINAL SEXUAL CONDUCT 3RD DEGREE

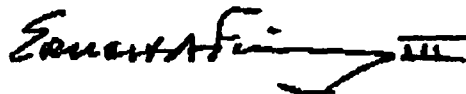
That in Sumter County, South Carolina, on or about 2012-09-19, the Defendant, JAMES GREGORY YOUNGER, did commit a sexual battery upon the victim, Kimberly Baker, with knowledge or reason to have knowledge that the victim was mentally defective, mentally incapacitated or physically helpless where aggravated force or aggravated coercion was not used, to wit: have anal sex against her consent; all in violation of Section 16-03-654, Code of Laws of South Carolina, (1976, as amended).

COUNT TWO - ASSAULT AND BATTERY 2ND DEGREE

That James Gregory Younger did in Sumter on or about 2012-09-19, violate Section 16-3-600(D)(1) of the Code of Laws of South Carolina (1976), as amended, in that he did unlawfully injure another person, or offer or attempt to injure another person with the present ability to do so and the act involves the nonconsensual touching of the private parts of an adult, either under or above clothing.

Against the peace and dignity of the State, and contrary to the statute in such case made
and provided.

Solicitor



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

April 17, 2015

RECEIVED
APR 17 2015
SC Court of Appeals

Robert M. Pachak
Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

William Jeffrey Young, Circuit Court Judge

RECEIVED

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMES GREGORY YOUNGER,

APPELLANT

APPELLATE CASE NO. 2014-001298

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon, Jennifer Ellis Roberts, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 17th day of April, 2015.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 17th day of April, 2015.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.