

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY

Clifton Newman, Circuit Court Judge

RECEIVED

JAN 14 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JIM EDWARD FEAGIN,

APPELLANT

APPELLATE CASE NO. 2015-000752

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED OCTOBER 20, 2014.....	1
MOTION FOR CONTINUANCE.....	4
JURY VOIR DIRE.....	8
JURY SELECTION	15
TESTIMONY	
SHARON RICHARDSON (IN CAMERA).....	34
WILLIAM FRAZIER (IN CAMERA)	44
SUSAN COLVIN (IN CAMERA)	45
<u>JACKSON V. DENNO HEARING</u>	
TESTIMONY	
SHERILL PRESSLEY (IN CAMERA)	65
RULING ON CONTINUANCE MOTION.....	82
RULING ON ADMISSIBILITY OF STATEMENT	91
OPENING STATEMENT BY MS. BARR.....	97
OPENING STATEMENT BY MR. HARVIN.....	101
TESTIMONY	
TERESA WARD	104
SHERILL PRESSLEY	128
AMANDA GRAHAM.....	160
CHARLES R.	190

WANDA F. LYNCH	233
MOTION FOR DIRECTED VERDICT.....	239
RULING ON MOTION FOR DIRECTED VERDICT	244
CHARGE CONFERENCE	253
CLOSING ARGUMENT BY MS. BARR.....	262
CLOSING ARGUMENT BY MR. HARVIN.....	280
CHARGE ON THE LAW.....	292
VERDICT	307
SEALING OF SENTENCE	313
UNSEALING OF SENTENCE	317
MOTIONS HEARING TRANSCRIPT DATED APRIL 2, 2015	323
TESTIMONY	
JIM FEAGIN (IN CAMERA).....	325
MOTION FOR A NEW TRIAL FILED NOVEMBER 3, 2014.....	326
MOTION TO RECONSIDER SENTENCE	326
RULING BY THE COURT ON MOTION FOR NEW TRIAL	343
RULING BY THE COURT ON MOTION TO RECONSIDER SENTENCE.....	364
MOTION FOR NEW TRIAL	366
MOTION FOR RECONSIDERATION OF SENTENCE FILED NOVEMBER 3, 2014	367
INDICTMENT	368
SENTENCE SHEET	370
CERTIFICATE OF COUNSEL.....	371

STATE OF SOUTH CAROLINA)
) GENERAL SESSIONS COURT
 COUNTY OF WILLIAMSBURG)

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
 14-GS-45-00168

JIM EDWARD FEAGIN,)

 DEFENDANT.)

October 20, 2014
 Kingstree, South Carolina

B E F O R E :

THE HONORABLE CLIFTON B. NEWMAN, JUDGE;
 AND JURY

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

KIMBERLY V. BARR, ESQ.
 Assistant Solicitor

DOWARD K. HARVIN, ESQ.
 Attorney for Defendant

FRANCES B. RAY, RPR
 Circuit Court Reporter

INDEX

	Page
Jury qualifying	5
Pretrial motions	23
Sharon Richardson:	
Direct examination	30
Cross-examination	35
Redirect examination	38
Recross-examination	39
William Frazier:	
Direct examination	40
Susan Colvin:	
Direct examination	41
Cross-examination	43
Jackson v. Denno hearing	61
Preliminary remarks by the Court	87
Opening remarks by Ms. Barr	90
Opening remarks by Mr. Harvin	94
Teresa Ward:	
Direct examination	98
Cross-examination	113
Redirect examination	120
Sherill Pressley:	
Direct examination	122
Cross-examination	135
Redirect examination	147
Recross-examination	151
Amanda Graham:	
Direct examination	154
Cross-examination	173
Redirect examination	182
Charles R. [REDACTED]	
Direct examination	184
Cross-examination	204
Redirect examination	214
Wanda Lynch:	
Direct examination	227
Cross-examination	231
Directed verdict	233
Requests to charge	247
Closing argument by Ms. Barr	256
Closing argument by Mr. Harvin	274
Charge to the jury	286
Exceptions to the charge	299
Verdict	301
Sentencing	302
Reading of sealed sentence	311

EXHIBITS

STATE'S:

No.	Description	I.D./EVD.
1	SLED report	71/133
2	Statement of Charles R. [REDACTED]	221/222

1 THE COURT: Just briefly, before we take a
2 break, with the second case you say it was
3 Mr. Harvin's?

4 MS. BARR: Yes, sir, it is State versus
5 Jim Feagin. It's an indictment for criminal sexual
6 conduct in the third degree. And Mr. Harvin can
7 tell you the reasons why he's asking for a
8 continuance. I believe he said the defendant got
9 sick.

10 THE COURT: Yes, sir, Mr. Harvin.

11 MR. HARVIN: May it please the Court, Your
12 Honor, if I can stand here.

13 THE COURT: Yes, sir.

14 MR. HARVIN: I received information at 9
15 a.m. this morning my client was rushed to the
16 hospital in Florence Carolina Hospital for some
17 issue dealing with an ulcer. Best as I can tell, he
18 has currently been placed in position by the doctor
19 where he needs to have some type of object ran into
20 his stomach so they can look and see what's going
21 on. Judge, obviously our motion is based on Rule 7
22 of South Carolina criminal procedure.

23 THE COURT: Now when is he coming out of
24 there?

25 MR. HARVIN: Judge, he's supposed to go in

1 today to have this — I don't know whether it's
2 operation or procedure done. After that they're
3 gonna determine whether or not he's supposed to have
4 surgery. So I'm uncertain as to whether or not
5 that's gonna be a one day process or whether that's
6 a two or the day process.

7 THE COURT: All right. That's his motion,
8 his client is sick and in the hospital.

9 MS. BARR: And Judge, we've got — Tyler's
10 prepared to pull a jury, start a trial in the
11 morning. We've got a case with Sam Floyd as well.
12 And Judge, I think he has a issue regarding his
13 client. Mr. Keels, go get Mr. Floyd for me please.

14 MR. HARVIN: And Judge, just to add, my
15 client is an essential witness to my case. This is
16 just —

17 THE COURT: Well, we can't pick a jury
18 without, him being in the hospital, so let's see
19 where he is.

20 (WHEREUPON, a recess was taken from the
21 proceedings.)

22 MS. BARR: Judge, the only other issue
23 that I would ask the Court to consider, during the
24 break for lunch the issue regarding Mr. Harvin's
25 client. I've got the victim and the witness back

1 there. That's the CSC third case, the rape case.
2 And that's the case the fella was in the emergency
3 room last night. Judge, I would just ask that the
4 Court require that the defendant, to give
5 documentation to his lawyer and to the Court,
6 regarding his medical, current medical condition,
7 when he's expected to be released from the hospital.
8 When I spoke with the victims, with the victim
9 during lunch break she said that she had received
10 word in the community a couple of weeks ago that
11 either he was going to run, try to play sick, or
12 something along those lines so she just wants to
13 make sure to satisfy her that's not what's going on.

14 THE COURT: If he's in the hospital I
15 guess we can call and check and verify where is he
16 at.

17 MR. HARVIN: Judge, I can give you the
18 medical records that was given to me. You all can
19 do whatever you need to do with it. I don't have a
20 copy 'cause this is the only copy that I have.

21 THE COURT: Let's see what we have here on
22 Mr. Feagin, Jim E. Feagin. Stomach ache, abdominal
23 pain.

24 MR. HARVIN: Honestly, Judge, if that was
25 his plan, he didn't share that plan to me. I didn't

1 know anything about it. It just came to me this
2 morning, just stated he went to the hospital last
3 night and was supposed to be going to Williamsburg
4 Regional at some point to have this procedure done.
5 That's the basis of out of all that I know. They
6 gave me those documents. I made copies just in case
7 the Court needed to look at them, and that's all I
8 know to do.

9 MS. BARR: And Judge, it's certainly not
10 my position that Mr. Harvin knew anything about
11 anything that the defendant may have said prior to
12 this case being called for trial. I mean, obviously
13 I don't believe that because we were in plea
14 negotiations throughout the weekend so that's not my
15 position or my belief.

16 THE COURT: Well, it appears that this is
17 not an in-patient record that he went to the
18 hospital in Florence and they released him so we'll
19 schedule a status conference on this case at 10 a.m.
20 tomorrow morning, and he's required to be here. If
21 he's not here a bench warrant may be issued for his
22 arrest. And we'll set that at 10 tomorrow morning
23 and then determine what's what at that time.

24 MS. BARR: All right. Thank you, sir.

25 THE COURT: And we'll return these records

1 to Mr. Harvin, and we will make them part of the
2 record if necessary tomorrow when he's here and he's
3 had an opportunity to come. All right, so that's
4 his situation.

5 (WHEREUPON, a recess was taken from the
6 proceedings.)

7 MS. BARR: May it please the Court, Your
8 Honor. The next matter before you is indictment
9 number 2014-GS-45-168, the State versus Jim Edward
10 Feagin. Your Honor, this is an indictment for
11 criminal sexual conduct in the third degree.
12 Mr. Feagin is represented by attorney Doward Harvin
13 and the State is ready for trial.

14 THE COURT: Ladies and gentlemen, the
15 State has called for trial the case of State versus
16 Jim Edward Feagin. This case comes into court as a
17 result of an indictment charging Mr. Feagin with
18 criminal sexual conduct in the third degree
19 involving the sexual battery of Amanda Graham. He
20 has pled not guilty to the charge. He's presumed to
21 be not guilty. He cannot be found guilty unless the
22 State presents evidence which convinces a jury of
23 his guilt beyond a reasonable doubt. Mr. Feagin is
24 represented by counsel.

25 And counsel, if you'll introduce yourself

1 to the jury.

2 MR. HARVIN: May it please the Court,
3 ladies and gentlemen of the jury, my name is Doward
4 Harvin. I work as a part-time public defender with
5 Williamsburg County. I also own and operate my own
6 law office in Hemingway, South Carolina.

7 THE COURT: All right. The State is
8 represented through the Third Circuit Solicitor's
9 Office. If you will introduce yourself as well.

10 MS. BARR: Thank you, Your Honor. May it
11 please the Court, good afternoon, ladies and
12 gentlemen. I am Kimberly Barr. I am a part-time
13 prosecutor here in Williamsburg County. I also work
14 private practice with Ronnie Sabb, Helen McFadden,
15 and aid owe niece. And seated at the table is my
16 victim advocate along with Deputy Sherill Presley.

17 THE COURT: Ladies and gentlemen, if
18 there's anyone on the jury panel who is a friend,
19 relative, or associate of Mr. Harvin, Ms. Barr,
20 anyone in their respective law offices, or if you
21 are a friend, acquaintance, or relative of the
22 defendant James Edward Feagin, or the victim Amanda
23 Graham, if so, please stand.

24 (There was no response.)

25 THE COURT: And ma'am, what's your name?

1 THE VICTIM: Amanda Graham.

2 THE COURT: It is. Thank you, Ms. Graham.

3 The following people may testify in this
4 case, and if you're here I need you to stand.

5 Sergeant Sherill Pressley from the Sheriff's Office;

6 Brandon McCants from the Sheriff's Office; Sherod

7 Timmons, the Sheriff's Office; Lieutenant Willie

8 Brown, Sheriff's Office; Agent Courtney Webster from

9 SLED; Terry Ward from the hospital here in town;

10 Charles R. [REDACTED] Wanda Lynch; Susan Hilton Colvin,

11 and Jamie Nixon, Adam Nixon, Tiffany Feagin,

12 Brittany Conyers, and/or Brian McClary. If any

13 member of the jury panel is a friend, relative,

14 associate, acquaintance of any of those people, if

15 so, please stand.

16 Yes, ma'am.

17 THE POTENTIAL JUROR: I work at the
18 hospital with Terry Ward.

19 THE COURT: All right. Your name is?

20 THE POTENTIAL JUROR: Debra Holliday,
21 juror number 88.

22 THE COURT: Remain standing. You work at
23 the hospital with Terry ---

24 THE POTENTIAL JUROR: Ward.

25 THE COURT: All right. And would that

1 fact affect your ability to be a fair, impartial
2 juror?

3 THE POTENTIAL JUROR: No, sir.

4 THE COURT: All right, thank you.

5 Anyone else?

6 (There was no response.)

7 THE COURT: The incident alleged in this
8 indictment occurred in what area of the county,
9 Ms. Barr, on or about when?

10 MS. BARR: Judge, in Cades, community of
11 Williamsburg County on June 21st of last year.

12 THE COURT: If anyone knows anything about
13 the incident in question or have heard anything
14 about it, if so, please stand.

15 (There was no response.)

16 THE COURT: No one standing. If any
17 juror, any member of your immediate family works
18 with the Sheriff's Office or any law enforcement
19 agency or have previously worked for the Sheriff's
20 Office or any law enforcement agency, including the
21 police department in Kingstree, Hemingway,
22 Greeleyville, Lane, Salters, or any other law
23 enforcement agency, if so, please stand. If you or
24 any of your relatives now or in the past have worked
25 for any law enforcement agency.

1 THE POTENTIAL JUROR: Good afternoon, I'm
2 Delores Brown. I'm a communications officer with
3 Williamsburg County Emergency Management, and I work
4 with all the, Sherill and those.

5 THE COURT: All right. Thank you. Anyone
6 else?

7 (There was no response.)

8 THE COURT: If you've ever been the victim
9 of a violent crime or anyone in your immediate
10 family has ever been the victim of a violent crime,
11 rape, robbery, burglary, or murder, if so, please
12 stand.

13 (There was no response.)

14 THE COURT: Not a single juror has stood.
15 If you know of any religious, moral, or personal
16 reasons that would prevent you from sitting in
17 judgment of another person, if so, please stand.
18 Anyone, any of those reasons that would prevent you
19 from sitting in judgment of another person as a
20 juror, if so, please stand.

21 (There was no response.)

22 THE COURT: If you have studied law, taken
23 any courses in law or ever worked in law, if so,
24 please stand.

25 (There was no response.)

1 THE COURT: If you've previously served as
2 a juror before for this moment in time, if you've
3 ever been on a jury before, please stand. Any time
4 prior to this moment in time.

5 Tell us your name and juror number and
6 when it was. Starting on the front row, yes, sir.

7 THE POTENTIAL JUROR: Served this morning,
8 Leon Thomas, 173.

9 THE COURT: All right, thank you. Yes,
10 sir.

11 THE POTENTIAL JUROR: Served this morning,
12 Jerry Pressley, 150.

13 THE POTENTIAL JUROR: Same, this morning,
14 Bobby Fulton, 72.

15 THE COURT: All right.

16 THE POTENTIAL JUROR: As well as I. I
17 think my number is 139, Nija Nesmith.

18 THE POTENTIAL JUROR: My name is Aaron
19 Tisdale. My number is 176 and I served this
20 morning.

21 THE COURT: All right.

22 THE POTENTIAL JUROR: I served this
23 morning, number is 82.

24 THE POTENTIAL JUROR: I served this
25 morning. My number is 193.

1 THE POTENTIAL JUROR: Juror number 96,
2 Elizabeth Jonte. I was on magistrate jury a year
3 ago.

4 THE COURT: All right.

5 THE POTENTIAL JUROR: I served this
6 morning. My name is Alafair Brown, number 21.

7 THE POTENTIAL JUROR: I served this
8 morning. My number is 93. My name is Tonya Joe.

9 THE POTENTIAL JUROR: My name is Sheila
10 Ward. I think it was probably two years ago, three
11 years ago here.

12 THE COURT: All right.

13 THE POTENTIAL JUROR: Eugene Burgess,
14 number 29, two years ago.

15 THE COURT: All right.

16 THE POTENTIAL JUROR: Anna Burrows, I'm
17 not sure of the number. Probably about four years
18 ago.

19 THE COURT: All right, thank you.

20 THE POTENTIAL JUROR: Number 45, Nathaniel
21 Cumbie, this morning.

22 THE COURT: All right.

23 THE JUROR: Jerry Nesmith, I forgot my
24 number. I served this morning.

25 THE POTENTIAL JUROR: Lateisha White,

1 juror 187. I served this morning.

2 THE COURT: Do you know of any reason why
3 you should not be selected to be a juror in the
4 trial of this case, if you have any reason
5 whatsoever why you should not be selected, if so,
6 please stand.

7 (There was no response.)

8 THE COURT: Any additional questions
9 proposed by the State or the Defense?

10 MS. BARR: None by the State, Your Honor.

11 THE COURT: By the Defense?

12 MR. HARVIN: Judge, we have one additional
13 question we would ask, and that's number 12 on the
14 proposed voir dire.

15 THE COURT: If you've ever had direct
16 contact with the police as a victim, witness, or
17 suspect, if so, please stand. If you've ever had
18 direct contact with the police as a victim, witness,
19 or suspect, if so, please stand.

20 (There was no response.)

21 THE COURT: No one has stood.

22 If you will give us a jury.

23 THE CLERK: As your name is called, the
24 same procedure as yesterday, if you would come up
25 front and stand and face counsel.

1 Juror number 57, Shelva Elmore (black
2 female). What says the State?

3 MS. BARR: Please present Ms. Elmore.

4 THE CLERK: What say the Defense?

5 MR. HARVIN: Please excuse Ms. Elmore from
6 the trial of just this case.

7 THE CLERK: You may return to your seat,
8 Ms. Elmore.

9 Juror number 176, Aaron L. Tisdale (black
10 male). What says the State?

11 MS. BARR: Please present Mr. Tisdale.

12 THE CLERK: What says the Defense?

13 MR. HARVIN: Please excuse Mr. Tisdale
14 from the trial of just this case.

15 THE CLERK: You may return to your seat,
16 Mr. Tisdale.

17 Juror number 89, Ricky B. Hughes (white
18 male). What says the State?

19 MS. BARR: Please present Mr. Hughes.

20 THE CLERK: What says the Defense?

21 MR. HARVIN: Please seat Mr. Hughes.

22 THE CLERK: Have a seat in the jury box,
23 Mr. Hughes.

24 Juror number 129, Samuel Mitchell (black
25 male). What says the State?

1 MS. BARR: Please excuse Mr. Mitchell from
2 the trial of just this case.

3 THE CLERK: You may return to your seat,
4 Mr. Mitchell.

5 Juror number 156, Maria Rodgers (white
6 female). What says the State?

7 MS. BARR: Please present, Ms. Rodgers.

8 THE CLERK: What says the Defense?

9 MR. HARVIN: Please excuse Ms. Rodgers
10 from the trial of just this case.

11 THE CLERK: You may return to your seat,
12 Ms. Rodgers.

13 Juror number 27, Verdell Brown (black
14 male). What says the State?

15 MS. BARR: I'm sorry, Madam Clerk, what
16 was the juror's number again?

17 THE CLERK: 27, Verdell Brown.

18 MS. BARR: Please present Mr. Brown.

19 THE CLERK: What says the Defense?

20 MR. HARVIN: Please seat Mr. Brown.

21 THE CLERK: Have a seat in the jury box,
22 Mr. Brown.

23 Juror number 135, Donovan Murphy (black
24 male). What says the State?

25 MS. BARR: Please present Mr. Murphy.

1 THE CLERK: What says the Defense?

2 MR. HARVIN: Madam Clerk, is there a juror
3 information sheet provided by Mr. Murphy?

4 THE CLERK: I don't see one.

5 MR. HARVIN: Please seat Mr. Murphy.

6 THE CLERK: Have a seat in the jury box.

7 Juror number 21, Alafair Brown (black
8 female). What says the State?

9 MS. BARR: Please present Ms. Brown.

10 THE CLERK: What says the Defense?

11 MR. HARVIN: Please excuse Ms. Brown from
12 the trial of just this case.

13 THE CLERK: You may return to your seat,
14 Ms. Brown.

15 Juror number 138, Jefferey A. Nesmith
16 (black male).

17 MR. HARVIN: Madam Clerk, strikes are ten
18 and five?

19 THE COURT: Five and ten, yes.

20 MR. HARVIN: Five and ten, thank you.

21 THE CLERK: What says the State?

22 MS. BARR: Please present Mr. Nesmith.

23 THE CLERK: What says Defense?

24 MR. HARVIN: Please excuse Mr. Nesmith
25 from the trial of just this case.

1 THE CLERK: You may return to your seat,
2 Mr. Nesmith.

3 Juror number 139, Nija Nesmith, (black
4 female). What says the State?

5 MS. BARR: Please present Ms. Nesmith.

6 THE CLERK: What says the Defense?

7 MR. HARVIN: Please excuse Ms. Nesmith
8 from the trial of just this case.

9 THE CLERK: You may return to your seat,
10 Ms. Nesmith.

11 Juror number 68, Debra G. Ford (black
12 female). What says the State?

13 MS. BARR: Please present Ms. Ford.

14 THE CLERK: What says the Defense?

15 MR. HARVIN: Your Honor, may we approach.

16 THE COURT: Yes.

17 (WHEREUPON, counsel approached the Bench
18 for an off-the-record discussion.)

19 THE COURT: Ms. Ford, I asked the question
20 whether, the entire jury panel, whether any juror
21 had any relative who ever worked in law enforcement.
22 And what's your response?

23 THE POTENTIAL JUROR: My apology, I did
24 not hear if ever worked there, I'm sorry.

25 THE COURT: I said now or in the past

1 worked in law enforcement. So you get one more
2 chance to answer it.

3 THE POTENTIAL JUROR: My answer, my
4 husband is the retired police chief here in
5 Kingstree. Does this mean that I'm removed from the
6 courts?

7 THE COURT: I just asked you to answer the
8 question.

9 THE POTENTIAL JUROR: Okay.

10 THE COURT: All right.

11 MR. HARVIN: Please excuse Ms. Ford from
12 the trial of this case.

13 THE CLERK: If you will return to your
14 seat, Ms. Ford.

15 Juror number 173, Leon Thomas (black
16 male). What says the State?

17 MS. BARR: Please present Mr. Thomas.

18 THE CLERK: What says the Defense?

19 MR. HARVIN: Please excuse Mr. Thomas from
20 the trial of just this case.

21 THE CLERK: You may return to your seat,
22 Mr. Thomas.

23 Juror number 187, Lateisha N. White (black
24 female). What says the State?

25 MS. BARR: Accept Ms. White.

1 THE CLERK: What says the Defense?

2 MR. HARVIN: Please excuse Ms. White from
3 the trial of this case.

4 THE CLERK: You may return to your seat,
5 Ms. White.

6 Juror number 24, Deloris W. Brown (black
7 female). What says the State?

8 MS. BARR: Please present Ms. Brown.

9 THE CLERK: What says the Defense?

10 MR. HARVIN: Please excuse Ms. Brown from
11 the trial of this case.

12 THE CLERK: You may return to your seat,
13 Ms. Brown.

14 Juror number 150, Jerry L. Pressley (black
15 male). What says the State?

16 MS. BARR: Please present Mr. Brown.

17 THE CLERK: What says the Defense?

18 MR. HARVIN: Please seat Mr. Pressley.

19 THE CLERK: You may have a seat in the
20 jury box, Mr. Pressley.

21 Juror number 169, May F. Spearman (white
22 female).

23 MS. BARR: Please present Ms. Spearman.

24 THE CLERK: What says the Defense?

25 MR. HARVIN: Madam Clerk, can you give me

1 the number once more?

2 THE CLERK: 169, May F. Spearman.

3 MR. HARVIN: Thank you. Please seat
4 Ms. Spearman, no challenge.

5 THE CLERK: Have a seat in the jury box,
6 Ms. Spearman.

7 Juror number 63, Lorenzo Ferguson (black
8 male). What says the State?

9 MS. BARR: Please excuse Mr. Ferguson for
10 the trial of just this case.

11 THE CLERK: You may return to your seat,
12 Mr. Ferguson.

13 Juror number 72, Bobby L. Fulton (black
14 male). What says the State?

15 MS. BARR: Please present Mr. Fulton.

16 THE CLERK: What says the Defense?

17 MR. HARVIN: Please seat Mr. Fulton.

18 THE CLERK: You may have a seat in the
19 jury box, Mr. Fulton.

20 Juror number 25, Michael N. Brown.

21 (There was no response.)

22 THE COURT: Mr. Brown was excused this
23 afternoon.

24 THE CLERK: Okay. Juror number 20,
25 William M. Brockington.

1 THE COURT: Mr. Brockington was excused
2 this afternoon.

3 THE CLERK: Juror number 121, Loretta
4 McCutcheon (black female). What says the State?

5 MS. BARR: Please present Ms. McCutcheon.

6 THE CLERK: What says the Defense?

7 MR. HARVIN: Please seat Ms. McCutcheon.

8 THE CLERK: You may have a seat in the
9 jury box, Ms. McCutcheon.

10 Juror number 45, Nathaniel Cumbie (white
11 male). What says the State?

12 MS. BARR: Please present Mr. Cumbie.

13 THE CLERK: What says the Defense?

14 MR. HARVIN: Please seat Mr. Cumbie.

15 THE CLERK: Have a seat in the jury box,
16 Mr. Cumbie.

17 Juror number 31, Anna L. Burrows (white
18 female). What says the State?

19 MS. BARR: Please present Ms. Burrows.

20 THE CLERK: What says the Defense?

21 MR. HARVIN: Please seat Ms. Burrows.

22 THE CLERK: You may have a seat in the
23 jury box, Ms. Burrows.

24 Juror number 93, Tonya D. Joe (black
25 female). What says the State?

1 MS. BARR: Please present Ms. Joe.

2 THE CLERK: What says the Defense?

3 MR. HARVIN: Please seat Ms. Joe.

4 THE CLERK: You may have a seat in the
5 jury box, Ms. Joe.

6 Juror number 36, Glenda L. Castleman
7 (white female). What says the State.

8 MS. BARR: Please present Ms. Castleman.

9 THE CLERK: What says the Defense?

10 MR. HARVIN: Please seat Ms. Castleman.

11 THE THE CLERK: You may have a seat in the
12 jury box, Ms. Castleman.

13 Juror number, 166, Keesha D. Smith (black
14 female). What says the State?

15 MS. BARR: What's the juror's number?

16 THE CLERK: 166.

17 MS. BARR: 166. Please present Ms. Smith.

18 THE CLERK: What says the Defense?

19 MR. HARVIN: Please seat Ms. Smith.

20 THE CLERK: You may have a seat in the
21 jury box, Ms. Smith.

22 Juror number 96, Elizabeth Jonte (white
23 female). What says the State?

24 MS. BARR: Please present Ms. Jonte.

25 THE CLERK: What says the Defense?

1 MR. HARVIN: Please seat Ms. Jonte.

2 THE CLERK: Juror number 3, Janice Aiken.

3 (There was no response.)

4 THE COURT: Transfer.

5 MS. BARR: Or excused.

6 THE CLERK: Juror number 193, Felix J.

7 Wilson (black male).

8 MR. HARVIN: Madam Clerk, are we doing
9 alternates currently?

10 THE CLERK: We are. What says the State?

11 MS. BARR: Please present Mr. Wilson.

12 THE CLERK: What say the Defense?

13 MR. HARVIN: Please excuse Mr. Wilson from
14 the trial of this case.

15 THE CLERK: You may return to your seat,
16 Mr. Wilson.

17 Juror number 185, Sheila L. Ward (white
18 female). What says the State?

19 MS. BARR: Please present Ms. Ward.

20 THE CLERK: What says the Defense?

21 MR. HARVIN: Please, Madam Clerk, do I
22 strike left?

23 THE CLERK: No.

24 THE COURT: Strikes are one and two for
25 alternates.

1 MR. HARVIN: We excuse Ms. Ward from the
2 trial of this case.

3 THE CLERK: You may return to your seat,
4 Ms. Ward.

5 Juror number 44, Milton A. Coward (white
6 male). What says the State?

7 MS. BARR: Please excuse Mr. Coward from
8 the trial of just this case.

9 THE CLERK: You may return to your seat
10 Mr. Coward.

11 Juror number 10, Ronald D. Bell (black
12 male).

13 MS. BARR: Please present Mr. Bell.

14 THE CLERK: What say the Defense?

15 MR. HARVIN: Please seat Mr. Bell.

16 THE CLERK: You may have a seat in the
17 jury box, Mr. Bell.

18 THE COURT: Any matters of law regarding
19 the jury selection?

20 MS. BARR: Not on behalf of the State,
21 Your Honor.

22 MR. HARVIN: None on behalf of the
23 Defense.

24 THE COURT: All right, ladies and
25 gentlemen, you all have been selected to be the jury

1 in the trial of this case, and I need to have you go
2 to the jury room for a few minutes while we discuss
3 scheduling. Please do not discuss the case while
4 you're in the jury room. If you will go back.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 4:18 p.m., and the following
7 proceedings commenced in open court.)

8 THE COURT: Regarding scheduling of this
9 case how are we gonna do it, Ms. Barr?

10 MS. BARR: Judge, there are certain things
11 I wanted to put on the record with regard to the
12 defendant's absence ---

13 THE COURT: All right.

14 MS. BARR: ---from the hearing today.
15 Then we also have Jackson versus Denno hearing that
16 needs to be held. In light of that, in light of the
17 fact we have two jurors who served this morning, we
18 would ask the Court to consider allowing the jury to
19 come back in the morning before we begin the trial
20 and deal with the other trial matters this
21 afternoon.

22 THE COURT: All right. We have them come
23 back maybe 10:30 in the morning?

24 MS. BARR: Your Honor please.

25 THE COURT: All right, Mr. Harvin.

1 MR. HARVIN: That suits the Defense fine,
2 Your Honor.

3 THE COURT: All right. We'll hear a
4 little bit of what you have to say now before we
5 bring them out. They're getting their contact
6 information.

7 MS. BARR: Your Honor, what I wanted to
8 place on the record is that we had noticed this case
9 for trial probably a couple of weeks ago, and the
10 defendant was advised he needed to be on court
11 Monday morning at 10 a.m., be prepared to select his
12 jury Monday afternoon at 2:30. I was informed on
13 Monday morning by his counsel that the defendant had
14 been hospitalized the night before and that he had
15 to go to the emergency room, was having some sort of
16 stomach problems. And as a result of that, the
17 Court informed the defendant's counsel to have the
18 defendant in court today at 10 a.m.

19 Judge, my victim and two of my witnesses
20 were present in court on Monday afternoon for, or
21 Monday morning actually again, for jury
22 qualifications and were prepared to go forward at
23 that time. Based upon Your Honor's instruction to
24 the defendant's attorney, I had my victim come back
25 this morning at ten till ten to be prepared to

1 proceed as the Court instructed and of course she
2 was here. I was then informed that the defendant
3 had a doctor's appointment with Doctor Atkinson at
4 9:15. Judge, I don't believe that the Court started
5 addressing this matter until about 10:15, 10:20.
6 But regardless of the time, we -- the defendant was
7 not here. Probably somewhere between 11:30 and 12
8 noon Mr. Harvin, the defendant's attorney, saw me in
9 the hallway and mentioned that he'd spoken to his
10 client and that he would be here this afternoon at
11 2:30, at 2:00, as the Court instructed. Prior to
12 that time, maybe about 15 minutes before, Mr. Harvin
13 started calling the defendant from my understanding
14 and spoke with the defendant's wife or girlfriend
15 Ms. Colvin who is in the courtroom seated behind
16 defense counsel. It's my understanding that from
17 that conversation he was advised by the defendant's
18 wife that he had taken some sort of narcotic
19 medication. If my memory serves me correctly,
20 Percocet; that she could not wake him. And Judge,
21 at that point began to get concerned that some of
22 the talk that my victim had heard around the
23 neighborhood earlier that the defendant would either
24 try to run or try to become sick such to avoid the
25 trial of this case, I began to feel that that was

1 what was happening. It concerned me that he was not
2 here on Monday morning, supposed to be. I found it
3 a little more than coincidental that the night
4 before he's scheduled to be in court regarding this
5 case that he had an emergency room visit. I find it
6 more than coincidental when the Court instructed him
7 to be here today at ten, that he has a doctor's
8 appointment at 9:15 and never shows. I find it more
9 than coincidental the Court instructed him to be
10 here today at 2:00, that now the information we're
11 getting that he's under the influence of narcotic
12 medication and cannot get up. And Judge, I view
13 this as an attempt by the defendant to throw out the
14 trial of this case. Judge, we've got an officer
15 here who worked a 12 hour shift last night and she
16 got off, she's got to work 12 hour shift tonight.
17 And I was on the phone with her past midnight last
18 night and told her I need her to be here at 2:00 so
19 that we can be prepared to pull the jury and do this
20 Jackson versus Denno hearing. I have a witness who
21 has missed parts of school for two days and missed
22 the third day, but he's here. My SLED analyst is
23 getting married this weekend. She's committed
24 herself to come here in Williamsburg County. She
25 needed to testify in the trial of this case. Of

1 course, we have jurors who were summoned to be here,
2 required to be here. It worries me that the
3 defendant -- and again, Judge, I don't have
4 knowledge as to whether he may have taken the
5 medication; but certainly if he got notice that he
6 needed to be here today at 2:00, he voluntarily
7 elected to take a substance that would prevent him
8 from coming up here. That concerns me. So Judge, I
9 had asked the Court to permit us to proceed with a
10 trial in his absence to issue a bench warrant for
11 his arrest. It does not appear that the defendant
12 is going to come up here. And Judge, he certainly
13 has the wherewithal to go to a hospital on Sunday
14 night, and I didn't see the records but my
15 understanding was he went to the hospital in
16 Florence and he has the wherewithal to go to a
17 doctor's appointment this morning, then be back home
18 and he had the wherewithal to get up here for trial
19 of this case. It does not appear that this is some
20 type of emergent situation that he's threatening
21 heart attack or stroke or some serious event. It
22 sounds like to me that there's some gastrointestinal
23 issues perhaps, but certainly not nothing that I
24 would foresee that would causally appearance this
25 Court at the trial of his case.

1 THE COURT: All right, Mr. Harvin.

2 MR. HARVIN: May it please the Court, Your
3 Honor, we provided the Court with several documents.
4 One document is -- and I did not provide to the
5 Court was a document from the Palmetto Primary Care
6 Physician dated October 7th, which shows that Mr.
7 Feagin had been to the doctor at that time. Also we
8 did provide to the Court a document, October 13th,
9 he being referred to a specialist and we provided to
10 the Court emergency room visit information that was
11 from a visit to Carolina Hospital System on
12 October 20th where he was released at 5 a.m. on
13 October -- I guess, that October 22nd I guess. He
14 went in that night, got out that morning. Judge,
15 the only thing that I can point to is that
16 prescriptions he was placed upon at that time was
17 Zylloprim which is for nausea, methazene which is
18 also for nausea, oxycodone which is for pain, the
19 doctor makes a note to mention other than
20 medications that he should continue to take and
21 those include one, about 15 to 20 other medications
22 that he should take on a regular basis continually
23 under medication to continue with no changes portion
24 of the medical records. I am not a doctor and I do
25 not prescribe; but if someone is taking 20 different

1 medications, I can see how one can find themselves
2 incapacitated, attempting, attempting to cure or at
3 least give themselves some relief from whatever
4 ailments that they have. I was not at the doctor's
5 office, but Ms. Colvin, his girlfriend, is in the
6 courtroom if the judge would like to ask her any
7 questions concerning her husband's situation, I mean
8 her boyfriend's situation and what exactly is going
9 on with him. Obviously, Judge, we make a motion
10 pursuant to Rule 7(b) Mr. Feagin is a material
11 witness in this particular case. Without him I
12 don't know if I can build any type of defense as
13 this case is hinged, in our perspective, statements.
14 There is very little evidence to prove one thing or
15 another, and so his participation in this particular
16 trial is of the utmost importance. And not only is
17 he material to what he's material witness to the
18 defense of our case and this is -- there is in no
19 way I believe that we're asking for this matter to
20 be delayed permanently. In fact, we never made a
21 motion for continuance in this case at all other
22 than this week when this information came up to us
23 at 9 a.m. that Ms. Barr -- and I vehemently
24 attempted to update Ms. Barr on a regular basis so
25 that she didn't have so many witnesses take off of

1 their job and so she didn't have so many witnesses
2 coming from work until we resolved this particular
3 issue. And so I am understanding that she did do
4 those things and those individuals are sacrificing,
5 but we would ask the Court to consider our motion to
6 continue this particular case based on upon Rule
7 7(b) of South Carolina Rules of Criminal Procedure
8 at this time.

9 THE COURT: All right, Ms. Barr.

10 MS. BARR: Judge, if Your Honor considers
11 issuing a bench warrant for the defendant's arrest
12 we can make him available to the Defense. I mean,
13 we can just have somebody go pick him up..

14 THE COURT: All right. And we'll have to
15 hear testimony from whomever, may have any bond
16 papers, or records regarding this matter.

17 MS. BARR: Pamela Tanner, she's the
18 bondsman, Judge.

19 THE COURT: Bond papers saying, according
20 to the clerk's office, records regarding notice of
21 trial and right to be present. Get one.

22 MS. BARR: I call Ms. Sharon Richardson.

23 WHEREUPON,

24 **SHARON RICHARDSON,**

25 having been duly sworn by the Court, testified as

SW - S. RICHARDSON - DIRECT

1 follows:

2 **DIRECT EXAMINATION**

3 BY MS. BARR:

4 Q Ma'am, if you would please state your name for
5 the record.

6 A Sharon Richardson.

7 Q And tell the Court where you're employed?

8 A Williamsburg County Clerk of Court.

9 Q All right. And what is your current position?

10 A Deputy clerk.

11 Q All right. And for which court are you involved
12 in and responsible for records?

13 A General sessions.

14 Q How long have you served in this capacity?

15 A Seven years.

16 Q And as deputy clerk for general sessions are you
17 familiar with criminal records regarding defendants?

18 A Yes.

19 Q All right. And specifically in this case do you
20 have custody and control of bond forms, indictment
21 numbers, and arrest warrants for the case of State
22 versus Jim Edward Feagin?

23 A Yes.

24 Q All right. And you have in your hand what's been
25 marked as Court Exhibit Number 1. Would you tell

SW - S. RICHARDSON - DIRECT

1 the Court what that is.

2 A Bail form.

3 Q And it's a bail proceeding form for which
4 individual?

5 A Jim Edward Feagin.

6 Q And what is his arrest warrant number and the
7 charge?

8 A Arrest warrant number is 2013A4510100558 for the
9 charge of criminal sexual conduct third degree.

10 Q All right. And is that the bond paperwork that
11 relates to indictment number 2014-GS-45-16, State
12 versus Jim Edward Feagin, an indictment for criminal
13 sexual conduct in the third degree?

14 A Yes.

15 Q All right. Now, ma'am, when was his bond set in
16 connection with this charge?

17 A His bond -- his release date on here. Bond was
18 set looks like June 29, 2013.

19 Q Okay. And can you tell which magistrate set the
20 bond? Do you recognize the signature?

21 A Brian McKnight.

22 Q Okay. And do you recognize -- does it appear to
23 be the signature of the defendant Jim Feagin?

24 A Yeah. According to his initials it has JEF and
25 on the back signature it has Jim E. Feagin.

SW - S. RICHARDSON - DIRECT

1 Q All right. And was the defendant advised of his
2 right to counsel?

3 A Yes.

4 Q All right. Was he advised of his right to have a
5 jury trial?

6 A Yes.

7 Q All right. And was he informed of when he needed
8 to come to court with regard to his charge to answer
9 it?

10 A Yes.

11 Q Okay. And would you read for us those important
12 rights that he was given with regard to his right to
13 counsel and his right to a jury trial, his right to
14 be present at that jury trial?

15 A Defendant shall appear at the term of general
16 sessions beginning July the 26th, 2013, at 9:00 a.m.
17 at general sessions 125 West Main Street, Kingstree,
18 has a phone number listed, and shall remain
19 throughout that term of court if no disposition is
20 made during that term the defendant shall appear and
21 remain throughout each succeeding term of court
22 until final disposition is made in the case unless
23 otherwise ordered by the Court.

24 Q All right. Was the defendant informed -- and I
25 may have asked you this, I need to make sure the

SW - S. RICHARDSON - DIRECT

1 record is clear. Was the defendant advised of his
2 right to have a jury trial?

3 A Yes.

4 Q All right. Was he advised of what would happen
5 if he failed to attend court?

6 A I understand that I have been informed that I
7 have a right and obligation to be present at trial
8 and should I fail to report to court the trial will
9 proceed in my absence.

10 Q All right. And you've indicated that that
11 particular form that's been marked as Court Exhibit
12 Number 1 does contain his signature?

13 A Yes.

14 Q All right. This particular court exhibit,
15 Ms. Richardson, does it contain the defendant's
16 acknowledgment that he knew and was aware of all
17 these rights and what would happen?

18 A Yes.

19 Q All right. Would you read for the Court the
20 paragraph that's under the acknowledgment by the
21 defendant but right before his signature on the
22 second page of the bond form.

23 A It has been explained to me that if I fail to
24 appear before the Court as required a warrant for my
25 arrest will be issued.

SW - S. RICHARDSON - CROSS

1 Q And when is that signed and dated?

2 A It's signed by him June 29th, 2013.

3 MS. BARR: I'm gonna show this to the
4 Court. Your Honor, those are the questions I have
5 of the witness at this time.

6 THE COURT: Mr. Harvin.

7 MR. HARVIN: May it please the Court, Your
8 Honor.

9 THE COURT: Yes, sir.

10 **CROSS-EXAMINATION**

11 BY MR. HARVIN:

12 Q Good afternoon, Ms. Staggers -- Ms. Richardson,
13 I'm sorry. There are so many Sharons, so many
14 different names. Now you've testified that that is
15 Mr. Jim Feagin's signature, correct?

16 A Yes.

17 Q But you -- have you ever seen Mr. Jim Feagin's
18 signature?

19 A Yes.

20 Q All right, so -- and on this particular date when
21 that document was put together allegedly signed by
22 him, were you at the bond court?

23 A It would have been before a magistrate?

24 Q Magistrate court?

25 A Yes.

SW - S. RICHARDSON - CROSS

1 Q And so you wouldn't have been the clerk that
2 would have been present there?

3 A No.

4 Q Let me ask you this, do you know of his mental
5 condition when he was at bond court?

6 A I do not.

7 Q All right. Do you know if he was on any drugs
8 any alcohol or anything at the time he had a bond
9 hearing?

10 A I do not.

11 Q Okay. Is there anything on that form -- and Your
12 Honor, may I see the form. Is there anything on
13 this form that anybody signs that says that the
14 person can read, write, that the person has is in
15 their sound mind when this form was allegedly
16 signed?

17 A Not that I'm aware of.

18 Q So the best that you know is that you just
19 received this form?

20 A Yes.

21 Q And so everything you testified to is just
22 basically reading off the form, that you weren't
23 present when it was signed, nor were you there to
24 know the condition of the individual who allegedly
25 signed it?

SW - S. RICHARDSON - CROSS

1 A That's correct.

2 Q The best person to tell us about that, would that
3 be Judge McKnight as he's the person who was
4 actually present?

5 A Judge Brian McKnight, Magistrate.

6 Q All right. After this document is provided how
7 do you, to your knowledge, how does -- how would an
8 individual know when to be here in court does the
9 Clerk's office send out some documentation that tell
10 them to be here on a specific date?

11 A We do not. They receive a copy of that from
12 their bond court judge and the clerk there.

13 Q Do you know whether it includes trial dates for a
14 whole year-and-a-half later?

15 A No.

16 Q Okay, so typically when they receive, assuming
17 Mr. Feagin received anything, when he received it,
18 it would not have give him a trial date or a court
19 date for October of 2014?

20 A Not that I'm aware of.

21 Q Okay, and so -- in your records to the best of
22 your knowledge, has he ever had a bench warrant
23 issued against him?

24 A I couldn't answer that without looking through my
25 files.

SW - S. RICHARDSON - REDIRECT

1 Q Okay, I understand. And I guess off the top of
2 your head you wouldn't know whether he appeared at
3 the first initial appearance at that time as well?

4 A I would not.

5 Q Okay. No further questions. Thank you.

6 THE COURT: Ms. Barr.

7 **REDIRECT EXAMINATION**

8 BY MS. BARR:

9 Q Ma'am, where is your court's file?

10 A On my desk, may be the one in gray. That one.

11 Q All right.

12 MS. BARR: Judge, may I approach.

13 THE COURT: Yes.

14 BY MS. BARR:

15 Q Ms. Richardson, just a couple of followup
16 questions; I won't belabor the point. But is there
17 any motion contained in your file regarding any
18 competency issues of the defendant?

19 A No.

20 Q Okay. And based upon your familiarity with court
21 procedure, once a case is placed on the trial list
22 whose responsibility is it to notify the defendant
23 of the trial date?

24 A For the? Usually the defense when the defendant
25 gets a trial date is according to the letter they

SW - S. RICHARDSON - REDIRECT

1 will receive from the magistrate's office and use
2 usual letter defendant signs those forms also tells
3 them when to appear for initial appearance.

4 Q All right. And as relates to the two week term
5 of court that commenced on last week, does the trial
6 list in this case reflect the defendant's name on
7 that list?

8 A It does.

9 Q All right. And who is his counsel of record?

10 A Doward Harvin.

11 Q All right.

12 MS. BARR: Judge, that's all the questions
13 that I have.

14 THE COURT: Anything further, Mr. Harvin?

15 MR. HARVIN: Just one question.

16 **RECROSSEXAMINATION**

17 BY MR. HARVIN:

18 Q Ms. Richardson, do you know how that trial list
19 is disseminated?

20 A I do not.

21 Q You have no idea how it's publicized in any way,
22 shape, or form? Is it publicized through the
23 Clerk's office.

24 A No.

25 Q You have a website?

SW - W. FRAZIER - DIRECT

1 A No.

2 Q Roll call docket?

3 A I usually get a copy from the Solicitor's Office.

4 Q You get a copy from the Solicitor's Office?

5 A Yes.

6 Q All right, thank you.

7 THE COURT: All right, you may step down.

8 Next witness, Ms. Barr?

9 MS. BARR: We call Mr. William Frazier.

10 WHEREUPON,

11 **WILLIAM FRAZIER,**

12 having been duly sworn by the Clerk, testified as
13 follows:

14 **DIRECT EXAMINATION**

15 BY MS. BARR:

16 Q Mr. Frazier, if I can get you to state your name
17 for the record.

18 A William Frazier, Jr.

19 Q All right. And so what's your position here?

20 A I'm a bailiff.

21 Q All right. And at my request did you call the
22 name of the defendant Jim Edward Feagin three times
23 outside the walls of the courthouse?

24 A Yes, ma'am, I did.

25 Q And did you receive a response?

SW - W. FRAZIER - DIRECT

1 A No response.

2 Q That's all the questions I have. Please answer
3 any questions that the Court or defense counsel may
4 have for you.

5 THE COURT: Mr. Harvin.

6 MR. HARVIN: I have no questions for Mr.
7 Frazier.

8 THE COURT: All right, thank you. You may
9 step down.

10 Any additional witnesses, Ms. Barr?

11 MS. BARR: No, Your Honor.

12 THE COURT: Any witnesses, Mr. Harvin?

13 MR. HARVIN: Yes, Your Honor. We would
14 call Ms. Colvin to the stand.

15 THE COURT: Ms. Colvin.

16 THE CLERK: Place your left hand on the
17 Bible, raise your right hand.

18 WHEREUPON,

19 **SUSAN H. COLVIN,**

20 having been duly sworn by the Clerk, testified as
21 follows:

22 THE CLERK: Have a seat in the witness box
23 please.

24 **DIRECT EXAMINATION**

25 BY MR. HARVIN:

DW - S. COLVIN - DIRECT

1 Q Ms. Colvin, for the record can you please state
2 your full name?

3 A Susan Hilton Colvin.

4 Q Could you spell it for the court reporter?

5 A First name is S-U-S-A-N, H-I-L-T-O-N C-O-L-V-I-N.

6 Q All right. And were you with your boyfriend
7 Mr. Feagin this morning?

8 A Yes, sir.

9 Q Do you all live together?

10 A Yes.

11 Q How long have you all lived together?

12 A I've been with Mr. Feagin since February of 2002.

13 Q All right. And this morning when you left him
14 was he incapacitated or was he able understand
15 everything that was going on around him?

16 A He was incapacitated.

17 Q How do you know that?

18 A 'Cause I live with him and he got up this morning
19 he got a cup of coffee, took his medicine, and went
20 right back to bed.

21 Q All right. Do you know how many medications he
22 takes?

23 A Off the top of my head I'd probably say he's got
24 ten scripts that he takes and supposed to take on a
25 daily basis.

DW - S. COLVIN - CROSS

1 Q In past court appearances do you know if he
2 attended court?

3 A Yes, sir.

4 Q All right. Do you know of him ever being
5 arrested on a bench warrant?

6 A No, sir.

7 Q All right, no further questions.

8 THE COURT: Ms. Barr.

9 **CROSS-EXAMINATION**

10 BY MS. BARR:

11 Q Ms. Colvin, the defendant was incarcerated for
12 about a week on this charge?

13 A Yes, ma'am.

14 Q All right. And did you visit him during that
15 time when he was in jail?

16 A No, ma'am.

17 Q All right. There's no question in your mind that
18 the bond paperwork that was signed by Mr. Feagin is
19 Mr. Feagin we're talking about in this case?

20 A Yes, ma'am.

21 Q There's not any question in your mind about that,
22 is there?

23 MR. HARVIN: Objection, she would need to
24 see the paperwork in order to answer said question,
25 and she doesn't have the paperwork in front of her.

DW - S. COLVIN - CROSS

1 THE COURT: Objection overruled.

2 BY MS. BARR:

3 Q Your boyfriend Jim Feagin was released from jail
4 on June 29th of last year?

5 A I'm not sure what date he was released.

6 Q But I guess my point is he's charged with
7 criminal sexual conduct in the third degree. You're
8 aware of that?

9 A Yes, sir.

10 Q He's 'aware of that?

11 A Yes, ma'am.

12 Q And he was released by a magistrate here in
13 Williamsburg County, correct?

14 A Yes, ma'am.

15 Q And it would have been summer of last year,
16 correct? Is that correct?

17 A Yes, ma'am.

18 Q Okay. Now you testified earlier that he got up
19 this morning, he drank a cup of coffee, took his
20 meds and went right back to sleep?

21 A Yes, ma'am.

22 Q What time was that?

23 A You -- he didn't get up till probably I think
24 about 9:00 this morning when he finally woke up.

25 Q About 9 a.m. this morning?

DW - S. COLVIN - CROSS

1 A Yes, ma'am.

2 Q When did he go to the doctor's appointment?

3 A We was waiting on the doctor, the doctor's
4 office, to call him back.

5 Q Okay. So he never had a doctor's appointment
6 that morning?

7 A He got one misinterpreted. I misinterpreted
8 today he got one tomorrow at 2:15.

9 Q 2:15?

10 A Yes, ma'am.

11 Q So he never had a doctor appointment this morning
12 at 9:15?

13 A I called to verify it and they said it was
14 tomorrow at 2:15.

15 Q Okay, all right. I'm sorry?

16 A In the process for waiting on the doctor from
17 Carolina Hospital System to call with a *be put in
18 there to have some tests, additional tests ran on
19 his stomach.

20 Q When did Mr. Harvin talk with you about having
21 him up here this morning at 10:00?

22 A I talked to Mr. Harvin yesterday but I'm not sure
23 of the time.

24 Q And you spoke with him yesterday?

25 A Yes, ma'am.

DW - S. COLVIN - CROSS

1 Q Okay. He told you that you needed to have
2 Mr. Feagin up here for court today, correct?

3 A Yes, ma'am.

4 Q And you of course would have shared that with Mr.
5 Feagin, correct?

6 A Uh-huh.

7 Q Is that a yes?

8 A Yes, ma'am, I'm sorry.

9 Q And despite the fact you would have told him that
10 right after you got off the phone with Mr. Harvin,
11 correct?

12 A I told him that.

13 Q He would have known about it yesterday, correct?

14 A Yes.

15 Q That he needed to be in court today, correct?

16 A Yes, ma'am.

17 Q And when he woke up this morning at 9 a.m. your
18 testimony is that he took medication and went right
19 back to bed, correct?

20 A Yes, ma'am.

21 Q And he would have taken that medication knowing
22 that he had to be up here this morning, correct?

23 A Well, he was waiting on the doctor to call him.

24 Q Okay. He was not concerned about being up here
25 in court ---

DW - S. COLVIN - CROSS

1 A Yeah.

2 Q ---about his case?

3 A He was concerned about that, but the -- that what
4 called him this morning about, about 9:30.

5 Q Why wasn't he up here today at 10 or at 2?

6 A He was up under the medication he was already
7 prescribed, plus the Percocet.

8 Q What kind of medication had he taken that morning
9 he already been prescribed?

10 A It's high blood pressure. It was that on high
11 blood pressure. We thought he was going to have
12 a -- he went to the doctor on the 7th.

13 Q Just tell me what medication that he was taking
14 that morning?

15 A I can't, I don't know the names of them.

16 Q Okay.

17 A Only one I know is the Percocet, the high blood
18 pressure. He's taking medication for, like I say,
19 restless leg syndrome.

20 Q Okay.

21 THE COURT: For what, ma'am?

22 THE WITNESS: Restless leg syndrome.

23 THE COURT: Restless leg syndrome.

24 THE WITNESS: He is taking medicine for
25 the, I guess, his abdomen problems.

DW - S. COLVIN - CROSS

1 THE COURT: What's that word?

2 THE WITNESS: Stomach area.

3 THE COURT: What did you say?

4 THE WITNESS: Abdomen problems.

5 THE COURT: Abdomen problems.

6 THE WITNESS: He got an ulcer I believe he
7 had gotten worse.

8 THE COURT: Ulcer and what?

9 THE WITNESS: They believe the ulcer has
10 gotten worser on him. That's the reason they tried
11 to schedule now and that's what I've been waiting on
12 today for him to call me back.

13 THE COURT: All right.

14 THE WITNESS: To schedule.

15 BY MS. BARR:

16 Q And where is Mr. Feagin now?

17 A When I left him he was in the bed.

18 Q Okay. Did you tell him you were coming?

19 A Yes, ma'am. Now he understood, comprehended.

20 MS. BARR: That's all the questions I
21 have, Judge.

22 THE COURT: Ms. -- what's your last name?

23 THE WITNESS: Colvin.

24 THE COURT: Ms. Colvin. At what address
25 is Mr. Feagin at now?

1 THE WITNESS: [REDACTED]

2 THE COURT: [REDACTED] Where is that
3 located?

4 THE WITNESS: In Williamsburg County.

5 THE COURT: Is that his normal residence?

6 THE WITNESS: Yes, sir.

7 THE COURT: How long has he been living
8 there?

9 THE WITNESS: We moved there, I think,
10 probably two years, going on three years now.

11 THE COURT: Now I heard Mr. Harvin
12 sometime say his wife or sometime his girlfriend.
13 What is your status with Mr. Feagin?

14 THE WITNESS: I'm his -- I've been with
15 him since 2004 -- 2002, sorry.

16 THE COURT: Is he married or not married?

17 THE WITNESS: He's separated.

18 THE COURT: Separated, and he has lived
19 with you since for the past 12 years?

20 THE WITNESS: Yes, sir.

21 THE COURT: Or 10 or 12 years. Now who
22 got him out of jail?

23 THE WITNESS: Ms. Pam Turner.

24 THE COURT: Were you there when he got out
25 of jail?

1 THE WITNESS: I met him up there, yes,
2 sir.

3 THE COURT: How long was he in jail before
4 he posted bond?

5 THE WITNESS: I think a little over a week
6 to my he got arrested that Friday and I don't think
7 he got out. I want to say that following Saturday.

8 THE COURT: Does he know of his trial here
9 today?

10 THE WITNESS: I mentioned it to him. I
11 don't know if he, with him being on Percocet, if --
12 he seemed semiconscious.

13 THE COURT: You mentioned it to him when?

14 THE WITNESS: I told him I know -- I was
15 trying to wake him up before I left to come up here.
16 I told him I was coming to court.

17 THE COURT: Before today did he know about
18 his trial this week -- today is Tuesday -- did he
19 know before your, before the -- you told him this
20 morning about the trial? What time was it you
21 talked with him?

22 THE WITNESS: I talked with him about 9:00
23 this morning.

24 THE COURT: 9:00 this morning, yesterday
25 morning at afternoon, and last night did you discuss

1 with him coming here for his trial at the
2 courthouse?

3 THE WITNESS: No, sir.

4 THE COURT: Did you talk with his lawyer
5 before this morning about his trial here?

6 THE WITNESS: I talked to Mr. Harvin, yes,
7 sir. He explained he wanted ---

8 THE COURT: Well, did you when you talked
9 to Mr. Harvin and explained to him what's going on,
10 did he explain to you that your boyfriend had to be
11 here at his trial?

12 THE WITNESS: Yes, sir.

13 THE COURT: And did you tell your,
14 Mr. Feagin that yesterday, after you talked to
15 Mr. Harvin?

16 THE WITNESS: I told him Mr. Harvin wanted
17 to see you, wanted to see us in court.

18 THE COURT: All right. And was Mr. Feagin
19 there when you were talking to Mr. Harvin?

20 THE WITNESS: He was asleep when I was
21 talking to Mr. Feagin.

22 THE COURT: He was asleep yesterday too?
23 Why was he asleep yesterday?

24 THE WITNESS: For the past three weeks
25 that's all Mr. Feagin has been doing is been

DW - S. COLVIN - CROSS

1 sleeping.

2 THE COURT: Within the past three weeks
3 how many times has he been to a doctor?

4 THE WITNESS: He's went to regular doctor
5 on the 7th. He went to -- I took him to Lake City
6 hospital with mom last week and took him to Carolina
7 Sunday night so he his regular doctor and plus two
8 hospital visits since in the past two weeks.

9 THE COURT: And during every visit of
10 those three times he, two times he's gone, two or
11 three times that he's gone to a hospital he's
12 treated and released every time?

13 THE WITNESS: Yes, sir.

14 THE COURT: Can he walk?

15 THE WITNESS: With complications.

16 THE COURT: Can he talk?

17 THE WITNESS: When he's awake.

18 THE COURT: Does he know this case is
19 going to go on whether he's here or not?

20 THE WITNESS: I'm not sure, I'm -- I don't
21 want to.

22 THE COURT: Does he know the police are
23 gonna go out to Longleaf and pick him up and put him
24 in jail --

25 THE WITNESS: Not to my knowledge.

DW - S. COLVIN - CROSS

1 THE COURT: ---tonight? All right. I
2 have no other questions, Ms. Barr.

3 BY MS. BARR:

4 Q Ma, am, when did you get the subpoena for court?
5 When did you receive your subpoena?

6 A I'm not sure what date, what date it was.

7 Q It was more than a week ago, right?

8 A Yes, ma'am.

9 Q All right. And when you got the subpoena, when
10 you were served with your subpoena Mr. Feagin was
11 home with you?

12 A Yeah. Was he there? You talking actually got in
13 the mail?

14 Q Yes, ma'am.

15 A I believe he had brought up with a friend of his.
16 J.

17 Q But that, certainly that same day you would have
18 told him you got served with a subpoena, correct?

19 A Yes, ma'am.

20 Q In his case, correct?

21 A Uh-huh.

22 Q Right?

23 A Yes, ma'am.

24 Q And in that subpoena it required you to be in
25 court at a certain time, correct?

DW - S. COLVIN - CROSS

1 A Yes, ma'am.

2 Q All right.

3 MS. BARR: And Judge, may I approach the
4 witness?

5 THE COURT: Yes.

6 BY MS. BARR:

7 Q This is the subpoena that you got served with;
8 isn't it?

9 A Yes, ma'am.

10 Q And it tells you this is the State versus Jim
11 Edward Feagin; is that correct?

12 A Yes, ma'am.

13 Q And it's to you, Susan Colvin at [REDACTED]
14 [REDACTED] Cades, South Carolina, correct?

15 A Yes, ma'am.

16 Q And that's the same address you share with the
17 defendant, correct?

18 A Yes, ma'am.

19 Q And it tells you to be in court Monday
20 October 20th, 2014 through Friday, October 24th at
21 9:30 a.m., correct?

22 A Yes, ma'am.

23 Q So it required you to be here the whole week,
24 correct?

25 A Yes.

DW - S. COLVIN - CROSS

1 Q And you would have told him and shown him this
2 subpoena, correct?

3 A I'm not sure if I showed him the subpoena or not,
4 but I ---

5 Q But we can agree ---

6 A Yes.

7 Q ---you certainly told him about it?

8 A Yeah.

9 Q Correct?

10 A Yes, ma'am. Could I be excused for -- I got to
11 use the bathroom real bad.

12 THE COURT: Go ahead. In fact, let's
13 bring the jury out. Let bring the jury out. We're
14 gonna let them go until 10:30 tomorrow morning.

15 (WHEREUPON, the jury was returned to the
16 courtroom at approximately 5:04 p.m., and
17 the following proceedings commenced in
18 open court.)

19 THE COURT: All right, ladies and
20 gentlemen, we'll still dealing with some matters we
21 need to deal with outside of your presence; and
22 rather than hold you any longer, we're gonna let you
23 all go today. We need you back at 11 a.m. tomorrow
24 morning. At 11:00 tomorrow morning. When you come
25 back please come directly into the jury room.

1 Please do not discuss the case with anyone, allow
2 anyone to discuss it in your presence. We'll see
3 you back tomorrow at 11 a.m. Is there anyone who
4 cannot be here tomorrow at 11 a.m.?

5 (There was no response.)

6 THE COURT: All right. We'll see you all
7 at 11 a.m. tomorrow.

8 (WHEREUPON, the jury was removed from the
9 courtroom at 5:05 p.m., and the following
10 proceedings commenced in open court.)

11 THE COURT: All right, ma'am, you can come
12 back.

13 (Witness resumed her seat on the witness stand.)

14 THE COURT: All right.

15 BY MS. BARR:

16 Q Ma'am, just two more questions. Who is Roy
17 Nixon? Who is Roy Nixon?

18 A Friend of ours.

19 Q Okay. He lives near you guys?

20 A I say he stays maybe five miles from us.

21 Q Okay. The defendant was at his house last night?

22 A No, ma'am, he was not.

23 Q You sure?

24 A Yes, ma'am, I'm sure.

25 Q That's all the questions I have.

1 THE COURT: Mr. Harvin.

2 MR. HARVIN: Judge, I did have some
3 questions after you got done.

4 THE COURT: Yes, sir.

5 MR. HARVIN: But once Ms. Barr got her two
6 chances before I got to question the witness I don't
7 have any further questions.

8 THE COURT: You called her as your
9 witness. She examined her and ---

10 MR. HARVIN: And then she stepped down,
11 and you questioned her and then she got back up and
12 questioned her again.

13 THE COURT: And then you have the
14 opportunity to question her as well.

15 MR. HARVIN: I have no questions.

16 THE COURT: All right. The process when
17 the Court asked question, then he gives counsel
18 whoever counsel who was asking questions or other
19 counsel an opportunity to ask additional questions
20 based on the Court's questions. The sequence is
21 judge's discretion.

22 You can step down, ma'am.

23 MR. HARVIN: Your Honor, the Defense has
24 no other witness.

25 THE COURT: Ms. Colvin.

1 THE WITNESS: Yes, sir.

2 THE COURT: Mr. Feagin was in jail and he
3 had a 30,000-dollar bond, and you all paid
4 Mr. Tanner some money to get him out of jail ---

5 THE WITNESS: Yes, sir.

6 THE COURT: ---saying he'd be here when
7 his court case come up?

8 THE WITNESS: Yes, sir.

9 THE COURT: And you all understood that?

10 THE WITNESS: (Shakes her head.) Can I ---
11 can you give me one more chance to have him here in
12 the morning before you pick him up? I will
13 guarantee you he'll be here in the morning.

14 THE COURT: All right. Well, you know,
15 when a person, when they're in jail we don't have
16 any trouble with them.

17 THE WITNESS: Yes, sir.

18 THE COURT: Getting from the jailhouse to
19 right in here 'cause they're in jail.

20 THE WITNESS: Yes, sir.

21 THE COURT: When they're charged with a
22 crime they're put in jail and brought to court
23 unless they post bond. When they post bond they're
24 out of jail on the condition that they're gonna be
25 here when their case comes up. It's not up to them

1 whether or not they come. You know, the Court will
2 go on whether they come or not. And if he has any
3 defense whatsoever or anything to say about this
4 case it would seem as if he would -- not only is he
5 required to be here, it seems as if he'd want to be
6 here, because if the case goes on without him and
7 he's found guilty, then he'd be coming in, the
8 process is that they'll pick him up and bring him
9 here and read his sentence and he would have missed
10 his whole case.

11 THE WITNESS: Yes, sir.

12 THE COURT: Like the fellow that we did a
13 little earlier today. So, you know, many of us take
14 medication. Many of us have five and ten pills we
15 got to take. But you're asking me to not have them
16 to go pick him up when we got -- let's see, we got
17 three in here now, many, many more, with many more
18 police cars that can go get him right now. You've
19 said he's at home asleep, they can just go get him.
20 If you say that you want me to, you know, I
21 rescheduled this already twice from yesterday till
22 this morning to 2:00 today. Now you're asking me to
23 give him one more time to show up. You know, we
24 don't want to go pick him up and put him in the
25 county jail if you can have him here tomorrow.

1 THE WITNESS: Yes, sir.

2 THE COURT: If he's not here he's gonna
3 pick up a new case for not coming, ---

4 THE WITNESS: Yes, sir.

5 THE COURT: ---failure to appear. He
6 is -- a bench warrant could be issued for him to be
7 locked up for not coming. He knows to be here and
8 he'll miss his case. So we're gonna give you -- the
9 jury is coming at 11:00 so we want him here by 10,
10 by 9:30 tomorrow morning. Or 9:30 tomorrow morning
11 we want him here.

12 THE WITNESS: Okay.

13 THE COURT: Give the jury an extra an hour
14 or so to see what else he has to say before the jury
15 comes here or talk with his lawyer or something. So
16 hold off on sending the police till tomorrow.

17 THE WITNESS: I appreciate that, Your
18 Honor.

19 THE COURT: All right. Anything else then
20 about this today?

21 MS. BARR: Judge, we had a Jackson versus
22 Denno issue. I don't know if you want to take it up
23 today or in the morning.

24 THE COURT: All right. We can do it right
25 now I guess if you have whoever you need here.

SW - S. PRESSLEY - DIRECT

1 MS. BARR: We do, Judge.

2 THE COURT: Thank you, ma'am.

3 THE WITNESS: I'm excused or?

4 THE COURT: Yes, ma'am. Well, ---

5 THE WITNESS: Just Mr. Harvin ---

6 THE COURT: Well, you're under a subpoena
7 but -- who subpoenaed her?

8 MS. BARR: Judge, she's free to go. Bring
9 him up here tomorrow 9:30. She needs to be back
10 with him.

11 THE WITNESS: 9:30?

12 MS. BARR: Yes, ma'am.

13 THE COURT: Yes, ma'am, we'll see you
14 then.

15 MS. BARR: The State calls Sergeant
16 Sherill Pressley.

17 THE COURT: I'll swear you in.

18 WHEREUPON,

19 **SHERILL PRESSLEY,**

20 having been duly sworn by the Court, testified as
21 follows:

22 THE COURT: All right, yes, ma'am.

23 THE CLERK: Ma'am, state your full name
24 for the record please.

25 THE WITNESS: Sherill Patricia Pressley.

SW - S. PRESSLEY - DIRECT

DIRECT EXAMINATION

1
2 BY MS. BARR:

3 Q Tell the Court where are you employed.

4 A Say that again?

5 Q Tell the Court where are you employed.

6 A Williamsburg County Sheriff's Office.

7 Q And you're a sheriff's deputy?

8 A Yes, ma'am.

9 Q And you are a certified police officer?

10 A Yes, ma'am.

11 Q All right. And ma'am, you were working back on
12 June 21st, 2013?

13 A Yes, ma'am.

14 Q All right. And on that date did you participate
15 in the investigation of a sexual assault that
16 occurred in the Cades community of Williamsburg
17 County?

18 A Yes, ma'am.

19 Q All right. And the defendant or the suspect in
20 that case was who?

21 A Jim Edward Feagin.

22 Q And who was the victim in this case?

23 A Amanda Graham.

24 Q Okay. And after you questioned Ms. Graham and
25 you questioned one of the witnesses involved, did

SW - S. PRESSLEY - DIRECT

1 you then place the defendant under arrest?

2 A Yes, ma'am.

3 Q All right. Where was he at the time you placed
4 him under arrest?

5 A On Broad Swamp Road a few yards up, [REDACTED]

6 [REDACTED]

7 Q And who lived at [REDACTED]

8 A I want to say one of the witnesses, the witness.

9 Q Okay, all right. And as a part of arresting him
10 and taking him into custody did you advise him of
11 his Miranda warnings?

12 A I did.

13 Q And was it orally or in writing?

14 A Orally.

15 Q All right. And tell me specifically what you
16 would have told him as relating to his Miranda
17 warnings.

18 A That he had a right to remain silent, anything he
19 say can and will be used against him in a court of
20 law. He had a right to an attorney. If he can't
21 afford one one will be appointed. And I asked him
22 if he understood and he said yes.

23 Q All right. Did he appear to be under the
24 influence of any alcohol or drugs?

25 A To my knowledge I don't think so.

SW - S. PRESSLEY - DIRECT

1 Q Okay. And after you advised him of his Miranda
2 warnings did he make a statement to you?

3 A Not that day.

4 Q Okay. Did he deny the sexual assault?

5 A He did.

6 Q Okay. And tell me specifically what he said.

7 A Give me one second. Mr. Feagin denied anything
8 happened between him and Amanda. He stated that
9 Amanda was drunk and that he did not touch her.

10 Q All right. So he initially denied anything
11 happened to Amanda and he said that the victim was
12 drunk and that he did not touch her, correct?

13 A Correct.

14 Q All right. Now a few days later you had another
15 opportunity to talk to the defendant?

16 A Yes.

17 Q What was that date?

18 A That would have been 6/26/2013.

19 Q So that was about five days later?

20 A Yes, ma'am.

21 Q And where was he at the time that you talked to
22 him the second time?

23 A County jail.

24 Q All right. At that time did he appear to be
25 under the influence of drugs or alcohol?

SW - S. PRESSLEY - DIRECT

1 A No, he wasn't.

2 Q And he was in jail because he had not bonded out
3 yet?

4 A Correct.

5 Q All right. And what was the purpose of that
6 second conversation?

7 A In reference to seeing if he would voluntary give
8 a DNA sample for testing.

9 Q Okay, all right. You wanted him to give a sample
10 of his DNA?

11 A Yes.

12 Q All right. And did he agree to do that?

13 A Yes.

14 Q All right. Did he make any other statements to
15 you during that process regarding this incident?

16 A He did.

17 Q What did he say to you regarding this incident?

18 A Mr. Feagin stated that he wanted to tell the
19 truth now. He kept talking. Then he stated that he
20 was lying on the floor and then Ms. Graham straddled
21 him, and he would not get on hard. Mr. Feagin
22 repeated that several times. Officers only asked
23 for DNA sample.

24 Q Okay.

25 A Mr. Feagin volunteered that information.

SW - S. PRESSLEY - DIRECT

1 Q So during the second conversation you had with
2 him he says that the victim essentially came on to
3 him?

4 A Yeah.

5 Q And that he could not get an erection essentially
6 what he said?

7 A Right.

8 Q And at any point in time during that initial
9 conversation with him on June the 21st, that
10 subsequent conversation with him on June 26th, did
11 you threaten him in any way?

12 A No.

13 Q Did you promise him anything to get him to give
14 you a statement on either occasion?

15 A No.

16 Q Was he threatened in any manner?

17 A No.

18 Q Okay. Who all was with you when you initially
19 placed him under arrest on the 21st of June?

20 A Myself and Deputy McCants.

21 Q Who was with you when you had the second
22 conversation with him on the 26th?

23 A Myself and Lieutenant Brown.

24 Q Did either Lieutenant Brown or Deputy McCants
25 threaten the defendant, promise him anything, or

SW - S. PRESSLEY - CROSS

1 coerce him in any manner to get him to make either
2 one of those statements?

3 A No.

4 Q Ma'am, that's all the questions I have. Please
5 answer any questions that the Court or Defense.
6 counsel may have for you.

7 THE COURT: Mr. Harvin, cross-examination.

8 MR. HARVIN: May it please the Court, Your
9 Honor.

10 **CROSS-EXAMINATION**

11 BY MR. HARVIN:

12 Q On June the 26th when you went to talk to him
13 about getting his DNA, did you read him his Miranda
14 rights?

15 A No.

16 Q So when you started talking to him you initiated
17 conversation when you asked him about getting his
18 DNA?

19 A Yes.

20 Q Okay, all right. And he was in the detention
21 center, correct?

22 A Correct.

23 Q All right. How many law enforcement agents
24 working at the detention you think?

25 A I don't know.

SW - S. PRESSLEY - CROSS

1 Q More than two?

2 A More than two.

3 Q Okay. Does anybody in Detention Center have any
4 weapons?

5 A What you mean as far as officers go?

6 Q Yeah, officers. Do they have any weapons?

7 A I don't know.

8 Q When you went there did you have your weapon?

9 A No.

10 Q What about Lieutenant Brown, do you remember
11 whether he was, ---

12 A No.

13 Q ---he had any weapons?

14 A No. We have to lock it in a box before we go in
15 the back.

16 Q So everybody in the detention center is unarmed?

17 A Myself and Lieutenant Brown was unarmed when we
18 walked in the jail.

19 Q But you don't know about the other people that
20 was there?

21 A I don't work in the jail.

22 Q I got you, so you don't know?

23 A No.

24 Q All right. That's all I wanted to know. All
25 right, so when you all questioned him was he free to

SW - S. PRESSLEY - CROSS

1 leave? Could he just walk out of the detention
2 center at the time?

3 A We didn't question him. We just went to ask him
4 if he wanted to give a DNA sample.

5 Q I understand. But when you went to ask him
6 questions was he free to leave?

7 A No.

8 Q Now you all use a particular type of room for
9 this, or is this just done out in the open amongst
10 all the defendants who are at the detention center?

11 A No, sir, we took him in one of the empty rooms.
12 I want to say it was the office that Mr. Brown was
13 using at the time.

14 Q Okay. Lieutenant Brown?

15 A Right.

16 Q Willie Brown?

17 A No, not him. Chief Brown at the Detention
18 Center.

19 Q I got you. Do you know about how big that room
20 was?

21 A About as big as the area of the judge's space.

22 Q Okay. So approximately, you know, a few people
23 fit into that room?

24 A Yes, sir.

25 Q Okay. Now on June 21st stated you arrested

SW - S. PRESSLEY - CROSS

1 Mr. Feagin?

2 A Yes, sir.

3 Q All right. And you said you read him his Miranda
4 rights; and if I'm not mistaken, the solicitor asked
5 you about whether or not he had been smoking or
6 drinking any alcohol or drugs, and your response was
7 not to your knowledge, didn't seem that way. From
8 just your observation, correct?

9 A Right.

10 Q All right. Did you get him to sign anything
11 saying that he understood what his Miranda warnings
12 were?

13 A Not in the side room, no, sir.

14 Q At any point in time did you get him to sign any
15 documents that said that he was literate, he
16 understood exactly what was going on and what was
17 being said to him?

18 A No, sir.

19 Q All right.

20 MR. HARVIN: Your Honor, I have no further
21 questions for Ms. Pressley.

22 THE COURT: Ms. Barr.

23 MS. BARR: Judge, I don't have any
24 redirect.

25 THE COURT: All right, thank you.

1 MS. BARR: Judge, that will be the State's
2 presentation of witnesses on that issue.

3 THE COURT: All right, we'll wait till
4 tomorrow morning to see if the defendant wants to
5 testify concerning anything related to that.

6 MS. BARR: Thank you, Your Honor.

7 THE COURT: So we'll be in recess till ten
8 tomorrow morning.

9 (WHEREUPON, the proceedings were concluded
10 for the day to be reconvened on October
11 21, 2014.)

12 THE COURT: All right.

13 MS. BARR: Judge, Mr. Barr is here
14 regarding the motion to sever, and then I think you
15 asked me and Mr. Harvin to be here this morning
16 regarding the status conference on the Feagin case.

17 THE COURT: All right.

18 MS. BARR: I didn't know whether you want
19 to do that now or do it later.

20 THE COURT: All right. We can deal with
21 Mr. Harvin if he's here.

22 MS. BARR: Your Honor, the next matter
23 before the Court is the matter of State versus Jim
24 Feagin. This is indictment number 2014-GS-45-168.
25 It's a indictment for criminal sexual conduct third

1 degree. Your Honor may recall that on yesterday I
2 notified the Court that we intended to call the case
3 for trial. Mr. Feagin's lawyer, Mr. Doward Harvin,
4 informed Your Honor that Mr. Feagin had gone to the
5 emergency room on Sunday night, and Your Honor
6 required that the defendant be here today at 10:00
7 to give a status, for a status conference, to update
8 the Court to his health and his ability to proceed
9 with trial this week. The victim is present here in
10 the courtroom. Mr. Harvin is here as well.

11 THE COURT: All right, Mr. Harvin.

12 MR. HARVIN: May it please the Court, Your
13 Honor, I got a -- when I called Mr. Feagin's
14 residence to tell him what Your Honor asked of him,
15 his girlfriend/common law wife stated to me that
16 they were supposed to be at the doctor's in
17 Kingstree so they could have a procedure done at
18 9:00. I then informed Ms. Barr of that situation.
19 They were supposed to after -- they were supposed to
20 go to that and then come here. I've tried to make
21 contact with them this morning; I gave voice mail.
22 I'm waiting to hear back from them to see what their
23 ETA is as far as getting here.

24 THE COURT: All right, Ms. Barr.

25 MR. HARVIN: And the doctor they said they

1 were going to is just known by Doctor Atkinson. I
2 don't know what his full name is. Maybe some
3 Kingstree residents know who Doctor Atkinson is. I
4 don't seem treatment in Kingstree too often.

5 MS. BARR: Judge, we wanted to be in the
6 position to select a jury in this case this
7 afternoon at 2:30. We're prepared to go forward.

8 THE COURT: All right.

9 MS. BARR: I just need something to ---

10 THE COURT: All right, we'll revisit the
11 issue at 2:00.

12 MS. BARR: Thank you, sir.

13 (WHEREUPON, court was adjourned and
14 resumed on October 22, 2014.)

15 THE COURT: Mr. Harvin, is your guy here?

16 MR. HARVIN: No, Your Honor. His
17 girlfriend came here about 9:40, Ms. Colvin, and I
18 sent her back to the house with bondsman Pat Tanner
19 to get him and bring him here. And she told me that
20 was about 9:50. It would take them approximately
21 15, 20 minutes to get there, 15, 20 minutes to get
22 back so that's the only update I have for Your
23 Honor.

24 (WHEREUPON, a recess was taken from the
25 proceedings and State Exhibit No. 1 was

1 marked for identification only.)

2 THE COURT: Mr. Harvin, what's the status
3 of Mr. Feagin?

4 MR. HARVIN: Judge, the same as stated
5 earlier. I don't know exactly where he is. The
6 bondsman went out to his residence; he was not
7 there. And so unless he shows up in the next few
8 moments I just assume he's on his way, but I have no
9 way to verify that information.

10 THE COURT: All right. Ms. Colvin, where
11 is Mr. Feagin?

12 MS. COLVIN: Your Honor, I swear, promise
13 you to all, I do not know?

14 THE COURT: You don't know?

15 MS. COLVIN: No, sir, I do not. I wish to
16 God I did.

17 THE COURT: Y'all been living together how
18 many years did you say?

19 MS. COLVIN: Since 2002.

20 THE COURT: 2002.

21 MS. COLVIN: I did not know he was going
22 to do this, Your Honor. I promise.

23 THE COURT: When is the last time that he
24 came up missing from the bedroom at night?

25 MS. COLVIN: Excuse me?

1 THE COURT: Y'all spent the night
2 together? You live together; is that right?

3 MS. COLVIN: Yes, sir.

4 THE COURT: When is the last time he's
5 been missing?

6 MS. COLVIN: I don't understand your
7 question.

8 THE COURT: Has he ever been missing in
9 like not coming home, not ---

10 MS. COLVIN: No, sir.

11 THE COURT: You all, you spent all these
12 nights with him? Did you spend last night with him?

13 MS. COLVIN: Yes, sir.

14 THE COURT: When is the last time you saw
15 him?

16 MS. COLVIN: When I left this morning to
17 come up here.

18 THE COURT: You said you were going to
19 bring him with you.

20 MS. COLVIN: Yes, sir.

21 THE COURT: What'd he say?

22 MS. COLVIN: He said he wasn't able to
23 show up or he wasn't able to come.

24 THE COURT: He wasn't able to come. He
25 said he wasn't able to come up here and so it where

1 did he go?

2

3 MS. COLVIN: If I recall I don't know,
4 Your Honor, I promise you I don't know, I don't
5 know.

6 THE COURT: I mean, is he on the run?
7 He's police when there or bondsman and he wasn't
8 home was he is he classified as being on the run,
9 what being on the run, fugitive, fugitive from
10 justice?

11 (There was no response.)

12 MS. COLVIN: I don't understand what
13 you're asking.

14 THE COURT: Is he fugitive from justice?
15 You think he left the state?

16 MS. COLVIN: I ---

17 THE COURT: Going to North Carolina, go to
18 ---

19 MS. COLVIN: No, sir, I don't know, Your
20 Honor. I promise, I promise you I don't know.

21 THE COURT: Is he driving?

22 MS. COLVIN: No, sir.

23 THE COURT: Walking? I'm assuming he left
24 walking.

25 MS. COLVIN: I'm not, I can't tell you, I

1 wasn't there. When I left I don't know, I wasn't
2 there.

3 THE COURT: You know, before I left
4 home -- that was yesterday. They were looking for
5 this fella up in the Poconos, mountains in
6 Pennsylvania, and you know, they shut down the
7 schools, two schools. They'd been trying to catch
8 him for some weeks. Now they said he's a
9 survivalist, lives out in, you know, in the
10 mountains and it kept getting colder up there. They
11 think he's gonna have to find shelter so they closed
12 the schools. So they'd have a thousand people
13 looking for him every day. He's accused of shooting
14 a, killing one and seriously injuring another one.

15 MS. COLVIN: Only thing I can do is go
16 back to my house and look, pray to find him, I don't
17 know.

18 THE COURT: How big house is it?

19 MS. COLVIN: Three bedroom trailer.

20 THE COURT: Trailer.

21 MS. COLVIN: Your Honor, I promise you I
22 didn't know he was going to do this. I didn't know.

23 THE COURT: All right. Glad you came.
24 You're under subpoena so you're here when you're
25 supposed to be. All right, thank you, ma'am. You

1 may be seated. All right.

2 Well, I find that he knows about the
3 hearing and warned that the trial would proceed
4 without him and gave him the courtesy of giving him
5 the opportunity to show based on Ms. Colvin's
6 representation yesterday that she get him here bring
7 him with her but he's avoiding police and refusing
8 to come with her or come himself so the trial will
9 proceed in his absence. With regard to the hearing
10 we were conducting yesterday and we heard the
11 State's witness and adjourned to give the Defense an
12 opportunity to present witnesses, you presented Ms.
13 Colvin didn't know whether you might have Mr. Feagin
14 to testify or anyone else so do you have any other
15 witnesses to present, Mr. Harvin?

16 MR. HARVIN: May it please the Court, Your
17 Honor, are you referring to TIA hearing or Jackson
18 v. Denno hearing?

19 THE COURT: Oh, well, we had TIA, I think
20 I already ruled on that yesterday and then the
21 Jackson Denno is what I'm referring to.

22 MS. BARR: No, Your Honor, I have no
23 witnesses for that hearing.

24 THE COURT: All right. I ruled on
25 yesterday and re-ruled this morning, that Jackson

1 Denno I think we left open, for defense to have any
2 witnesses so I'll hear any argument regarding
3 Jackson versus Denno. The burden is on the -- well,
4 I think the Defense goes first in the Jackson versus
5 Denno hearing in order to, sort of a motion to
6 suppress.

7 MR. HARVIN: May it please the Court, Your
8 Honor, as it relates to the voluntariness of my
9 client's statement after he was detained by police
10 officers, it would be our position that June 26th
11 when Mr. Feagin was in custody at the Williamsburg
12 County Detention Center he was not free to leave;
13 that the question posed to him concerning DNA being
14 provided elicited other information from Mr. Feagin.
15 We believe the law is clear, at least to the fact
16 that since he was in custody and his Miranda was not
17 read to him at that time, the statement should be
18 excluded. The police officer did testify that on
19 June 21st she read him his Miranda rights as he was
20 being taken into custody. There's no evidence that
21 was presented that any questions were asked about
22 his ability to understand what was going on. I
23 think the solicitor may have even asked -- if I
24 stand corrected I'm sure she will correct me -- but
25 I believe the solicitor even asked a question did

1 you believe he was on any type of medication or
2 anything of that nature. And she just said that she
3 didn't think so but there wasn't anything done, no
4 questions asked regarding what did she do to make
5 sure that may not have been the case. We don't
6 think there were any threats or promises of
7 leniency; but based upon the fact that he was what
8 we feel at least interrogated to some point or at
9 least questions were asked to elicit information on
10 a case that Miranda should have been read before
11 those questions were asked five days later while he
12 was in custody at the Williamsburg County
13 Sheriff's -- well, Williamsburg County Detention
14 Center.

15 Obviously, Your Honor, the voluntariness
16 requirement is based on the Fifth Amendment and also
17 under due process clause primarily we're arguing
18 that based upon his position at that time in
19 totality of the circumstances as were testified by
20 the police officer that the element of voluntariness
21 was not present and we would ask Your Honor to
22 exclude the June 26 statement that was made to law
23 enforcement.

24 THE COURT: And what statement was that?
25 What did he say?

1 MR. HARVIN: It was a statement in which
2 he mentioned he wanted to tell the truth after they
3 asked him about giving them DNA, and then the
4 statement following that was that Ms. Graham
5 straddle him, that they did not have sex because he
6 was unable to have an erection at that time. And
7 that's the entirety of the statement as I know it.

8 THE COURT: So is that exculpatory
9 statement or inculpatory statement to a CSC charge?

10 MR. HARVIN: Well, Judge, I've actually
11 struggled with this overnight as to whether or not I
12 want it to come in. Ideally, if my client were here
13 I would not want that statement to come in because
14 it shows that he gave inconsistent statements to the
15 police which then makes him look like he obviously
16 is a liar 'cause that's typically what is assumed;
17 but him not being here, it's a different situation.
18 So I would have to say at this time assuming he's
19 gonna show-up between now and the time this trial
20 ends, that it will be a statement that works against
21 his best interest. But if, honestly, Judge, if at
22 the time the State rests he's not here then, that
23 actually changes a little.

24 THE COURT: Changes in what sense? Either
25 you want the statement in or you don't want it.

1 MR. HARVIN: I want it in if he's not
2 going to be here. It's the only statement I'm gonna
3 have.

4 THE COURT: As of this moment time you
5 want me to do what?

6 MR. HARVIN: Exclude that statement.

7 THE COURT: All right. Ms. Barr.

8 MS. BARR: Your Honor, as to both
9 statements, the June 21st, 2000 [sic] statement, we
10 would submit that the defendant was properly
11 Mirandized during the course of that statement. All
12 rights were given and testimony before the court was
13 that there was no reason to believe defendant did
14 not understand those rights. Judge, the initial
15 statement that the defendant gave after receiving
16 his Miranda warnings was that nothing happened, that
17 the victim in the case was drunk and he did not
18 touch her. Judge, obviously, the admission that by
19 the defendant that the victim was drunk after being
20 accused of criminal sexual conduct is admission
21 against his interest, and we certainly submit to the
22 Court that although he was in custody at the time he
23 had been properly Mirandized, and we would further
24 submit that that statement was freely and
25 voluntarily given. The second statement on the

1 26th, some five days later, was while officers were
2 attempting to get a DNA sample from the defendant.
3 Judge, I think most of the case law holds that DNA
4 sample or bodily fluids and the process by which
5 they collect bodily fluids, that that's not
6 testimony or evidence; that's non-testimonial
7 evidence. So when the defendant starts to volunteer
8 and talks about the case and he's not being
9 interrogated, then we would submit that's a
10 voluntary statement on the defendant's behalf. And
11 Judge, even if the Court were to determine that
12 Miranda was required or that the statements, in
13 fact, were in response to a custodial interrogation,
14 we would argue that the defendant had already
15 received his Miranda warnings five days earlier. We
16 don't believe that the officer was required to
17 re-Mirandize him, if Your Honor please, by simply
18 saying we needed, we need to get a buccal swab from
19 you. We believe that the buccal swab in the DNA
20 sample was non-testimony evidence such that Miranda
21 warnings are not required to be re-read and also
22 that the defendant volunteered, he initiated the
23 contact with the police in terms of talking about
24 what happened so.

25 And certainly, Judge, if the jury were to

1 believe that the defendant's statement that the
2 victim, in fact, had straddled him and it doesn't
3 even say anything in the statement about him being
4 unwilling participant and certainly that would be a
5 statement that will exculpate him, rather than
6 incriminate him, and so we believe that it's
7 properly admissible for the jury to give any
8 consideration, any weight to that statement or to
9 those statements that they deem fit.

10 THE COURT: All right. What you say about
11 that, Mr. Harvin?

12 MR. HARVIN: Your Honor, we disagree that
13 this was just a statement and he just gave the
14 police, and he initiated interaction. The testimony
15 was the police went to the jail, removed him and
16 placed him in a room as small as the area that Your
17 Honor sits and then asked him was he willing to give
18 a buccal swab concerning this particular matter.
19 That question in itself in the way that it was done
20 and where he was taken with two officers being
21 present and the fact that he could not leave, makes
22 it an interrogation had begun. We do not believe
23 and we do not ascribe to the fact that a Miranda
24 warning given five days later that interrogation
25 begins and ends carries forever like the State would

1 surmise.

2 THE COURT: How long did it last?

3 MR. HARVIN: I think it ends when that
4 statement ends. That would be our position. And in
5 most cases that I have had most police officers give
6 Miranda every time they talk to an individual, and
7 we even have recorded statements where we have them
8 actually write down that they understand what's
9 going on as a appropriate measures to make sure that
10 there's no coerciveness or anything going on that's
11 not known by the court or our judicial process. In
12 this case everything was oral. Nothing was done to
13 make sure that Mr. Feagin's rights were being
14 understood by him. You know, Judge, it could be
15 possible and I don't know that Mr. Feagin
16 educational level doesn't rise to a level where he
17 understood anything that the officer stated to him
18 and may have needed more of an explanation as
19 relates to the June 21st Mirandizing but nonetheless
20 we don't think that carries over to June 26 once
21 they start asking for DNA samples related to this
22 particular case. Once that door has been open they
23 started asking questions about the case,
24 interrogation begins, and any statements made after
25 that we feel like should be excluded.

1 THE COURT: All right. How about that,
2 Ms. Barr?

3 MS. BARR: Judge, this is akin to a
4 situation where a defendant is under arrest for DUI
5 and as part of the process for gathering evidence
6 and an officer may ask a defendant to blow into the
7 machine to get a reading as to what his blood
8 alcohol concentration; and if he starts by asking
9 him preliminary statements such as what's your name,
10 let me see your driver's license number, what's your
11 address and that sort of thing, is part of the
12 booking process, and the defendant volunteers that
13 he was at a club and had five drinks, then as long
14 as the information that is delivered by the
15 defendant is not in response to a police
16 interrogation designed to elicit testimonial
17 evidence, then we would submit that it doesn't
18 invoke Miranda. And clearly, Judge, this is a
19 situation that the officer was attempting to obtain
20 non-testimonial evidence, i.e., the buccal swab, and
21 the defendant on his own initiative said I want to
22 come clean, I want to tell what happened. And
23 Judge, there was no questions asked of him; he just
24 started talking. And I guess if you're sitting in
25 the county jail for five days and you're charged

1 with raping somebody and you perhaps are exposed to
2 some jailhouse lawyers who said that consent is a
3 defense to rape, then you may get in a mood where
4 you want to do a whole lot of talking and I suspect
5 that's how what happened in this case. But Judge,
6 the police didn't ask him any questions and there's
7 no question that he was in custody; we concede that
8 point. But you have to have custody, plus
9 interrogation and the Defense does not have the
10 second prong that would require the police
11 re-mirandize the defendant. And so we would
12 respectfully ask that the Court find that both
13 statements made by the defendant were given freely
14 and voluntarily.

15 THE COURT: All right. I find that the
16 initial interrogation was made pursuant to Miranda
17 and that that initial voluntary statement continued
18 until or unless the defendant invoked his right to
19 remain silent, which he did not, that the subsequent
20 statements were not pursuant to an, to a custodial
21 interrogation, but were voluntary statements made by
22 the defendant not pursuant to a custodial
23 interrogation. Miranda does not apply to
24 discussions with the defendant during routine
25 booking or administrative proceedings such as taking

1 of a DNA sample; that defendant did not invoke his
2 right to remain silent, and any statements he made
3 were voluntary statements by him. The State has met
4 its burden of proof by a preponderance of the
5 evidence as to the voluntariness of the, any
6 statements made by this defendant. What else you
7 got?

8 MS. BARR: Judge, that would be all.
9 We're ready to proceed.

10 THE COURT: We have the jury yet? All
11 right, we'll take a few minutes and then we'll press
12 on with the jury.

13 (WHEREUPON, a recess was taken from the
14 proceedings.)

15 THE COURT: Anything before we bring them
16 in?

17 MS. BARR: Not on behalf of the State,
18 Your Honor.

19 THE COURT: All right, so the agreement to
20 sequester witnesses number one. And we're gonna ask
21 the juror -- where's Mr. Floyd?

22 MR. HARVIN: He actually went over to the
23 department of probation to handle that matter. I
24 didn't tell him to come back.

25 THE COURT: It would have been easier for

1 me to ask the jurors if they know him if he were
2 sitting there, but I'll ask them and when he comes
3 I'll ask again.

4 MR. HARVIN: Yes, Your Honor.

5 THE COURT: All right. So we can bring
6 the jury. What'd y'all do with Ms. Colvin?

7 MR. HARVIN: She was the State's witness.

8 THE COURT: Oh, she's sequestered. Are
9 you going to waive her right to be sequestered, Mr.
10 Harvin? You want her in or out?

11 MS. BARR: Ms. Colvin, we want her out.

12 THE COURT: You want her out?

13 MS. BARR: Yes, sir.

14 THE COURT: All right.

15 (WHEREUPON, the jury was returned to the
16 courtroom and the following proceedings commenced in
17 open court.)

18 THE COURT: Good morning, welcome back.
19 If you all will stand to be sworn.

20 THE CLERK: Please raise your right hands.

21 (WHEREUPON, the jury was sworn.)

22 THE CLERK: Please respond by saying I do.

23 (Jurors responded.)

24 THE COURT: Ladies and gentlemen, you just
25 took an oath to well and duly try this case and

1 render a true verdict according to the law and
2 according to the evidence so help you God. If you
3 fulfill that oath, then you will have done your job
4 as jurors and no one will have the right to complain
5 about your verdict in the end, whatever that verdict
6 might be. Now this is the case of the State versus
7 Jim Edward Feagin. He was indicted by the grand
8 jury and charged with criminal sexual conduct in the
9 third degree involving an alleged sexual battery
10 with Amanda Graham. He has pled not guilty to this
11 charge, and he's presumed to be not guilty of the
12 charge. He cannot be found guilty unless the State
13 proves his guilt to each and every juror beyond a
14 reasonable doubt, and that's the purpose of a trial
15 to determine whether the State can meet that burden
16 of proof.

17 You may notice that Mr. Feagin is not
18 here. The fact that he's not here cannot be
19 considered in any way in your determination of
20 whether the State proves his guilt beyond a
21 reasonable doubt. And your role as jurors will be
22 to find the facts of this case and to determine
23 whether the defendant is guilty or not guilty based
24 on the evidence presented during the trial. The
25 evidence consists primarily of two things. The

1 first thing is the testimony of witnesses who take
2 the stand and testify, and secondly, of any exhibits
3 that may be introduced during the course of the
4 trial.

5 Now just as only you can determine the
6 facts of the case and that's your role to determine
7 the facts of this case, as the presiding judge I am
8 the sole judge of the law of this case. You must
9 accept as correct the law as I state it to you at
10 this time during the trial and in greater detail at
11 the end of the trial. I look forward with working,
12 look forward to working with you on this case and
13 we'll get going in just a moment with the testimony.

14 Later in the process I will appoint one of
15 you to serve as the foreperson of the jury. That
16 person will have the responsibility of presiding
17 over the jury deliberations and completing the
18 verdict form representing the unanimous verdict of
19 the jury. Now one additional person may testify in
20 this case. Give me Mr. Floyd's full name again.

21 MR. HARVIN: Your Honor, his name is
22 Johnathan Floyd.

23 THE COURT: Johnathan Carson Floyd, and he
24 is a farmer from over toward Olanta, farmer and
25 other things from Olanta, Turbeville, east Clarendon

1 area. Do any of you know him? He's not here at the
2 moment. I think he will be coming back over here at
3 some point, and I will point him out again. At this
4 moment if you think you know Johnathan Carson Floyd
5 from over that way, Turbeville, Olanta, Williamsburg
6 County area, that area, raise your right hand if you
7 think you him. Ms. Burrows, you know him? He's
8 about 28 years old.

9 JUROR BURROWS: Yes, sir.

10 THE COURT: Now the fact that he how —
11 well do you know him?

12 JUROR BURROWS: Family member. We went to
13 school together.

14 THE COURT: Okay. Are you related to him?

15 JUROR BURROWS: He's not in my family.

16 THE COURT: Do you think the fact that he
17 might be a witness in this case, would that fact
18 affect your ability to be a fair and impartial
19 juror?

20 JUROR BURROWS: Probably not.

21 THE COURT: All right. Anything else the
22 State or Defense would like for me to ask
23 Ms. Burrows in connection with Mr. Floyd as a
24 potential witness?

25 MS. BARR: Nothing from the State, Your

1 Honor.

2 MR. HARVIN: Nothing from the Defense,
3 Your Honor.

4 THE COURT: All right, thank you very
5 much. All right, we'll press on now with opening
6 statements.

7 Ms. Barr.

8 MS. BARR: Thank you, Your Honor, may it
9 please the Court, Mr. Harvin, ladies and gentlemen,
10 good morning. I want to thank you all for being
11 here this week, and some of you all will probably
12 need to think twice. I'm gonna try not to keep you
13 here too long today, but I did want to take this
14 opportunity to explain what brought you into court
15 this week. We recognize that most of you are
16 employed, have families and jobs that you need to
17 get back to and probably the last thing you imagined
18 yourself doing this week was sitting in court for
19 jury duty. I agree with the judge and I agree with
20 counsel with the notion that jury duty really is, it
21 really is one of the highest calling that you have
22 because our criminal justice system would not work
23 without good folks who are willing to come from the
24 community, willing to listen to cases, and willing
25 to do justice. We really couldn't do this without

1 you guys. We just want to thank you all for that.

2 Why are you all here today? You're here
3 because the defendant Jim Edward Feagin is accused
4 of criminal sexual conduct in the third degree.
5 What does that mean? It's a fancy legal way of
6 saying rape. We called it rape way back in the day.
7 Now we've got -- we call it criminal sexual conduct.
8 And the law in which the defendant is accused of
9 violating says that a person commits criminal sexual
10 conduct in the third degree that person engages in
11 sexual battery with the victim and a couple of
12 different things are present. Either the victim is
13 mentally incapacitated or the victim is physically
14 helpless. Now what does that mean? Under the law a
15 victim is mentally incapacitated if the victim is
16 rendered temporarily incapable of appraising or
17 controlling his or her conduct whether this
18 condition is produced by illness or a defect or the
19 victim is under the influence of some substance.

20 Now in order for the defendant to be
21 guilty of criminal sexual conduct third degree you
22 have to show that the victim is either mentally
23 incapacitated or you add on to that physically
24 hapless. The statute also defines what that means.
25 Physically helpless means that the person is

1 unconscious or asleep or for any other reason
2 physically unable to communicate the willingness to
3 act. You will hear evidence in this case that the
4 victim, Ms. Amanda Graham, had known the defendant.
5 He had been a friend of her family's for a long
6 time; that she and a friend of hers had gone over to
7 his house as they had done on many occasions. They
8 were hanging out, having a good time swimming, and
9 drinking. And as I suspect that happens in a lot of
10 cases when people are hanging out with friends and
11 they're indulging in alcohol sometimes people drink
12 too much and that's what happened in this case. Ms.
13 Graham had too much to drink and the evidence is
14 gonna show that as a result of having too much to
15 drink she passed out, went to sleep. During the
16 time that she was passed out the evidence is gonna
17 show that the defendant engaged in sex with her.
18 And when she awoke the next morning did not have a
19 very clear memory of what happened to her, but the
20 evidence is gonna show that when she awoke the next
21 morning she had no underwear on and no pants on.
22 And you all will hear that the sexual assault
23 occurred in the home of the defendant. You'll also
24 hear which is very, very rare in cases like this,
25 from an eyewitness who was actually there who saw.

1 everything and who told the police what happened.
2 And folks, we'll obviously call the police officer.
3 We're gonna call the nurse who saw Ms. Graham at the
4 emergency room later that day, but that will
5 essentially be the State's case so we don't plan to
6 be here all week. But I do want you all to consider
7 that even though the case may not take a very long
8 time to present, that is nonetheless a very
9 important case for Amanda Graham and it's a very
10 important case for Jim Feagin. And so we're gonna
11 ask you not just to be here but to pay close
12 attention to the witnesses as they testify and pay
13 close attention to other evidence in the case
14 because once it's concluded and you heard everything
15 that you're gonna hear, you will be called upon to
16 do your job in this case and that's to deliberate
17 and render a verdict. And folks, to do that we need
18 not just for you to be here, we need you to listen
19 and pay close attention to everything because at the
20 conclusion of this case, again, once you heard
21 everything I'll get an opportunity to come back to
22 you and talk with you before you begin your
23 deliberations and at that time I'm gonna be asking
24 each and every one of you to find the defendant
25 guilty. Thank you all again for your time and most

1 importantly for your attention.

2 THE COURT: Mr. Harvin.

3 MR. HARVIN: May it please the Court, Your
4 Honor, Ms. Barr, Madam Clerk. Good morning,
5 everybody. Again, my name is Doward Harvin and I'm
6 representing Mr. Jim Feagin in these allegations
7 that have been made by the State, and you all would
8 have noticed when y'all came up to be chosen for
9 this illustrious jury I spent a lot of time looking
10 over your information to select the very people that
11 sit in this jury box. Now while it was taking me a
12 little while, only one thing I was really looking
13 for and that's whether you had served on a jury in
14 the past 'cause I was doing my best not to have
15 individuals serve twice or three times as some of
16 you have already done. But I only had ten strikes
17 so I couldn't keep all of you from serving more than
18 once; but more than anything I want to thank you all
19 for making yourselves available. Over two hundred
20 people were asked to come here. We saw how many
21 people actually showed up, then you all were chosen.
22 And I believe we have the right twelve people and
23 two alternates for this particular case, and I thank
24 you for that.

25 Now Mr. Jim Feagin is not present and he

1 doesn't have to be. At this present point in time
2 he's an innocent man, and the charges or indictment
3 that was read are just allegations, accusations.
4 They're not proven facts. So we came here today to
5 allow you all to decide what is actual fact beyond a
6 reasonable doubt. Now you've been placed in a very
7 difficult place that for thousands of years people
8 have been placed to stand between the government and
9 a citizen, and to get between whatever interaction
10 that they're having make a decision about something
11 that you would not have witnessed, something you
12 would have no knowledge of whatsoever that would
13 have happened a year-and-a-half ago almost, and try
14 to determine whether what you hear today validates
15 and proves what the State claims happened a
16 year-and-a-half ago. That's not an easy thing.
17 That's actually pretty difficult to listen to
18 stories and try to put together what actually
19 happened. So you will hear accusations, you will
20 hear allegations, and you'll have to prove what
21 actually happened beyond a reasonable doubt.

22 Now the State talks about -- and as they
23 should -- what they're going to show, what they're
24 going to prove; but just as in many cases, the State
25 doesn't tell you all what they're not going to show.

1 That's where my role comes in. What they're not
2 going to show is any actual proof that any sexual
3 battery took place. They're not gonna have anybody
4 to take the stand that's gonna give scientific
5 information that a sexual battery took place. And
6 when we talk about sexual battery you're talking
7 about trauma to certain areas of the body. That's
8 what we're talking about. And so no one is going to
9 get up there and give you that information. Now
10 while we also don't have anybody that's gonna show
11 you or talk to you about semen being present or
12 anything from a condom being present. The State is
13 going to also present someone to say basically she
14 took a shower before the rape analysis was done, and
15 we concur with that possibly happening. But the
16 things that you have to look at beyond a reasonable
17 doubt allegations and accusations is actual things
18 that corroborate those accusations and allegations
19 because really that's all we have, that's all we
20 have. You all have lived substantial lives of your
21 own and you all have your experiences and you all
22 have things that have happened in your life, and
23 we're asking you to use all of those experiences, to
24 use all of the logic and education you gained over
25 your lifetime to break down what's being said and

SW - T. WARD - DIRECT

1 what's being presented and to not look at it as
2 accusations and allegations but to actually try to
3 figure out what actually happened.

4 Now Mr. Feagin being innocent, he has a
5 story and you'll hear his story at some point. And
6 once you hear that story, you'll have, again, the
7 opportunity to decide what part of it you believe
8 and what parts you do not believe. I thank you all
9 so very much for making this sacrifice from work,
10 from your family, and making yourselves available.
11 As I stated, two hundred people were mailed, two
12 hundred people were asked to be here, and you all
13 made yourselves available. And so I thank you for
14 that, and I look forward to presenting information
15 so you all can make a decision in the future. Thank
16 you.

17 THE COURT: First witness.

18 MS. BARR: The State calls Teresa Ward.

19 THE CLERK: Place your left hand on the
20 Bible, raise your right hand.

21 WHEREUPON,

22 **TERESA WARD,**

23 having been duly sworn by the Clerk, testified as
24 follows:

25 THE CLERK: Step around to the witness

SW - T. WARD - DIRECT

1 box.

2 **DIRECT EXAMINATION**

3 BY MS. BARR:

4 Q All right. Ms. Ward, I'm gonna let you state
5 your full name for me.

6 A Teresa Canteley Ward.

7 Q And Ms. Ward, where do you work?

8 A Williamsburg Regional Hospital.

9 Q And how long have you worked at the hospital
10 here?

11 A Since 1986.

12 Q And if you would, give us a little information
13 about your background in terms of what you do.

14 A I am a registered nurse. I've been working the
15 emergency department since 2003.

16 Q And where did you get your nursing degree from?

17 A University of South Carolina.

18 Q All right. Have you ever testified in court?

19 A No, I have not.

20 Q Okay, it's the first time. Give the jurors an
21 idea of what it is you do day-to-day as a nurse for
22 the hospital.

23 A I'm involved in the direct patient care in the
24 emergency department, sometimes triage patients to
25 see what their level of care is, what their needs

SW - T. WARD - DIRECT

1 are, and then providing that care to those patients.

2 Q Okay, all right. And take me on a path, if you
3 will, of your education in terms of your degrees,
4 where you went to college, where you got your, in
5 terms of the years you went to college and when you
6 first earned your RN license.

7 A I finished high school in 1980. I went to
8 nursing school in 1982 and finished in 1986 with a
9 bachelor degree in science and nursing.

10 Q Okay. And what types of injuries do you assess
11 or do you triage and kind of help us because all of
12 us aren't in the medical field. Tell me what you
13 mean by triage.

14 A In triage we do vital signs to determine the
15 hemodynamics of a patient. We also assess what
16 injuries may be present, if there are any present at
17 all.

18 Q Okay, all right. And what types of patients have
19 you had occasion to treat in your career?

20 A Anything that you can imagine.

21 Q From a runny nose to a gunshot wound I imagine?

22 A That's exactly right.

23 MS. BARR: Your Honor, at this time we
24 would tender Ms. Ward as an expert in the field of
25 nursing.

SW - T. WARD - DIRECT

1 THE COURT: Any voir dire or any
2 objection?

3 MR. HARVIN: Judge, we would like the
4 opportunity to ask a question.

5 THE COURT: Sure.

6 **VOIR DIRE EXAMINATION**

7 BY MR. HARVIN:

8 Q Ms. Ward it is?

9 A Uh-huh.

10 Q All right. You never testified in any manner in
11 court whatsoever? You've never been asked to be
12 expert in any other?

13 A Not that I can recall, sir.

14 Q Okay. Nursing, is that a pretty broad field?

15 A It can be.

16 Q All right. The triage area, you mentioned that
17 you do a lot of different things regarding checking
18 vital signs. Is there anything specific that you
19 do?

20 A I not only work in the triage area, I'm also
21 involved in direct patient care in the emergency
22 room. But in triage I'll assess vital signs, take
23 medical history, chief complaint.

24 Q Okay. So can you define nursing for me?

25 A No, I can't.

SW - T. WARD - DIRECT

1 Q Too broad of a term?

2 A That's exactly right.

3 Q So you're more of an expert in checking people's
4 vital signs to see what type of injuries they have?

5 A No, sir, I also provide direct patient care.

6 Q Explain what direct patient care is please.

7 A I start IVs, I put in NG tubes, I put in Foley
8 catheters, I provide wound care, administer
9 medications.

10 Q All right.

11 MR. HARVIN: No further questions, Your
12 Honor. We would base our objection on the broad
13 nature of the requests by the State to have her as
14 an expert in nursing.

15 THE COURT: Ms. Barr.

16 MS. BARR: And Judge, we would qualify
17 that by simply tendering her as an expert in the
18 field specifically of emergency nursing.

19 THE COURT: All right. She is offered as
20 an expert in the field of emergency nursing care.

21 What says the Defense?

22 MR. HARVIN: And Judge, not to belabor, I
23 don't know if she — can I ask her one question
24 about nursing.

25 THE COURT: Sure. As many as you'd like

SW - T. WARD - DIRECT

1 to ask her.

2 BY MR. HARVIN:

3 Q Ms. Ward, what is emergency nursing care?

4 A Stabilizing patients in the emergency department.

5 Q And that encompasses what you just mentioned?

6 A Uh-huh.

7 Q All right, no further questions.

8 MR. HARVIN: No objection to her being
9 classified as an expert in emergency nursing care.

10 THE COURT: All right. Ladies and
11 gentlemen, ordinarily witnesses cannot offer
12 opinions. Ordinarily lay witnesses cannot offer
13 opinions on matters, but ordinarily witnesses can
14 testify to things that are rationally based on what
15 they see, hear, or know to be facts. There's a
16 different rule that applies to expert witnesses.
17 And in instances where some scientific, technical,
18 or specialized knowledge will assist the jury to
19 understand the evidence or to determine some fact
20 and issue, a witness with some expert knowledge,
21 skill, training, or experience may testify thereto
22 and offer an opinion in instances where other
23 witnesses may not provided that that witness'
24 opinion also comports with other rules governing
25 testimony of witnesses. And this witness is an

SW - T. WARD - DIRECT

1 expert in the field of emergency nursing care.

2 Ms. Barr, you may proceed.

3 MS. BARR: Thank you, Your Honor.

4 BY MS. BARR:

5 Q Ms. Ward, prior to June 21st of 2013 had you had
6 occasion to treat or care for an individual who came
7 into the emergency room alleging to have been the
8 victim of a sexual assault?

9 A Yes, I have.

10 Q Approximately how many times do you think?

11 A 10, 15.

12 Q Okay. And based upon your experience in the 10
13 to 15 cases that you've been a part of prior to June
14 of last year, in all of those instances have you
15 seen evidence of bruising on the person's genitals?

16 MR. HARVIN: And Judge, I will object. It
17 was my understanding that she was gonna be offered
18 as a witness to give opinions concerning checking
19 vital signs and giving direct patient care, not
20 giving an opinion as to how many times she has
21 witnessed a particular type of injury dealing with a
22 particular type of crime. That would seem to
23 involve statistical data of some type that I don't
24 know Ms. Ward is privy to.

25 THE COURT: All right. Ms. Barr.

SW - T. WARD - DIRECT

1 MS. BARR: Judge, I'm not asking for her
2 opinion. I'm asking for her testimony, the fact as
3 to how many instances prior to June last year that
4 she's treated alleged victims of rape where they
5 were not physical signs of bruising to the genitals.
6 That's not opinion testimony.

7 THE COURT: All right. Anything further?

8 MR. HARVIN: Judge, I just never heard her
9 say that she examined people for rape type of
10 trauma. I just never heard her say that. I mean,
11 what I heard her say was that she checked vital
12 signs, she administered IVs and medication.

13 THE COURT: Any other questions you want
14 to ask, Ms. Barr?

15 MS. BARR: Judge, I did ask that question
16 of her and I think it may have been preoc---

17 THE COURT: And what questions is that?

18 MS. BARR: Prior to June 21st of 2013 had
19 she ever treated any alleged victims of sexual
20 assault; and her answer was, yes, I understood. And
21 asked her next how many. I think she -- her
22 testimony was 10 or 15. And then my next question
23 was of those 10, 15 patients that she's treated did
24 she always see instances where the victim had had
25 bruising to the victim, had bruising to her or her

SW - T. WARD - DIRECT

1 genitalia.

2 THE COURT: All right, any further
3 objection?

4 MR. HARVIN: Judge, just we would object
5 on relevance issues.

6 THE COURT: All right, I overrule the
7 objection.

8 BY MS. BARR:

9 Q Let me restate my question again because you
10 probably got lost in all that. I believe I
11 understand your testimony to be that prior to the
12 summer of last year you had seen between 10 to 15
13 patients who were alleged to be victims of sexual
14 assault. Is that fair to say?

15 A Yes, it is.

16 Q And in those 10 to 15 instances have you always
17 seen that a victim of a sexual assault has evidence
18 of bruising to his or her genitals?

19 A No.

20 Q And do you have any idea of the percentage of
21 those patients that you personally have been
22 involved in your care who had actual visible signs
23 of trauma or bruising or any injuries to genitals?

24 A I couldn't really answer that, no.

25 Q Fair enough, fair enough. Now let's take you

SW - T. WARD - DIRECT

1 back to the night of June 21st of 2013. You were
2 working at the hospital that night?

3 A Yes.

4 Q And Ms. Amanda Graham came to the hospital?

5 A Yes.

6 Q All right. And you would have been one of the
7 nurses involved in her care; is that correct?

8 A That is correct.

9 Q All right. Do you have copies of the medical
10 records relating to that visit?

11 A I do.

12 Q All right. And what time was she initially
13 admitted into the ER that night?

14 A She presented to the emergency room at 6:46 p.m.

15 Q All right. And what was the nature of her
16 complaint?

17 A She presented to the emergency room stating that
18 ---

19 Q And don't mention any names about who she may
20 have named but just the general nature of the
21 complaint.

22 A That she had been sexually assailed.

23 Q Okay. Did she give you a specific time frame in
24 which the sexual assault happened?

25 A She told me it had happened between 2 and 3:00

SW - T. WARD - DIRECT

1 that morning?

2 Q Earlier that morning?

3 A Uh-huh.

4 Q And I need you to make sure you say yes or no as
5 opposed to uh-huh, huh-uh, so she can get it down?

6 A Okay, I'm sorry.

7 Q You're doing fine. And how old was Ms. Graham at
8 that time?

9 A How what?

10 Q How old was she at that time?

11 A She was 33.

12 Q Okay. And tell me how you would have assessed
13 her, how you would have began to treat her and
14 handled her based on the nature of her complaint.

15 A She -- of course we do vital signs like we do on
16 everyone else and then she was put into a room
17 immediately from the triage area.

18 Q Yes, ma'am.

19 A She already had showered.

20 Q Okay.

21 A So we didn't have to worry about her clothes
22 collection, but she brought her clothes with her.

23 Q Okay.

24 A She was finished registered through the system,
25 and then I took the information for the sexual

SW - T. WARD - DIRECT

1 assault victims rape kit as we call it.

2 Q All right. Now in terms of assessing her and
3 providing appropriate care for her, did you actually
4 see any signs of bruising or trauma or contusions to
5 any part of her body?

6 A We do have documented bruising. It was on her
7 left arm about right here.

8 Q Okay.

9 A It was also on her left hip and in the right
10 inner knee.

11 Q Okay. If I can, Ms. Ward, can I get you to step
12 down off the witness stand for me.

13 A Sure.

14 Q And I'll play the patient for just a moment.

15 A Okay.

16 Q Tell me where you saw the first bruise that you
17 described.

18 A The documentation there's a bruise here.

19 Q And for the record you're pointing on my upper
20 forearm on my left arm?

21 A Uh-huh, left.

22 Q Okay. And where else did you ---

23 A Right in here (indicating).

24 Q Okay, and you're pointing to the left ---

25 A Left upper thigh. And then right in here on

SW - T. WARD - DIRECT

1 inner knee, right inner knee.

2 Q Right inner knee. Thank you, ma'am.

3 A Uh-huh.

4 Q When a person comes into the emergency room and
5 complains about being sexually assaulted, what types
6 of medication is prescribed or offered for that
7 individual?

8 A We do prophylactic treatment for sexual---

9 Q Okay. Tell me what that is.

10 A Prophylactic is for preventive treatment, to
11 prevent them from getting infection or for
12 questionable sexually transmitted diseases that they
13 may have ---

14 Q Contracted?

15 A ---contracted while being assaulted.

16 Q And did you -- was medication prescribed for Ms.
17 Graham that night?

18 A Yes, it was.

19 Q Okay. Tell me the meds that were prescribed for
20 her and what they were designed to treat or prevent.

21 A She was given Flagyl and ---

22 Q Okay, and what's Flagyl ---

23 A Zithromax (ph), both being antibiotics, treatment
24 of sexually transmitted diseases such as gonorrhea,
25 chlamydia.

SW - T. WARD - DIRECT

1 Q Okay. Was she given any other prescriptions?

2 A Yes, she was also given a prescription for Ativan
3 for anxiety.

4 Q Okay.

5 A And she was also given Ativan that night in the
6 emergency department.

7 Q Why was she given it that night?

8 A Because she was anxious.

9 Q Okay, all right. Part of the rape kit requires
10 for you to ask the victims certain personal
11 questions; is that correct?

12 A That is correct.

13 Q All right. And one of the things you would have
14 asked her, if I'm not mistaken, is whether or not
15 she had showered or whether or not she used the
16 bathroom prior to coming; is that correct?

17 A Yes, it is.

18 Q What is the purpose in asking those type
19 questions?

20 A They need that for the investigation with the
21 specimens that are collected ---

22 Q Okay.

23 A ---when they do that with the rape kit that we
24 send them.

25 Q Okay, all right. Did you ask her whether or not

SW - T. WARD - DIRECT

1 she had consumed any alcohol?

2 A She told me that she had.

3 Q Okay. Did she report any memory of the event?

4 A No. The only memory she reported was that she
5 was on the couch and remembered the accused on top
6 of her, but nothing more than that.

7 Q Okay. Now in terms of the accused, don't tell me
8 any names, just answer my very specific question.

9 Did she identify to you the name of the accused, yes
10 or no?

11 A Yes.

12 Q And tell me how you go about collecting specimens
13 for the rape kit.

14 A It is a very detailed kit. It -- when you follow
15 it down just doing exactly what it tells you that
16 you need. Like I said, she was put in a special
17 room and we draw blood. We collect pubic hair,
18 fingernail, under your fingernails to see if there's
19 anything there. If there's any marks, bite marks,
20 or anything you swab that looking for DNA. You also
21 do a vaginal swab and smear. You can do a rectal
22 swab and smear. And like I say, the blood work is
23 also collected.

24 Q All right. Now Ms. Ward, did you know Amanda
25 Graham prior to that occasion?

SW - T. WARD - CROSS

1 A No, I did not.

2 Q And once the specimens were collected for the
3 rape kit the rape kit would then have been turned
4 over to law enforcement?

5 A Yes.

6 Q Was she given any instructions at discharge?

7 A Yes.

8 Q Okay.

9 A She was given the prescriptions to take those
10 medications as directed which was the Flagyl and
11 the Ativan.

12 Q Okay.

13 A She was to followup with her doctor that week and
14 then also given the information for the rape and
15 domestic abuse for her to followup with them as
16 well.

17 Q Okay. What time does the record reflect that
18 Ms. Graham was released, discharged from the
19 hospital?

20 A June 22nd at 3:20 a.m.

21 Q Okay. So that would have been roughly about
22 eight hours later after she was initial---

23 A Yes.

24 Q ---seen? Thank you, Ms. Ward, I don't have any
25 other questions. Please answer any questions that

SW - T. WARD - CROSS

1 the Court or Defense counsel may have.

2 THE COURT: Mr. Harvin?

3 MR. HARVIN: May it please the Court, Your
4 Honor.

5 THE COURT: Yes, sir.

6 **CROSS-EXAMINATION**

7 BY MR. HARVIN:

8 Q How are you doing, Ms. Ward?

9 A Hey.

10 Q I've just got a few questions. Now Ms. Barr
11 asked you a question about the 10 or 15 times that
12 you have, I guess, examined people who come into
13 triage and say that they've been raped.

14 A Uh-huh.

15 Q Is that true?

16 A Yes.

17 Q And out of those times, how many of those times
18 have you been a part of validating whether or not
19 their claims were accurate?

20 A We do not validate that.

21 Q So everything that you do is based upon what they
22 tell you, or what the person who ---

23 A And collection of evidence.

24 Q All right. Now Ms. Barr asked you a specific
25 question. She said, did you, or how many times out

SW - T. WARD - CROSS

1 of the 10 or 15 times or I think she phrased it
2 about the physical trauma. I think she said out of
3 the 10 or 15 times that you've examined a person
4 were there any times that a person did not have
5 physical trauma that showed signs of rape. Do you
6 remember that question?

7 A Yes, I do.

8 Q All right. Were there any times in which you
9 examined those individuals did they actually show
10 signs of physical trauma to the vaginal or rectum
11 areas?

12 A Yes.

13 Q Okay. And you look for that; don't you?

14 A Yes, we do.

15 Q All right. And that's an important part of your
16 rape examination because you need to know how to
17 treat that person, correct?

18 A More so than treating the patient is the
19 collection of the evidence.

20 Q I got you. Now you collected a very specific
21 piece of evidence and that was the clothing from
22 Ms. Amanda Graham, correct?

23 A Correct.

24 Q All right. What did you do with that, those
25 pieces of evidence?

SW - T. WARD - CROSS

1 A The evidence all went to the office of victim's
2 assistance with SLED.

3 Q All right. And that's law enforcement, correct?

4 A Correct.

5 Q All right. Now she mentioned to you that she had
6 been drinking alcohol; is that correct?

7 A Yes.

8 Q All right. Were there any conversations about
9 how much alcohol that she had?

10 A No, sir, not documented.

11 Q Or what type of alcohol she had been drinking?

12 A No, sir, not documented.

13 Q Okay. Now did you send her for any subsequent
14 tests after the tests that you performed?

15 A No, sir.

16 Q Okay. Do you know if any type of toxicology test
17 were done of her blood to see whether or not there
18 was alcohol present or anything of that nature?

19 A We did draw a blood tube but it went to SLED so I
20 don't know if they did or not; but we did not do it
21 at our facility.

22 Q So the blood test you took from Ms. Graham went
23 was sent to SLED, which is law enforcement, and you
24 don't know what the results of that is?

25 A No, I do not.

SW - T. WARD - CROSS

1 Q All right. Now you mentioned that there were a
2 few bruises to Ms. Graham; and I'm not gonna have
3 you come down from the witness stand, but I'm gonna
4 try to show where those marks were. You said inner
5 right knee?

6 A Uh-huh.

7 Q Left hip?

8 A Down just a little, yes, sir. Yes, sir.

9 Q Down in the left arm?

10 A Yes, sir.

11 Q All right. Now could you tell how she got those
12 bruises?

13 A No, sir, I could not.

14 Q All right. And the time period in which this
15 incident happened, as you know, is between 2 a.m.
16 and 4 a.m., correct?

17 A 2 and 3.

18 Q 2 and 3 a.m., I'm sorry.

19 A Yes, sir.

20 Q And she came into the triage at what time?

21 A At 6:46 that afternoon.

22 Q Okay. So it would be -- you wouldn't have any
23 knowledge whether or not she bumped into something,
24 whether or not she'd been hit by somebody or
25 anything of that nature, other than just what she

SW - T. WARD - CROSS

1 told you about what happened between 2 and 3?

2 A That's correct.

3 Q And you don't have the expertise to give us any
4 information about how those injuries may have
5 happened, you don't know?

6 A No, sir, I don't.

7 Q Or what may have caused those injuries, you don't
8 know that either?

9 A No, sir.

10 Q Or what time those injuries came about, you don't
11 know that either as well?

12 A No, sir.

13 Q Okay. Now everything in your report is based on
14 exactly what was told to you, correct? Everything
15 that's in your records by Ms. Graham?

16 A Also things observed.

17 Q Okay.

18 A As far as the bruising and the -- okay.

19 Q I understand. And so the -- what you do is based
20 upon the truthfulness of the individual giving you
21 information?

22 A And also what is seen, yes?

23 Q What you see.

24 A Yes, sir.

25 Q I understand.

SW - T. WARD - CROSS

1 A Yes, sir.

2 Q And so if a person doesn't remember something,
3 does that make it a little harder or does that make
4 it easier?

5 A It depends.

6 Q It depends on the situation.

7 A Yes.

8 Q In this situation did that make it harder or
9 easier for you to figure out what was going on?

10 A The treatment would have been the same.

11 Q I understand. All right, now, you did a vaginal
12 swab and smear test of the rectum area as well?

13 A The doctor actually collected that.

14 Q And where was that sent?

15 A It also went into the kit that went to the office
16 of victims assistance.

17 Q Which is also law enforcement?

18 A Yes.

19 Q Now I'm gonna ask an ignorant question because
20 I'm not in your area of expertise, I have no idea
21 ---

22 A Okay.

23 Q ---what the answer to this question is, which is
24 a big faux pas for lawyers to ask a question they
25 don't know the answer to. But I do want to know in

SW - T. WARD - REDIRECT

1 the 10 or 15 times that you have done these rape
2 tests, have you -- do you know of any instances
3 where semen or spermicide or anything from a condom
4 was found in vaginal rectum area of one of the
5 individuals you examined?

6 A Where the actual semen was found or not?

7 Q Yes, ma'am.

8 A Sometimes semen does present or sperm presents in
9 a urinalysis, yes.

10 Q Now do you know about how long semen or sperm
11 kind of stays around in the vaginal area?

12 A I have no idea.

13 Q I understand. I have no further questions.

14 Thank you, Ms. Ward. You have a great day.

15 A Uh-huh.

16 THE COURT: Anything further, Ms. Barr?

17 MS. BARR: Yes.

18 **REDIRECT EXAMINATION**

19 BY MS. BARR:

20 Q Ms. Ward, just a couple of followup questions,
21 then I'll be done. I pose a hypothetical to you if
22 I can.

23 A Okay.

24 Q If a assailant or perpetrator uses a condom
25 during the course of a sexual assault, will that

SW - T. WARD - REDIRECT

1 interfere with the collection of semen from the
2 victim, the female victim's vaginal area?

3 A Yes, it would.

4 Q Okay. You indicated during in response to one of
5 Mr. Harvin's questions, that sometimes you may be
6 able to collect semen during the course of a
7 urinalysis.

8 A Uh-huh.

9 Q Is that correct?

10 A Yes, it is.

11 Q All right. Do you recall asking Ms. Graham
12 whether or not she had urinated prior to coming to
13 the emergency room and after the sexual assault?

14 A Yes, we did.

15 Q And what was her answer to that?

16 A Yes, she had.

17 Q Okay. Now the fact that there was a -- let's
18 see, help me with the math -- from 3 a.m. until
19 7 p.m., that is at least 15 hours, would you agree?

20 A 7 to 8, yes.

21 Q All right. If a person has urinated during the
22 time between the sexual assault occurring and the
23 arrival at the emergency room, would the fact that
24 they did that, could that inadvertently also
25 interfere with your collection or finding of semen

SW - S. PRESSLEY - DIRECT

1 in urinalysis?

2 A I'm not sure of that.

3 Q Okay, fair enough. All right, that's all the
4 questions I have. Thank you very much.

5 A Thank you.

6 THE COURT: Mr. Harvin, anything else?

7 MR. HARVIN: Your Honor, I have no further
8 questions for Ms. Ward.

9 MS. BARR: Judge, we call Sergeant Sherill
10 Pressley.

11 WHEREUPON,

12 **SHERILL PRESSLEY,**

13 having been duly sworn by the Clerk, testified as
14 follows:

15 **DIRECT EXAMINATION**

16 BY MS. BARR:

17 Q Ma'am, good morning — good afternoon I guess
18 now. How are you doing?

19 A I'm fine.

20 Q We see that you have your uniform on. Please,
21 first of all, tell us who you are.

22 A My name is Sherill Pressley. I work with the
23 Williamsburg County Sheriff's Office. I'm a
24 sergeant on patrol.

25 Q You're a certified police officer?

SW - S. PRESSLEY - DIRECT

- 1 A Yes, ma'am.
- 2 Q And what are your work hours?
- 3 A What are my work hours?
- 4 Q Yes, ma'am.
- 5 A 7 a. to 7 p.m. swing shift, 7 p. to 7 a.
- 6 Q Okay, so you just got off this morning 7 a.m.?
- 7 A Yes, ma'am.
- 8 Q Okay, all right. I'm not gonna hold you much
- 9 longer, okay.
- 10 A Okay.
- 11 Q How long have you been in law enforcement?
- 12 A I've been working patrol since 2006.
- 13 Q Okay. When did you graduate from the academy,
- 14 Police Academy?
- 15 A In 2006.
- 16 Q Okay, all right. And you've been with
- 17 Williamsburg County the entire time?
- 18 A Yes.
- 19 Q All right. Now, of course you were working back
- 20 on June 21st of last year?
- 21 A Yes.
- 22 Q And you responded out to a call regarding sexual
- 23 assault of Amanda Graham by the defendant Jim
- 24 Feagin; is that correct?
- 25 A Correct.

SW - S. PRESSLEY - DIRECT

1 Q And where did the sexual assault take place?

2 A Longleaf Road, [REDACTED]

3 Q Where is that?

4 A Mr. Feagin's residence.

5 Q Where is it specifically in Williamsburg County?

6 A It's in the Cades area of Williamsburg County.

7 Q Okay. And just so in case the jurors don't know,
8 where is Cades in connection to this courthouse?how
9 would we get to Cades from this courthouse?

10 A 52 north area would be the Cades area.

11 Q Okay. And of course that address, the [REDACTED]

12 [REDACTED] address, that property is located in
13 Williamsburg County?

14 A Yes, ma'am.

15 Q All right. Now as a part of taking the complaint
16 you spoke with Ms. Graham?

17 A Yes.

18 Q Okay. Tell me, did you speak with anybody else
19 aside from Ms. Graham?

20 A I did.

21 Q Tell me who all you spoke with other than
22 Ms. Graham?

23 A A Charles R. [REDACTED] who was the actual witness.

24 Q Okay. Anybody else that you remember?

25 A Mr. Feagin and Ms. Susan Colvin.

SW - S. PRESSLEY - DIRECT

1 Q And as a result of the information that you
2 received from Ms. Graham and Mr. Charles R. [REDACTED]
3 you then proceeded to try to talk to Mr. Feagin?

4 A Yes, ma'am.

5 Q All right. Did you find him that day?

6 A Yes.

7 Q All right. Approximately where did you find him?

8 A Right down from the location I made contact with
9 Ms. Graham.

10 Q All right. From what location?

11 A It was, it was on Broad Swamp, [REDACTED]

12 [REDACTED] I believe.

13 Q [REDACTED]

14 A Yes, ma'am, that's what it was.

15 Q And where was he when you first saw him?

16 A In a vehicle passing by that residence.

17 Q All right. And at that time did you initiate
18 blue lights to stop the vehicle?

19 A Yes, ma'am.

20 Q And what did you inform the defendant of at the
21 time you stopped the vehicle?

22 A He was detained, placed in cuffs, and advised of
23 his Miranda, Miranda warnings, on Broad Swamp Road.

24 Q When you say he was detained, what do you mean,
25 he was arrested?

SW - S. PRESSLEY - DIRECT

1 A No, he was just being detained at the moment.

2 Q Okay, all right. You said you advised him of his
3 Miranda warnings.

4 A Yes.

5 Q Tell us what you told him.

6 A That he has the right remain silent. Anything
7 he say can and will be used against him in a court
8 of law. He has the right to an attorney. If he
9 can't afford one, one will be appointed.

10 Q All right. And this is on June 21st?

11 A Yes.

12 Q About what time was it?

13 A It was after 4:00 in the afternoon.

14 Q After 4 p.m. in the afternoon?

15 A Uh-huh.

16 Q All right. You advised him of his Miranda
17 warnings, you have right the remain silent. If you
18 choose not to remain silent, anything you say can
19 and will be used against you in a court of law, you
20 have the right to a lawyer. Did he make any
21 statements to you?

22 A On that day ---

23 MR. HARVIN: And Judge, we would object
24 and renew our motion that was heard earlier
25 concerning the statement, the June 21st statement.

SW - S. PRESSLEY - DIRECT

1 THE COURT: All right, Ms. Barr.

2 MS. BARR: Judge, we would just renew the
3 argument that we made previously that the defendant
4 was advised of his Miranda warnings and he voluntary
5 waived those warnings and the statement he gave was
6 freely and voluntarily.

7 THE COURT: The objection is overruled.

8 BY MS. BARR:

9 Q Sergeant Pressley, let me rephrase my question,
10 repeat my question. Once he was advised of his
11 Miranda warnings did he make a statement to you?

12 A Mr. Feagin denied anything happening and stated
13 that Ms. Graham was drunk and he did not touch her.

14 Q Said that Ms. Graham, the victim ---

15 A Right.

16 Q ---was drunk and he did not touch her?

17 A Yes.

18 Q And that was the essence of his statement?

19 A That was the essence of his statement.

20 Q All right. He was taken to the Detention Center.

21 A Yes, ma'am.

22 Q Now before he made that statement and before you
23 advised him of his Miranda warnings, did you tell
24 him why you wanted to talk with him?

25 A Actually I didn't tell him -- once I advised him

SW - S. PRESSLEY - DIRECT

1 he started talking. Once I advised him of his
2 Miranda warning then he started talking so he wasn't
3 quite -- wasn't told exactly what I was, needed to
4 talk to him about.

5 Q Okay. When did you notify him and explain to him
6 the extent of what you were charging him with?

7 A Once he made that statement, once he made that
8 statement then he was advised that he was being, he
9 was being placed under arrest for rape.

10 Q And he was taken where?

11 A To the Williamsburg County Detention Center.

12 Q Okay. All right. Now let's fast toward five
13 days. Did you have an occasion on June 26 to talk
14 with Mr. Feagin again?

15 A Yes.

16 Q All right. What was the purpose of that
17 statement?

18 A To give a DNA sample.

19 Q Okay. Where was he when you had an opportunity
20 to speak with him on the 26th?

21 A He was still at the Williamsburg County Detention
22 Center.

23 Q Okay. So had he been incarcerated that entire
24 period of time?

25 A Yes, sir.

SW - S. PRESSLEY - DIRECT

1 Q So you arrested him on June 21st?

2 A Yes, ma'am.

3 Q Correct?

4 A Correct.

5 Q And on June 26 you went to the jail?

6 A Yes, ma'am.

7 Q To ask him to do what?

8 A Give a DNA sample.

9 Q Okay. Did he agree to give a DNA sample?

10 A Yes.

11 Q Okay. Now during that time did he make any
12 statements to you at that time?

13 MR. HARVIN: And Judge, we would renew our
14 previous objections to this June 26th statement.

15 THE COURT: Yes, sir, same ruling,
16 overruled.

17 MR. HARVIN: Thank you.

18 THE WITNESS: Yes.

19 BY MS. BARR:

20 Q All right. Now ---

21 THE COURT: Ladies and gentlemen, with
22 regard to any statements I'll give an instruction at
23 the end of the trial that you make the ultimate
24 determination as to the voluntariness of any
25 statement and that will be a more detailed

SW - S. PRESSLEY - DIRECT

1 instruction that will be given at the end of the
2 trial.

3 You may proceed.

4 MS. BARR: Thank you, Your Honor.

5 BY MS. BARR:

6 Q At the time that you went to ask him if he would
7 gave DNA sample did you have anyone with you?

8 A Yes.

9 Q Who was with you?

10 A Lieutenant Brown.

11 Q Okay. Willie brown?

12 A Lieutenant Willie Brown.

13 Q And he's also employed as a deputy with the
14 Sheriff's Office?

15 A Yes.

16 Q What was the purpose of Lieutenant Brown being
17 with you?

18 A A witness to sign off on the DNA sample.

19 Q That you had checked it if the defendant agreed
20 to give it to you?

21 A Yes.

22 Q Okay, all right. Now physically where was the
23 defendant within the jail when you and Lieutenant
24 Brown went to talk to him about giving a DNA sample?

25 A We were in a separate office inside the detention

SW - S. PRESSLEY - DIRECT

1 center?

2 Q And I imagine that for the most part you normally
3 carry your badge and your gun when you're on duty?

4 A Yes.

5 Q All right. Did you have your badge and your gun
6 at the time that you talked to the defendant about
7 giving a DNA sample?

8 A Just my badge.

9 Q Why didn't you have your gun with you?

10 A It was in the lock box. We're not allowed to
11 take weapon inside the locked part of the detention
12 center.

13 Q Okay, all right. When you asked Mr. Feagin if he
14 would give a DNA sample did he say, yes, he would?

15 A Yes.

16 Q Okay. Did you ask him any other questions?

17 A No.

18 Q Did he make any statements to you?

19 A Yes.

20 Q All right. What did he say to you?

21 A He stated that he wanted to tell the truth now.
22 Then he stated that he was lying, he was lying on
23 the floor when Ms. Graham straddled him and he could
24 not get on hard.

25 Q Okay. Let me make sure I understand what you

SW - S. PRESSLEY - DIRECT

1 said. You said he told you that he wanted to tell
2 the truth now.

3 A Right.

4 Q Okay. That he was lying one the floor?

5 A Right.

6 Q And that Ms. Graham, meaning Amanda Graham ---

7 A Right.

8 Q ---straddled him?

9 A Right.

10 Q And what else did he say?

11 A He could not get on hard.

12 Q What does he mean? What does that mean?

13 A He could not get an erection. He did not get
14 aroused from her straddling him.

15 Q Now Sergeant Pressley, you were in court. You
16 heard testimony regarding the SLED rape kit. Are
17 you familiar with the rape kit?

18 A Somewhat.

19 Q Okay, all right. And you are aware that the rape
20 kit in this particular case was taken to SLED and
21 analyzed, correct?

22 A Correct.

23 Q All right.

24 MS. BARR: Judge, may I approach the
25 witness.

SW - S. PRESSLEY - DIRECT

1 THE COURT: Yes.

2 BY MS. BARR:

3 Q Sergeant, Ms. Pressley, I'm gonna show you what's
4 been marked as State's Exhibit Number 1. Is that
5 the analysis from the rape kit of Amanda Graham?

6 A Yes.

7 Q And it's directed to your attention?

8 A Yes.

9 Q All right. What's the date on that report?

10 A You want the date of report was given or the
11 date -- they got a date, incident date.

12 Q No, the date the report was given. I may be able
13 to help you.

14 A June 20th, no, no. Yep. Is that the right date?

15 Q Let me look at it. Okay, the date that's listed
16 right under serology analysis.

17 A I got you.

18 Q Yes, ma'am.

19 A June 20th, 2014.

20 Q June 20th 2014; is that correct?

21 A That's correct.

22 Q All right. Let me hold it back.

23 MS. BARR: Judge, we would move State's
24 Exhibit Number 1 in at this time.

25 THE COURT: Any objection?

SW - S. PRESSLEY - DIRECT

1 MR. HARVIN: No objection, Your Honor.

2 THE COURT: It's admitted without
3 objection.

4 (WHEREUPON, State Exhibit No. 1
5 was admitted into evidence.)

6 MS. BARR: I'd publish State's Exhibit
7 Number 1.

8 BY MS. BARR:

9 Q Ma'am, can you see the SLED report on your screen
10 where you are in the witness chair?

11 A Yes, ma'am.

12 Q All right. And on that report it lists your
13 name, Deputy Sherill Pressley; is that correct?

14 A Yes, ma'am.

15 Q And it indicates that this is a serology
16 analysis, correct?

17 A Correct.

18 Q All right. And then SLED has assigned a lab
19 number?

20 A Correct.

21 Q All right. And tell us what S in front of the
22 name Jim Feagin stands for?

23 A Suspect.

24 Q All right. And tell us what the letter V in
25 front of Amanda Graham stands for.

SW - S. PRESSLEY - CROSS

1 A Victim.

2 Q Okay. And item two that's contained within that
3 report identifies it as the sexual assault evidence
4 collection kit; is that correct?

5 A Correct.

6 Q All right. From Amanda Lynch Graham?

7 A Correct.

8 Q All right. And items 2.1, 2.2 and 2.3 reflect
9 that those are vaginal and rectal swabs?

10 A Correct.

11 Q All right. And the results of the analysis on
12 the rape kit for the vaginal and rectal swabs show
13 there was no semen identified; is that correct?

14 A Correct.

15 Q All right, ma'am. Did you know Ms. Graham prior
16 to that day?

17 A No, ma'am.

18 Q Sergeant Pressley, that's all the questions I
19 have for you. At this time please answer any
20 questions that the Court may have or the defense
21 lawyer may have for you.

22 MR. HARVIN: May it please the Court, Your
23 Honor?

24 THE COURT: Yes, sir.

25 **CROSS-EXAMINATION**

SW - S. PRESSLEY - CROSS

1 BY MR. HARVIN:

2 Q Good morning, Ms. Pressley?

3 A Good morning.

4 Q Good afternoon.

5 A Good afternoon.

6 Q Time has kind of flew by. I just have just a few
7 questions. Now I'm gonna kind of start where

8 Ms. Barr ended and ask regarding the SLED analysis

9 of the sexual assault collection kit from Ms. Amanda

10 Lynch Graham. Do you have that? Well, she took it
11 down, but do you have a copy in front of you?

12 A No, sir.

13 Q All right.

14 MR. HARVIN: Judge, permission to
15 re-publish.

16 THE COURT: Yes.

17 BY MR. HARVIN:

18 Q All right, Ms. Pressley, you didn't actually
19 perform this analysis, did you?

20 A No, sir.

21 Q Okay. And a couple of things on here I just want
22 to make sure we deal with. It says no spermatozoa.

23 Do you know what spermatozoa is by any chance?

24 A Yes, sir.

25 Q Okay. Can you give, tell the jury what you

SW - S. PRESSLEY - CROSS

1 believe spermatozoa is?

2 A I believe spermatozoa is was identified in like
3 semen from a male or condom.

4 Q Okay. And so that was the smears that were taken
5 from the vaginal and rectal area, correct?

6 A Correct.

7 Q And now 2.2 talks about vaginal swabs. 2.3 talks
8 about rectal swabs, and it says no semen found in
9 either one of those places, or at least identified
10 by the analysis, correct?

11 A Correct, that's what it says.

12 Q Now they also have two other things that you all
13 took as pieces of evidence: 2.4 which are
14 fingernail scrapings; 2.5, victim buccal swabs, it
15 says no analysis performed. Do you know any reason
16 why that did not happen?

17 A No.

18 Q Okay. The nurse Ms. Ward -- well, I'll ask it
19 another way. Did you ever see the clothing that
20 Ms. Amanda Graham had on from that afternoon?

21 A I did before she went to the emergency room.

22 Q Do you know what happened to it?

23 A No.

24 Q Okay. So you don't know if those pieces of
25 clothing were sent to SLED for analysis?

SW - S. PRESSLEY - CROSS

1 A No.

2 Q All right. Okay. Now I also notice on that
3 particular document they -- there's nothing
4 mentioned about spermicide. Do you know why that
5 analysis did not take place to see whether or not
6 spermicide was found in any one of those areas?

7 A No.

8 Q You mentioned a couple of statements. You
9 mentioned that you spoke to Ms. Amanda Graham,
10 correct?

11 A Correct.

12 Q Mr. Jim Feagin, correct?

13 A Correct.

14 Q Mrs. Susan Colvin, correct?

15 A Correct.

16 Q And then Mr. Charles R. [REDACTED] correct?

17 A Correct.

18 Q Now when you speak to witnesses, potential
19 witnesses, do you try to figure out whether or not
20 they're telling the truth?

21 A I try to.

22 Q Is there a -- well, in the academy do they teach
23 you all certain methods or techniques when it comes
24 down to questioning people to try to get the truth
25 out of them?

SW - S. PRESSLEY - CROSS

1 A No, not -- no.

2 Q So they don't teach you how to question witnesses
3 of victims or anything at the academy?

4 A No.

5 Q Okay. How long have you been doing investigation
6 in this particular area of criminal sexual conduct?

7 A Can't answer that. We have -- can't answer that
8 because it varies from different complaints. It's
9 different for each complaint.

10 Q Have you ever been trained in investigating
11 criminal sexual conduct charges?

12 A No.

13 Q All right. Have you ever been trained in
14 investigation?

15 A No.

16 Q Have you ever been trained in anything regarding
17 putting together incident report or doing anything
18 regarding any type of case?

19 A Yes. Incident reports, yes.

20 Q All right. And isn't it true in that training
21 regarding incident reports they have you put
22 together incident reports because just like in this
23 situation sometimes it takes a year to a
24 year-and-a-half, sometimes two years, before a case
25 comes to trial and so the incident report kind of

SW - S. PRESSLEY - CROSS

1 refreshes your memory, correct?

2 A Correct.

3 Q And so when you put together that incident report
4 you're making sure that you put all relevant
5 information in it, correct?

6 A Correct.

7 Q All right. Now in this incident report do you
8 remember anything regarding questioning anybody
9 about the truthfulness of Ms. Amanda Graham?

10 A Repeat that again..

11 Q All right. Do you remember during your
12 investigation did you speak to anybody to confirm
13 the truthfulness of Ms. Amanda Graham?

14 A No.

15 Q What about Mr. Charles R. [REDACTED] did you ask
16 anybody in his family, any neighbors, any people in
17 the community what type of person he was, whether he
18 was a reliable person or truthful person.

19 A No.

20 Q Okay. And no point in time did you speak to
21 Ms. Susan Colvin and ask her any questions about
22 truthfulness of anybody?

23 A I don't think I asked her that, no.

24 Q Okay. Now the statement that was given on June
25 the 26th, 2013, you remember that statement,

SW - S. PRESSLEY - CROSS

1 correct?

2 A Going by my notes, yes.

3 Q And during that statement where were you,
4 Mr. Feagin, and Lieutenant Brown?

5 A In an office inside the detention center.

6 Q Okay. And do you know if anybody in the
7 detention center has a weapon on them at any point
8 in time?

9 A No.

10 Q Okay. But you know you didn't have a weapon?

11 A Correct.

12 Q There were other -- were there other correctional
13 officers in the detention center at that time?

14 A In the detention center, yes.

15 Q You all removed him from the part of the
16 detention center he was in, you all moved him to an
17 office location. Can you tell the jurors about how
18 big that office location was.

19 A Yes. About the size of the judge's space.

20 Q So right where the judge is sitting, Judge Newman
21 is sitting right now?

22 A Right.

23 Q Okay. Was he free to leave or free to leave the
24 area that you all were in? I mean, he couldn't
25 leave detention center, right?

SW - S. PRESSLEY - CROSS

1 A Correct.

2 Q And so when you all were questioning him you and
3 Lieutenant Brown in an area the size of where the
4 judge is sitting, you all asked him questions about
5 giving up his DNA; is that correct?

6 A Correct.

7 Q And he immediately volunteered DNA evidence?

8 A Correct.

9 Q Okay. I beg the Court's indulgence. Now as you
10 completed your investigation did you go out to the
11 residence of [REDACTED] longleaf Road, I'm
12 sorry.

13 A No, I didn't.

14 Q Okay. So you did not go inside of the residence
15 to collect any type of evidence?

16 A No, I didn't. Because there was nobody -- after
17 the arrest was made there was nobody there to go
18 with me to the residence.

19 Q I understand. And so from the residence if there
20 was condom or condom wrapper by a chair that was not
21 collected because no one went out to look for one?

22 A No.

23 Q All right. If there was any evidence an assault
24 had taken place in this house we wouldn't know
25 because no pictures were taken, no analysis was done

SW - S. PRESSLEY - CROSS

1 of anything that was on any items within the house,
2 correct?

3 A Correct.

4 Q All right. Now do you know if Mr. Feagin has any
5 neighbors?

6 A No, not offhand.

7 Q Okay. Did you at least go out to verify that
8 that was a pool?

9 A I didn't.

10 Q Okay. Now you spoke to the four people you
11 mentioned earlier, but were there more people at
12 this residence? I mean, there was substantially
13 more people during the course of the night than just
14 these four people, correct?

15 A Correct.

16 Q All right. One of those persons from your
17 investigation you learned that was there was
18 Ms. Tiffany Feagin, correct?

19 A If that's the sister.

20 Q Well, I believe Ms. Feagin -- well, does
21 Mr. Feagin have a daughter that you know of?

22 A Yeah, a younger child.

23 Q Okay. Did you get information that she was
24 there?

25 A I can't remember about her.

SW - S. PRESSLEY - CROSS

1 Q All right. Did you get any information that
2 Jamie Nixon was there or Adam Nixon?

3 A Okay, her boyfriend Jamie was there.

4 Q Okay. And but you don't know about Adam,
5 Mr. Adam Nixon? You don't know if he was there?

6 A No.

7 Q And Mr. Jamie Nixon, did you get any information
8 that he had gotten into a fight with Ms. Amanda
9 Graham?

10 MS. BARR: Objection as to hearsay, Your
11 Honor by.

12 MR. HARVIN: All right.

13 THE COURT: Objection is sustained.

14 BY MR. HARVIN:

15 Q Do you know if there was a fight between Amanda
16 Graham and Jamie Nixon?

17 MS. BARR: Same objection, Your Honor.

18 THE COURT: Objection is overruled.

19 THE WITNESS: Yes.

20 BY MR. HARVIN:

21 Q Okay.

22 A An argument, not a fight.

23 Q Okay. As it relates to the issue of individuals
24 drinking, did you corroborate that by going to the
25 residence and getting liquor bottles and seeing who

SW - S. PRESSLEY - CROSS

1 was drinking what?

2 A No.

3 MS. BARR: Objection, asked and answered.

4 THE COURT: All right, objection
5 overruled.

6 THE WITNESS: No.

7 BY MR. HARVIN:

8 Q And any point in time did Ms. Graham or anyone --
9 did you learn how many drinks were supposedly
10 consumed by anybody?

11 A No.

12 Q Or what type of drinks were consumed by
13 individuals?

14 A Mr. Feagin said they were drinking moonshine.

15 Q Moonshine. He say what type of moonshine?

16 A He just said moonshine.

17 Q Did you put that in your incident report?

18 A No, I just remember that.

19 Q Okay. So a year-and-a-half later something that
20 wasn't placed in the incident report you just
21 remember?

22 A I remember that.

23 Q Okay. Now you stated you spoke to Ms. Susan
24 Colvin; is that correct?

25 A Yes, sir.

SW - S. PRESSLEY - CROSS

1 Q All right. Is there anything in your incident
2 report that talks about that conversation?

3 A Yes, sir.

4 Q Was that a yes?

5 A Oh, yes, sir.

6 Q Okay. Do you put in your incident report what
7 exactly the questions that were asked of her and
8 what her answers were?

9 A Not the questions, but what she stated.

10 Q Did you do any type of recorded statement for her
11 or anything?

12 A No, sir.

13 Q Did you have her write down what she thought
14 happened on that particular night?

15 A No, sir.

16 Q Do you remember asking her how many drinks that
17 she actually had?

18 A No, sir.

19 Q You mentioned taking blood tests with Mr. Feagin
20 five days later on the day this incident happened.
21 Did you take any other specimens from Ms. Colvin or
22 Mr. Feagin or any other persons that were at the
23 residence?

24 A No, sir.

25 Q From your investigation were you able to learn

SW - S. PRESSLEY - REDIRECT

1 how everybody was situated at the house when this
2 alleged incident took place?

3 A (There was no response.)

4 Q Show specifically where Mr. Charles R. would
5 have been when this alleged incident happened.

6 A Mr. Charles R. said he was lying down on the
7 floor.

8 Q All right. And did you go to the residence at
9 any point to see where that area would have been and
10 whether his view would have been obstructed in any
11 way?

12 MS. BARR: Objection, asked and answered,
13 Your Honor.

14 THE COURT: Objection is overruled.

15 THE WITNESS: No.

16 MR. HARVIN: Your Honor, at this time I
17 have no further questions for Ms. Pressley. Thank
18 you?

19 THE COURT: All right, thank you. You may
20 step down.

21 MS. BARR: Judge, I have some redirect.

22 THE COURT: Have you redirected already?

23 MS. BARR: No, sir.

24 THE COURT: Okay. Redirect.

25 MS. BARR: I haven't had my chance.

SW - S. PRESSLEY - REDIRECT

REDIRECT EXAMINATION

1
2 BY MS. BARR:

3 Q I haven't had my chance. Sergeant Pressley, I
4 just have a couple of questions in followup. You
5 were asked about any statements that Ms. Colvin may
6 have given you. You remember that series of
7 questions?

8 A Yes, sir. Yes, ma'am.

9 Q On your incident report when it talks about
10 Ms. Colvin, is she listed as a witness or a suspect?

11 A She's listed as a suspect.

12 Q Okay. Was she also arrested?

13 A Yes, she was.

14 Q All right. Now you were asked about whether or
15 not you talked with anyone else who may have been
16 present at the time that the sexual assault
17 occurred. Do you remember Mr. Harvin asking you
18 those questions?

19 A Yes.

20 Q And he asked you specifically about Amanda's
21 boyfriend Jamie ---

22 A Yeah.

23 Q ---and whether or not you spoke with Jamie. Do
24 you remember those questions?

25 A Yes.

SW - S. PRESSLEY - REDIRECT

1 Q Did your investigation tell you whether or not
2 Jamie was present when Amanda was sexually
3 assaulted?

4 A He was not present, no.

5 Q Okay. So you would have talked with Jamie that
6 night. Based on the fact that he was not present
7 could he have given you any eyewitness account for
8 what happened?

9 A No, he couldn't remember anything.

10 Q You were asked about what investigation did you
11 do to determine the truthfulness of what Amanda told
12 you happened and the truthfulness of what **Charles R.**
13 **[REDACTED]** told you. Do you remember Mr. Harvin asked
14 you those questions?

15 A Yes.

16 Q And sometimes as an officer you'll get
17 information in that tells you one way or the other
18 whether a person was telling you the truth after
19 you've started investigating the case. Would you
20 agree with me on that?

21 MR. HARVIN: Objection, leading.

22 THE COURT: Don't lead the witness.

23 BY MS.. BARR:

24 Q In the eight years that you've been a deputy with
25 the Sheriff's Office and you've been involved in

SW - S. PRESSLEY - REDIRECT

1 handling a case of the crime being committed, have
2 you had occasions in the past where you received
3 information after the crime was committed that
4 caused you to re-think your investigation and
5 re-interview people. Have you had that happen?

6 MR. HARVIN: Objection, leading.

7 THE COURT: Overruled.

8 THE WITNESS: Yes.

9 BY MS. BARR:

10 Q Okay, all right. And in terms of the defendant's
11 statement to you on June the 21st where he tells you
12 that nothing happened, and his subsequent statement
13 to you on June 26th where he says the victim
14 straddled him, what, if anything does that tell you
15 about his truthfulness?

16 MR. HARVIN: Objection, this witness can't
17 give opinion about truthfulness of anybody.

18 THE COURT: I sustain the objection.

19 BY MS. BARR:

20 Q Brief clarification on one point. Mr. Harvin
21 asked you about a blood test that you took from the
22 defendant five days after you arrested him. Did you
23 take a blood test or buccal swab from him?

24 A Buccal swab.

25 Q All right. And just for clarification tell us

SW - S. PRESSLEY - RECROSS

1 what a buccal swap is.

2 A Where the inside of the mouth is wiped with a
3 Q-tip to be sent to SLED for DNA analysis.

4 Q You never took blood tests from him, or blood
5 samples from him?

6 A No, ma'am.

7 Q That's all the questions that I have. Thank you.

8 THE COURT: Anything further, Mr. Harvin?

9 MR. HARVIN: Just a couple of questions.

10 **RECROSS-EXAMINATION**

11 BY MR. HARVIN:

12 Q You stated that Ms. Colvin was listed as a
13 suspect?

14 A Yes, sir.

15 Q She was arrested?

16 A Yes, sir.

17 Q Isn't it true her charges were dismissed?

18 A They were.

19 Q Okay. Ms. Barr asked you about Jamie Nixon and
20 the fact he wasn't there when this alleged incident
21 took place. He would have been there when all the
22 other things that have been alleged took place,
23 correct, with drinking, swimming, everybody hanging
24 around, right?

25 MS. BARR: Judge, we would object to that.

SW - S. PRESSLEY - RECROSS

1 That calls for speculation.

2 MR. HARVIN: Well, I'll rephrase.

3 BY MR. HARVIN:

4 Q Do you know when he left the residence?

5 A What time? No. I just know he left the
6 residence.

7 Q So you don't know when he left. How do you know
8 that he wasn't there when this incident happened?

9 A From my complainant which is Ms. Graham, as well
10 as my witness.

11 Q So Ms. Graham told you that she remembered when
12 Mr. Jamie Nixon left the residence?

13 A Yeah. Well, actually Mr. Charles -- hold on one
14 second. She remembered getting into an argument
15 with him and he leaving with her sister. And

16 Charles R. [REDACTED] also stated that he left after he
17 got into argument with Ms. Graham.

18 Q Okay. So you just didn't ask the followup
19 question as to when Mr. Jamie Nixon left so that you
20 could gather information from him if he knew
21 something?

22 A Reference to the assault or?

23 Q In reference to any corroborating thing.

24 A Correct.

25 Q No questions.

1 THE COURT: All right, thank you. You may
2 step down.

3 I think we're at lunch time. We're going
4 to start back at 2:00. Please be back at 2:00.
5 Please do not discuss the case.

6 (WHEREUPON, the jury was removed from the
7 courtroom at 12:45 p.m., and the following
8 proceedings commenced in open court.)

9 THE COURT: Anything else before we break
10 for lunch?

11 MS. BARR: Judge, I don't think so.

12 THE COURT: All right.

13 MR. HARVIN: Judge, unless you can order
14 the clerk to get us lunch, me and the solicitor
15 don't have anything to eat.

16 THE COURT: I'll give you a lunch break at
17 this time. Be back at 2.

18 (WHEREUPON, a lunch break was taken.)

19 THE COURT: Anything before the jury
20 comes?

21 MS. BARR: Not from the State, Your Honor.

22 THE COURT: Bring them on.

23 (WHEREUPON, the jury was returned to the
24 courtroom at approximately 2:09 p.m., and
25 the following proceedings commenced in

SW - A. GRAHAM - DIRECT

1 open court.)

2 THE COURT: Your next witness.

3 MS. BARR: Thank you. The State calls
4 Amanda Graham.

5 THE CLERK: Place your left hand on the
6 Bible, raise your right hand.

7 WHEREUPON,

8 **AMANDA GRAHAM,**

9 having been duly sworn by the Clerk, testified as
10 follows:

11 **DIRECT EXAMINATION**

12 BY MS. BARR:

13 Q Ms. Graham, state your name for me.

14 A Amanda Graham.

15 Q Make sure you speak up nice and clear for me,
16 okay. Where do you live?

17 A [REDACTED] Kingstree.

18 Q You live here in Kingstree?

19 A Yes, ma'am.

20 Q I need you again, to speak nice and clear for me,
21 okay, for the jurors. How old are you?

22 A 25.

23 Q And what's your birth date?

24 A [REDACTED]

25 Q How long have you lived in Williamsburg County?

SW - A. GRAHAM - DIRECT

1 A All my life.

2 Q You know the defendant Jim Edward Feagin?

3 A Yes, ma'am.

4 Q And how long have you known him?

5 A Quite a few years.

6 Q Okay. How is it that you know him? Tell the
7 jury how you know Mr. Feagin?

8 A He did a lot of work for my daddy and my
9 granddaddy, well, both my granddaddies.

10 Q Would you consider him a friend of yours or your
11 family's?

12 A Yes, ma'am.

13 Q Okay. Prior to June of last year had you ever
14 gone over to Mr. Feagin's house to drink or watch a
15 movie or associate with him?

16 A Yes, ma'am.

17 Q Okay. And would that have been an unusual thing
18 for you do to, to go to his house before June 21st
19 of last year?

20 A No, ma'am.

21 Q When you would typically go over there who would
22 usually be at his house?

23 A Jim, his girlfriend or wife Susan, me, Jamie, and
24 a couple of other people, just neighborhood people.

25 Q Okay, all right. And does his girlfriend Susan

SW - A. GRAHAM - DIRECT

1 live with him?

2 A Yes, ma'am.

3 Q Have they been together as long as you've known
4 them?

5 A Yes, ma'am.

6 Q And have they lived together for as long as
7 you've known them?

8 A Yes, ma'am.

9 Q And when you would go over there how would you
10 typically get to his house? How would he typically
11 go over there? Would they take you there, would
12 they pick you up?

13 A We'd drive or a friend or ---

14 Q Okay. Let's go back, I guess, starting with the
15 day of June 20th of last year. You went to the
16 defendant's home on that day?

17 A Yep, that night.

18 Q That night, okay. You went there?

19 A Yes.

20 Q How did you get to his home?

21 A By him and Susan.

22 Q I'm sorry?

23 A By him and Susan.

24 Q Okay, so he and Susan, his girlfriend, came to
25 pick you up?

SW - A. GRAHAM - DIRECT

1 A Well, we were at my boyfriend's dad's house to
2 start with.

3 Q What's your boyfriend's name?

4 A Jamie Nixon.

5 Q All right. So you were at your boyfriend's
6 father's house?

7 A Yes, ma'am.

8 Q And Susan and the defendant came to pick you up?

9 A Well, they were over there with us for a little
10 while.

11 Q Okay. And how did you all make the decision that
12 you would then go back to Mr. Feagin's home?

13 A He was talking about his pool and we all decided
14 we were going to go swim.

15 Q Okay. Now prior to that particular day did you
16 have any concerns that Mr. Feagin would try to harm
17 you in any way?

18 A No, ma'am.

19 Q Okay, all right. And so it was decided that
20 y'all would go back to Mr. Feagin's house to swim in
21 his pool?

22 A Yes, ma'am.

23 Q Okay. Was the defendant and the girlfriend
24 present at the boyfriend's dad's house?

25 A Yes, ma'am.

SW - A. GRAHAM - DIRECT

1 Q And did you ride with him or did you and Jamie
2 ride in separate vehicles?

3 A We all rode with him.

4 Q When you say we all, tell me who all rode with
5 Mr. Feagin.

6 A It was Jim, Susan, me, Jamie, Charles, Charles's
7 little brother Adam, and Susan, and Jim's daughter
8 Tiffany.

9 Q All right, who is Charles?

10 A Well, his, -- might as well say cousin 'cause his
11 step-daddy used to be my daddy's stepbrother.

12 Q Goodness.

13 A Yeah, he -- yes.

14 Q Is related to you somewhere down the road by
15 marriage?

16 A Yes, ma'am.

17 Q Okay, all right. And how old is he?

18 A Ma'am?

19 Q How old is he?

20 A He's 16 now.

21 Q Okay. And you said his little brother Adam was
22 there as well?

23 A Uh-huh.

24 Q Is that a yes?

25 A Yes, ma'am.

SW - A. GRAHAM - DIRECT

1 Q All right. You have -- do you know how, about
2 what time it was that you all got back to the
3 defendant's home, that you all went to defendant's
4 home?

5 A We left his daddy's somewhere between I think was
6 around 11 that night.

7 Q Okay.

8 A Yes, ma'am.

9 Q Tell me what happened once you and your boyfriend
10 and Charles and his brother got to the defendant's
11 home with Susan?

12 A We all went swimming.

13 Q Okay, all right. Did you all drink that night?

14 A We were drinking before we got there.

15 Q Okay, all right. Did you continue to drink once
16 you got back to the defendant's home?

17 A Yes, ma'am.

18 Q What were you drinking when you were at your
19 boyfriend's dad's house?

20 A Moonshine.

21 Q And what were you drinking when you went back --
22 I shouldn't say back, I keep throwing that word in.
23 When you went to the defendant's house that night
24 what were you drinking?

25 A The moonshine.

SW - A. GRAHAM - DIRECT

1 Q And was it the same moonshine?

2 A Yes, he actually brought it to his dad's house.

3 Q Okay. And how were you drinking it? Was it in a
4 cup, in a bottle or ---

5 A Like a water bottle.

6 Q Okay, all right. And how much did you drink that
7 night?

8 A A good bit.

9 Q Say again?

10 A A good little bit.

11 Q Yes, ma'am. Was the defendant drinking as well?

12 A Yes, ma'am.

13 Q What about Susan?

14 A If she did, it wasn't much.

15 Q Okay.

16 A I don't think.

17 Q What about Charles?

18 A No, ma'am.

19 Q He -- Charles was not drinking?

20 A No, ma'am.

21 Q Now Charles is a 16 year old?

22 A Uh-huh.

23 Q Is that a yes?

24 A Yes, ma'am.

25 Q Okay, all right. How long did Jamie stay there?

SW - A. GRAHAM - DIRECT

1 A It wasn't very long afterwards 'cause me and him
2 got in an argument and he left.

3 Q Okay. When you all got in an argument was it a
4 physical fight or just raised voices and raised
5 voices back and forth?

6 A Raised voices.

7 Q All right. Did he ever strike in any way?

8 A No, ma'am.

9 Q Now we heard testimony today from the ER nurse
10 that there was some bruising on your arm, your hip,
11 and your leg; is that correct?

12 A Yes, ma'am.

13 Q Prior to your going to the home of the defendant
14 did you have any such bruising on your arm, your
15 hip, or your leg?

16 A No, ma'am.

17 Q Do you remember what you were wearing that night?

18 A A T-shirt, a pair of jean shorts.

19 Q Okay.

20 A And flip flops.

21 Q And flip flops?

22 A Yes, ma'am.

23 Q Okay. In past occasions when you've gone over to
24 the defendant's home to socialize, was his wife
25 always there?

SW - A. GRAHAM - DIRECT

1 A Yes, ma'am.

2 Q Okay. Was this the first time that your
3 boyfriend would have been there?

4 A No, ma'am.

5 Q Okay. When you would go -- how many times do you
6 think you'd there to socialize at his home before
7 June 20th?

8 A A couple of times we went over there and ate
9 and...

10 Q Okay. Any other prior occasions whereby you
11 would have stayed the night?

12 A No, ma'am.

13 Q Okay, all right. Tell me, what is your next
14 recollection after your boyfriend left?

15 A Waking up off the couch.

16 Q Okay. Do you remember falling asleep on the
17 couch?

18 A No, ma'am.

19 Q Okay, all right. Tell me your memory of waking
20 up on the couch.

21 A When I first come to I went to go stand up and
22 realized I had to get dressed from the bottom down.

23 Q You had to get dressed from the bottom down?

24 A Yes, ma'am.

25 Q So does that then mean that you were naked from

SW - A. GRAHAM - DIRECT

1 bottom top?

2 A Yes, ma'am.

3 Q You told me earlier that you were wearing jean
4 shorts that night?

5 A Uh-huh.

6 Q Is that a yes?

7 A Yes, ma'am.

8 Q Where were your jean shorts?

9 A On the floor.

10 Q Okay. And presumably you were wearing underwear
11 that night?

12 A Yes, ma'am.

13 Q Where were your underwear?

14 A With the shorts.

15 Q Okay. Do you have a memory at all of ever taking
16 off your underwear or your shorts?

17 A No, ma'am.

18 Q Okay. And now Amanda, of course you were in
19 court when the ER nurse testified, right?

20 A Yes, ma'am.

21 Q You remember her stating that -- you remember the
22 accused on top of you? You remember her testimony
23 to that effect?

24 A (Shakes head.)

25 Q Do you have a memory of how the defendant being

SW - A. GRAHAM - DIRECT

1 on top of you while you were on the sofa?

2 A I remember somebody being over me and hair in my
3 face 'cause I was steady trying to move my head.

4 Q I'm sorry, tell me that again.

5 A Somebody being over me with the hair, and I was
6 trying to, like, turn my head and move hair out my
7 face.

8 Q Okay. Do you have a specific memory of the
9 sexual assault itself?

10 A No, ma'am.

11 Q Okay. Why do you think that is?

12 A The alcohol we drank.

13 Q 'Cause you had drank too much?

14 A Yes, ma'am.

15 Q All right. So when you woke up, just to be
16 clear, you were on the sofa in the defendant's
17 house?

18 A Yes, ma'am.

19 Q What room?

20 A Living room.

21 Q Okay. Tell me what your next memory is after
22 waking up and not being clothed with your underwear
23 and your pants, or your shorts.

24 A When I woke up, got dressed. Jim and Susan were
25 sitting in the kitchen which is like one big open

SW - A. GRAHAM - DIRECT

1 room.

2 Q Could they see you from where you were on the
3 sofa?

4 A Yes, ma'am.

5 Q So you wake up, both of them are seated in the
6 kitchen?

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes, ma'am.

10 Q And you could see them and they could see you?

11 A Yes, ma'am.

12 Q Where was -- was Charles there?

13 A Yes, ma'am.

14 Q Okay. Where was Charles?

15 A On the floor right beside the couch that I was
16 on.

17 Q Let me get your help for a minute. Can you come
18 down?

19 A Uh-huh.

20 Q When you come into the defendant's home what's
21 the first room you went in when you come in the
22 front door?

23 A Living room.

24 Q What type of home does he have?

25 A A mobile home.

SW - A. GRAHAM - DIRECT

1 Q So you open the door, you're in the living room?

2 A Yes, ma'am.

3 Q When you open the door and you're standing at the
4 front door and you're in the living room, can you
5 see the sofa that you were on?

6 A Yes, ma'am, like right on the other side right in
7 front of me.

8 Q Right in front of you?

9 A Uh-huh.

10 Q So -- stand back here for a second for me.

11 Imagine, if you will, you're standing at his front
12 door. Let's just take this portion of the jury
13 bench and pretend it is the sofa, okay, you follow
14 me?

15 A Yes, ma'am.

16 Q This is the front of the sofa and this is the
17 foot of the sofa. Where was your head at? You're
18 facing the doorway.

19 A On that end.

20 Q On this end regarding to the left?

21 A Yes, ma'am.

22 Q And if we pretend that this is the sofa where
23 would Charles have been in relation to that sofa?

24 A Down near the foot.

25 Q Okay. You can have a seat. When you woke up and

SW - A. GRAHAM - DIRECT

1 you saw them in the kitchen, do you know about what
2 time it was?

3 A Somewhere about six that morning.

4 Q Okay. All right, so tell me what happens after
5 you get up and realize that you don't have your
6 panties or your shorts.

7 A I stand up, get dressed, and just start crying
8 'cause I'm trying to piece things together. They
9 were sitting in the kitchen talking, I guess, about
10 the argument that we had. And I just looked at
11 Susan and asked her would she please take me home,
12 and I woke Charles up to make him go with me. And
13 on the ride home she just looked at me and said, he
14 shouldn't have never ---

15 MR. HARVIN: Objection, hearsay, Your
16 Honor.

17 THE COURT: Ms. Barr.

18 BY MS. BARR:

19 Q Amanda, you can't testify as to what somebody
20 else told you, okay. Susan drove you home?

21 A Yes, ma'am, she was the one that told me.

22 Q Okay. But did she drive you home?

23 A Yes, ma'am.

24 Q What about the defendant, where was he when you
25 left to go home?

SW - A. GRAHAM - DIRECT

1 A At his house.

2 Q He stayed there?

3 A Yes, ma'am.

4 Q All right. Do you know if anyone else was there
5 in the home when you left?

6 A Adam Nixon and Tiffany.

7 Q Okay. Adam is Charles' little brother?

8 A Yes, ma'am.

9 Q All right. And you asked Charles to go with you?

10 A Yes, ma'am.

11 Q And I believe, I don't think you told me who
12 Tiffany is. Who is Tiffany?

13 A That's Jim and Susan's daughter.

14 Q Okay. As you are awakening and you're noticing
15 that your shorts are not on you, did you notice
16 anything unusual about your body, aside from not
17 having your pants and your underwear on?

18 A Not right then I didn't.

19 Q Okay, all right. When did you notice, if you
20 ever did, any bruising of your body?

21 A When I got home to take a shower.

22 Q Okay. Where did you have -- where did you see
23 bruises at on your body?

24 A I had one on my left shoulder here, one on my
25 knee, and one on my hip.

SW - A. GRAHAM - DIRECT

1 Q Okay. When you went to the defendant's home that
2 night did you have those marks on you?

3 A No, ma'am.

4 Q Is there any question in your mind that you
5 didn't have those marks on you?

6 A No, I didn't have the marks on me.

7 Q All right. On the ride home was -- don't tell me
8 what he may have said; but specifically, on the ride
9 home did Charles say anything to you?

10 A No, ma'am.

11 Q All right. Once you got home did Charles stay
12 with you or did Charles go back and get his brother?

13 A Charles went back to get his brother. I'm not
14 sure if he went to get his brother or if he went
15 home.

16 Q Okay. Did you ever have a conversation with
17 Charles about what may have happened there?

18 A Charles ---

19 Q Don't tell what he said. Did you have a
20 conversation with ---

21 A Later, yes, ma'am.

22 Q Later, okay. About how much later do you think?

23 A Well, it was when we left to go back to his
24 house.

25 Q To whose house?

SW - A. GRAHAM - DIRECT

1 A To Charles' house after I called.

2 Q Okay. When you got home did you talk with your
3 mother?

4 A She was the first one.

5 Q Okay. And did you tell her what had happened?

6 A Yes, ma'am.

7 Q Now Amanda, we've heard testimony that the first
8 report to law enforcement would have come about 4:00
9 that afternoon. Does that serve -- is that about
10 how you remember the timing of it?

11 A Yes, ma'am.

12 Q All right. And so your testimony is that you
13 woke up 6:00 that morning, correct?

14 A Yes, ma'am.

15 Q All right. Can you explain to the jurors why it
16 is that somewhere in the neighborhood of ten hours
17 went by before this was reported to law enforcement?

18 A I was ashamed.

19 Q Why?

20 A 'Cause he was a family friend.

21 Q Okay.

22 A And I had four kids at home, and I was trying not
23 to show anything was wrong.

24 Q With them? You didn't want them to know?

25 A No, ma'am.

SW - A. GRAHAM - DIRECT

1 Q Okay. Did you trust Mr. Feagin?

2 A Yes, ma'am.

3 Q Now at the time this incident happened how was
4 Mr. Feagin's hair? What kind of hair style did he
5 have?

6 A Oh, kind of like short on the side and it was
7 kind of long like right through here in the back
8 (indicating).

9 Q Y'all have a nickname for the defendant?

10 A Yes, ma'am.

11 Q What do y'all call him?

12 A Teeny boy.

13 Q Teeny boy?

14 A Yes, ma'am.

15 Q And where does he live?

16 A Longleaf.

17 Q In Cades?

18 A Yes, ma'am.

19 Q Longleaf Road?

20 A Yes, ma'am.

21 Q Did -- I believe that we heard testimony that
22 Sergeant Pressley spoke with you and Charles that
23 day; is that correct?

24 A Yes, ma'am.

25 Q Did you give her a written statement of what had

SW - A. GRAHAM - DIRECT

1 happened?

2 A Yes, ma'am.

3 Q Did the defendant ever say anything to you that
4 morning once you woke up on the sofa?

5 A Something about my boyfriend Jamie shouldn't have
6 called his wife, or girlfriend, a bad word.

7 Q That your boyfriend should not have called Susan
8 a bad name?

9 A Yeah.

10 Q That was the only thing he said to you?

11 A Uh-huh.

12 Q Is that a yes?

13 A Yes, ma'am.

14 Q That's the only thing he said to you?

15 A (No verbal response.)

16 Q Yes?

17 A Yes, ma'am.

18 Q And I think that we've identified his girlfriend
19 as Susan. Do of y'all saw call her by another name
20 other than Susan?

21 A Becky.

22 Q Y'all call her Becky?

23 A Yes, ma'am.

24 Q Beg the Court's indulgence. Now after Susan or
25 Becky, however you call her, took you home that day,

SW - A. GRAHAM - CROSS

1 did you ever see the defendant anymore that same day
2 after you left his home?

3 A No, ma'am.

4 Q Did you ever see his vehicle?

5 A After we went over to Charles' house and
6 Ms. Pressley was out there we seen him rode by.

7 Q I'm sorry, say again.

8 A When we were at Charles' house and Ms. Pressley
9 was out there we seen it when he rode by.

10 Q Now who is Ms. Pressley?

11 A The deputy that came out there.

12 Q All right, ma'am. Please answer any questions
13 that Defense may have for you.

14 MR. HARVIN: May it please the Court, Your
15 Honor. Thank you.

16 **CROSS-EXAMINATION**

17 BY MR. HARVIN:

18 Q Good afternoon, Ms. Graham. I just have a few
19 questions for you. Do you recall giving a written
20 statement to Pressley?

21 A Yes, sir.

22 Q And in that written statement do you recall what
23 you wrote in that statement?

24 A Yes, sir.

25 Q All right. And in preparing for this trial

SW - A. GRAHAM - CROSS

1 Ms. Barr showed you that statement, correct?

2 A Yes, sir.

3 Q And you do understand that the statement you
4 wrote does not have the things that you're
5 mentioning here today? I'm sure she told you that.

6 MS. BARR: Argumentive, facts that's not
7 in evidence.

8 BY MR. HARVIN:

9 Q Well, in your statement did you give a
10 description of where you were in the house?

11 A On the couch.

12 Q In your statement?

13 A I'm not sure if I put it in there or not.

14 Q In your statement did you give a description
15 where Mr. Charles R. [REDACTED] was?

16 A I'm not sure.

17 Q Okay. If I gave you the statement would it
18 refresh your memory?

19 A Yes, sir.

20 Q Just take a moment and reread the statement and
21 let me know when you're done reading.

22 (Pause.)

23 THE WITNESS: Okay.

24 BY MR. HARVIN:

25 Q In this statement that you gave the police at

SW - A. GRAHAM - CROSS

1 that time -- well, first, do you recall when you
2 gave the statement? Was it at 4:00 you talked to
3 Ms. Pressley and wrote this statement?

4 A Yeah, it was later that day.

5 Q And so this was the same day -- the statement was
6 written the same day you allege this took place ---

7 A Later that day, yes, sir.

8 Q ---right? And does your statement mention
9 anything about hair being in your face or you trying
10 to pull your head away?

11 A The hair in my face.

12 Q Okay. Does it say you were trying to pull your
13 head away ---

14 A No, sir.

15 Q ---from somebody? Okay. Now you mentioned that
16 you woke up and your shorts were on the floor,
17 correct?

18 A Uh-huh.

19 Q All right. Did you see any condoms around?

20 A No, sir.

21 Q Okay. Do you see condom wrappers around you in
22 any way, shape, or form?

23 A No, sir.

24 Q Okay. Now does Mr. Feagin have a television in
25 that room you're sleeping in?

SW - A. GRAHAM - CROSS

1 A I believe so.

2 Q Okay. Was that television on, was it off, do you
3 recall?

4 A Not that I recall.

5 Q Okay. Does he have a fireplace in that same
6 room?

7 A I -- yes, sir, I believe so.

8 Q All right. And so wouldn't Mr. Charles R.

9 have been laying next to the fireplace?

10 A Towards the fireplace.

11 Q Towards the fireplace?

12 A Yes, sir.

13 Q And the TV would have been right above his head,
14 correct?

15 A It was on that wall.

16 Q The same wall?

17 A Yeah.

18 Q Right above his body pretty much?

19 A Yeah.

20 Q All right. Now you got very specific details
21 leading up to your fight with your boyfriend and
22 then you said that you don't remember anything after
23 that, correct?

24 A No, sir. I don't even remember what we argued
25 about.

SW - A. GRAHAM - CROSS

1 Q Do you remember where you all argued?

2 A No, sir.

3 Q So you don't know whether it was inside, outside,
4 down a dirt road, near some rocks? You don't
5 remember that?

6 A No, sir.

7 Q Okay. So you don't remember whether he hit you
8 or not 'cause you don't remember what the argument
9 was about, you don't remember where the argument
10 took place, you don't remember the argument, do you?

11 A I don't know — I remember starting an argument.
12 I don't remember what it was about.

13 Q You remember starting. Do you remember how he
14 left that residence 'cause he obviously rode there
15 with him and Susan so how did he leave?

16 A With his sister.

17 Q That the only person that was with him?

18 A There was people in it but I'm not sure who all
19 was in there.

20 Q Okay. So you now remember that he got into a
21 vehicle with other people?

22 A Yeah, a vehicle, and I know his sister was with
23 them. That's the only person I seen.

24 Q Okay. When you gave your statement to the police
25 did you describe Jim as having the hair cut that you

SW - A. GRAHAM - CROSS

1 just mentioned?

2 A I don't think I did. I don't think they asked.

3 Q Now at some point you were in the pool or around
4 the pool. Were you in it or around it?

5 A We were in it when we got there.

6 Q You were in the pool. You had brought pool
7 clothing to get into the pool?

8 A No, we jumped in with the shorts and the shirt
9 on.

10 Q Okay. So the same outfit that you wore you just
11 jumped in the pool and started having fun, correct?
12 Correct?

13 A Yes, sir.

14 Q All right. And so those clothes got wet at some
15 point, correct?

16 A Yes, sir.

17 Q Correct?

18 A Yes, sir.

19 Q All right. Now after your boyfriend left you
20 don't remember any conversations you had after that
21 point until you woke up; is that correct?

22 A Yes, sir.

23 Q So you don't know what you said. You don't even
24 remember how you got from the location the fight
25 took place to the sofa?

SW - A. GRAHAM - CROSS

1 A Yes, sir.

2 Q Okay. You don't know what you did during that
3 period of time?

4 A No, sir.

5 Q And so while -- you just stated to Ms. Barr that
6 you don't remember taking off your clothes a period
7 of time from getting into the fight with Jamie until
8 you woke up, you don't remember how your clothes
9 came off?

10 A No, sir.

11 Q Okay. Now have you ever drank moonshine before?

12 A No, sir.

13 Q This is the first time?

14 A Yes, sir.

15 Q What about other types of alcohol?

16 A Yes, sir.

17 Q Okay. Does alcohol make you hot sometimes?

18 A What you mean, like, temperature?

19 Q Kind of warm you up?

20 A Yes, sir.

21 Q And so this was in June? June, correct?

22 A Yes, sir.

23 Q So it would have been a little warm in June as
24 well?

25 A Yes, sir.

SW - A. GRAHAM - CROSS

1 Q I guess that's why you all got into the pool,
2 kind of cool off 'cause it was hot outside?

3 A Yes, sir.

4 Q All right. Now you mentioned that Jim mentioned
5 to you that your boyfriend had said or called Susan/
6 Becky a bad name, correct?

7 A Yes, sir.

8 Q You don't know when that happened, how it
9 happened, or anything related to that?

10 A No, sir.

11 Q All right. In your statement to the police did
12 you tell them about finding bruises on you?

13 A No, sir.

14 Q Okay. And you did give that statement after you
15 took a shower, correct?

16 A Yes, sir.

17 Q The clothing you had on you mentioned a T-shirt,
18 some jean shorts, some flip flops. Did you provide
19 those items to law enforcement or to the hospital,
20 to somebody?

21 A Yes, sir.

22 Q Okay. Do you know where those items are today?

23 A No, sir.

24 Q Now the shirt you had on, you remember what color
25 it was?

SW - A. GRAHAM - CROSS

1 A Not right off. I want to say it was a blue
2 T-shirt I believe.

3 Q Okay, blue T-shirt. Do you remember whether it
4 was a long T-shirt or whether it was a short
5 T-shirt?

6 A Probably like a little below your waist.

7 Q And come down, you're kind of tall for a female
8 so come down, let's give some visual. So where
9 would that T-shirt stop at?

10 A Probably right through there.

11 Q Okay, you can have a seat. And to the best of
12 your memory, that was the same that T-shirt you had
13 on when you woke up?

14 A Yes, sir.

15 Q So you would have been asleep in wet clothes?

16 A That's what -- yes, sir.

17 Q Did you have long hair at the time this incident
18 happened?

19 A Yes, sir.

20 Q Sometimes when you sleep your hair doesn't get in
21 your face?

22 A I used to wear it curly so it stayed like gel and
23 pulled back. It was different.

24 Q Okay. But when you got in the pool that didn't
25 get it wet or anything?

SW - A. GRAHAM - REDIRECT

1 A Yes, sir.

2 Q I got you.

3 MR. HARVIN: Beg the Court's indulgence
4 for one moment.

5 BY MR. HARVIN:

6 Q And you mentioned that Mr. Roberts is 16 years
7 old?

8 A Yes, sir.

9 Q Okay. Since this incident has happened how many
10 times have you and him spoke about this incident?

11 A Just one. I've actually got the whole, to sit
12 down and listen to his side one time.

13 Q You all rode together today?

14 A Yes, sir.

15 Q You all rode together yesterday?

16 A I don't know -- yeah, yesterday.

17 Q Okay. And you all are related?

18 A By marriage, not by blood or anything.

19 Q What did you call him earlier, your cousin?

20 A Yeah, you might as well say cousin.

21 Q I got you.

22 MR. HARVIN: Your Honor, I don't think I
23 have any further questions for Ms. Graham. Thank
24 you.

25 THE COURT: Redirect?

SW - A. GRAHAM - REDIRECT

1 MS. BARR: Yes, sir, thank you.

2 **REDIRECT EXAMINATION**

3 BY MS. BARR:

4 Q Amanda, just a couple of questions. Do you still
5 have a copy of your statement up there with you?

6 A No, ma'am.

7 MS. BARR: Judge, may I approach.

8 THE COURT: Yes.

9 BY MS. BARR:

10 Q Now Mr. Harvin asked you earlier whether or not
11 anywhere in your statement it reflects that you told
12 the police where you were when this happened. Do
13 you remember him asking you that question?

14 A Yes, ma'am.

15 Q All right, when you read -- read your statement
16 again if you need to do yourself. But when you
17 reread your statement do you say in your statement
18 where you were when this happened?

19 A Yes, ma'am, on the couch.

20 Q That's in your statement?

21 A Yes, ma'am.

22 Q Now at any point did the officer ask you where
23 Charles was when this happened?

24 A I'm not sure whether she asked me; I don't
25 remember.

SW - C. R. [REDACTED] - DIRECT

1 Q Okay. Do you remember whether or not anyone
2 asked you during that initial interview how the
3 defendant's hair style was at the time?

4 A I'm not sure.

5 Q Who is your boyfriend's sister?

6 A Brittany Conyers.

7 Q Brittany Conyers? Okay.

8 MS. BARR: All right, Judge, that's all
9 the questions that I have. Thank you.

10 THE COURT: Mr. Harvin, anything else?

11 MR. HARVIN: No, Your Honor, I have no
12 other questions.

13 THE COURT: You may step down.

14 MS. BARR: The State calls Charles R.

15 [REDACTED]

16 THE COURT: All right.

17 THE CLERK: Place your left hand on the
18 Bible, raise your right hand.

19 WHEREUPON,

20 Charles R. [REDACTED]

21 having been duly sworn by the Clerk, testified as
22 follows:

23 THE CLERK: Step around to the witness
24 box.

25 **DIRECT EXAMINATION**

SW - C. R. [REDACTED] - DIRECT

- 1 BY MS. BARR:
- 2 Q Good afternoon, Charles.
- 3 A Good afternoon.
- 4 Q You were subpoenaed to testify in this case?
- 5 A Yes, ma'am.
- 6 Q All right. And tell me your full name.
- 7 A Charles R. [REDACTED]
- 8 Q Okay. And how old are you?
- 9 A Sixteen.
- 10 Q Okay. You go to school here in town?
- 11 A Yes, ma'am.
- 12 Q Where are you a student at?
- 13 A Kingstree Senior High School.
- 14 Q Okay. And where do you live?
- 15 A [REDACTED]
- 16 Q That's here in Kingstree, right?
- 17 A Yes, ma'am.
- 18 Q Do you know the defendant Jim Feagin?
- 19 A Yes, ma'am.
- 20 Q Tell the jurors how you know him.
- 21 A He was a close friend and we knew him for 12, 13
- 22 years.
- 23 Q Okay. He was a close friend of yours and your
- 24 family's?
- 25 A Of the family, yes, ma'am.

SW - C. R. [REDACTED] - DIRECT

1 Q All right. And have, prior to June 20th of 2013
2 have you ever been to his home?

3 A Yes, ma'am.

4 Q Okay. And who lives in the home with him?

5 A It's him, his girlfriend, and their daughter.

6 Q How many times you think prior to the summer last
7 year that you had been to his home?

8 A Maybe five, six times maybe.

9 Q Okay. Did your family socialize over at the
10 defendant's house? Was that routine for that to
11 happen?

12 A No.

13 Q Okay. The times that you went prior to June 20th
14 of 2013, what were the reasons why you happened to
15 be over there at his home?

16 A Maybe me and my mom was going over there for
17 maybe they had a cookout or, you know, different
18 things.

19 Q Sure, sure. All right, I'm gonna take you back
20 to that afternoon and that evening. Were you in the
21 company of Amanda Graham?

22 A Yes, ma'am.

23 Q Now how long have you known Amanda?

24 A Since I moved back to Kingstree. Maybe 12, 13
25 years.

SW - C. R. [REDACTED] - DIRECT

1 Q Okay. So about as long as you've known
2 Mr. Feagin?

3 A Yes, ma'am.

4 Q Okay. Have you ever seen Amanda over at the
5 defendant's house before?

6 A No, ma'am, that was -- no, maybe that would have
7 been the second time.

8 Q Okay. And did you also socialize with Amanda and
9 her family and her boyfriend?

10 A Yes, ma'am.

11 Q What's her boyfriend's name?

12 A Jamie Nixon.

13 Q Okay, all right. Have you ever been around
14 Amanda while she was drinking alcohol?

15 A Yes, ma'am.

16 Q Okay. Have you ever seen her in a position where
17 she was passed out?

18 A No, ma'am.

19 Q How many times you think you were around her when
20 she was drinking alcohol?

21 A I'd say maybe a couple of times, like a lot.

22 Q Now let's talk about the afternoon, that evening
23 of June 20th. When was the time you saw Amanda on
24 that day?

25 A That was that afternoon maybe at dark.

SW - C. R. [REDACTED] - DIRECT

1 Q Okay. Where were you at when you saw her and
2 where was she?

3 A She was with her boyfriend walking. We had a
4 fire so they were standing beside the fire.

5 Q I'm sorry, say again?

6 A They were standing beside the fire. They had a
7 big fire.

8 Q Like bond fire?

9 A Yes, ma'am.

10 Q I just wanted to make sure you weren't talking
11 about a house fire. It was a bond fire?

12 A Yes, ma'am.

13 Q Okay, so she and her boyfriend came walking up?

14 A Yes, sir.

15 Q All right, and that was at your home?

16 A The next door neighbor's.

17 Q And who was the next door neighbor?

18 A Roy Nixon.

19 Q Now is he related to her boyfriend, Jamie Nixon?

20 A Yeah, that's his daddy.

21 Q Okay. So they came up and y'all had a bond fire.
22 How long did they stay?

23 A They stayed for, until we had left.

24 Q Okay.

25 A Which was maybe, you know, maybe 12, 1:00.

SW - C. R. [REDACTED] - DIRECT

1 Q Did you see her drinking while she was at her
2 boyfriend's dad's home?

3 A Yes, ma'am.

4 Q All right. And was her boyfriend Jamie drinking
5 as well?

6 A Yes, ma'am.

7 Q On that day did the defendant and his girlfriend
8 Susan or Becky, whichever name y'all call her, did
9 they come?

10 A Yes, ma'am.

11 Q And do you have a concept or a memory about what
12 time it was that they came up to the house?

13 A It was maybe a little while after they had come
14 up.

15 Q Okay, all right. And were they drinking as well
16 once they got there?

17 A Yes, ma'am.

18 Q Okay. When I say "they" I mean Becky and the
19 defendant, Mr. Feagin.

20 A Yes, ma'am.

21 Q All right. You know what they were drinking?

22 A He makes homemade moonshine.

23 Q Who does?

24 A T-Roy, which is Jim Feagin.

25 Q Who makes the moonshine?

SW - C. R. [REDACTED] - DIRECT

1 A Jim Feagin.

2 Q Okay. Did he bring the moonshine with him?

3 A Yes, ma'am.

4 Q Did you see Amanda drinking any of the moonshine
5 that the defendant brought with him?

6 A No, ma'am, she was drinking beer. I think that
7 was it.

8 Q Okay. You indicated that the defendant and Becky
9 came a little bit after Amanda, after you guys got
10 there?

11 A Yes, ma'am.

12 Q And did you all leave together?

13 A Yes, ma'am.

14 Q All right. Where'd y'all go?

15 A We went to his house.

16 Q Whose house?

17 A Jim Feagin.

18 Q When you say "we", who all went? Tell the jurors
19 who you mean.

20 A It was me, Jim Feagin, Becky Colvin, Amanda, her
21 boyfriend, and me.

22 Q Okay. Was your brother there?

23 A Yes, ma'am, and my little brother and their
24 daughter.

25 Q That's Tiffany?

SW - C. R. [REDACTED] - DIRECT

1 A Yes, ma'am.

2 Q Tell us what happened once everybody got back to
3 Mr. Feagin's house.

4 A Okay, we got there and they got in the pool
5 'cause it was summer time. And they all got out and
6 he, you know, was playing music or whatever. And
7 then Jamie Nixon, which is her boyfriend, and her
8 got into a little argument. And they went outside
9 in the front yard and they were, you know, arguing
10 so he left.

11 Q Who left?

12 A Jamie Nixon left, her boyfriend later.

13 Q Do you know what the fight was about?

14 A No ma'am. I think it was about maybe money, I
15 think, 'cause he got some money from her. That's
16 why I thought it was money. And then he called with
17 some of his friends to come and get him from Mr. Jim
18 Feagin's house and then Amanda come in upset and
19 crying and went in the bathroom, and they went and
20 knocked in the bathroom with her.

21 Q Who went in the bathroom with her?

22 A Mr. Jim Feagin and Becky Colvin. They were
23 trying to calm her down is what they were trying to
24 explain to me. And they got her to the couch and
25 she passed out and fell asleep so I fell asleep

SW - C. R. [REDACTED] - DIRECT

1 beside her on the couch on the floor.

2 Q Okay, hold on, slow down for just a moment. Let
3 me take you back a little ways; you're going too
4 fast for me.

5 A Okay.

6 Q When Jamie and Amanda had the argument did you
7 ever see where it turned physical?

8 A No, ma'am.

9 Q Did it ever turn physical as far as you could
10 see?

11 A No, ma'am. No, ma'am.

12 Q While you were at Jamie's dad's house before you
13 even went to Jim Feagin's house that night, while
14 everybody was at Jamie's dad house and had the bond
15 fire and so forth, did you ever notice any bruising
16 on Amanda?

17 A No, ma'am.

18 Q Okay. And when she came back after being upset
19 with her boyfriend did she ever spring he hit me,
20 pushed me or knocked me down?

21 A No, ma'am.

22 Q Okay. So she goes into the bathroom, the
23 defendant and his girlfriend Becky then follow her
24 into the bathroom?

25 A No, ma'am, she was already in the bathroom and

SW - C. R. [REDACTED] - DIRECT

1 they went down the hallway and busted in the door on
2 her while she was in there.

3 Q Okay. So do you know whether or not she opened
4 the door for them or they opened the door on their
5 own?

6 A Yeah, 'cause she sent her daughter Tiffany --
7 Becky, she sent her daughter in there to get a knife
8 to, you know, pry the door open.

9 Q Who did that?

10 A Becky Colvin.

11 Q Becky sent ---

12 A Susan Colvin.

13 Q ---Tiffany to get a knife?

14 A Yes, ma'am.

15 Q For what?

16 A Try to pry the door open.

17 Q Okay. And were they successful in doing that?

18 A Yes, ma'am.

19 Q How old is Tiffany?

20 A Maybe nine.

21 Q Okay. Then what happened?

22 A And then they got her calmed down and then she
23 sat on the couch, and she laid down on the couch and
24 she went to sleep.

25 Q Okay.

SW - C. R. [REDACTED] - DIRECT

- 1 A So ---
- 2 Q Hold up for me. When she laid down on the couch
- 3 did she have a top or a bottom on?
- 4 A Yes, ma'am, she was fully clothed.
- 5 Q Fully clothed when she laid down?
- 6 A Yes, ma'am.
- 7 Q All right. And she fell asleep?
- 8 A Yes, ma'am.
- 9 Q And that is what you saw?
- 10 A Yes, ma'am.
- 11 Q All right. Did you ever see her at any point
- 12 that night take her own pants or underwear or
- 13 clothing off?
- 14 A No, ma'am.
- 15 Q Okay. Now, and I may have asked you this before
- 16 and if I did just please forgive me. Were you
- 17 drinking at all that night?
- 18 A No, ma'am.
- 19 Q You were fully cognizant of what happened?
- 20 A Yes, ma'am.
- 21 Q Tell me what happens after she gets back on the
- 22 sofa or she gets on the sofa and she lays down and
- 23 you said fall asleep? Or what were the words you
- 24 used?
- 25 A She fell asleep.

SW - C. R. [REDACTED] - DIRECT

1 Q Okay. All right, tell me what happened next.

2 A And then we both laid down and I made a pallet on
3 the floor beside her on the couch on the floor.

4 Q What kind of pallet? What'd did you make the
5 pallet with?

6 A Blankets.

7 Q Okay.

8 A And they went in their bedroom, turned off all
9 the lights and was went to sleep and I felt this --
10 you know how you feel when somebody comes into a
11 dark room with you? Well, he coughs, like a cough
12 he made he does and I heard him cough.

13 Q Heard who cough?

14 A Mr. Jim Feagin.

15 Q Okay.

16 A And I heard Jim Feagin cough. And then he come
17 and sat on the couch 'cause the couch squeaked. And
18 then Becky flips on the light and I had my eyes
19 barely cracked. And then they sat on the couch
20 beside her, but she was like leaning on her side
21 like where they were sitting behind her. And he
22 started zipping -- unzipping her pants.

23 Q Who started unzipping whose pants?

24 A Jim Feagin.

25 Q Started unzipping whose pants?

SW - C. R. [REDACTED] - DIRECT

1 A Amanda.

2 Q Okay.

3 A And he started having sexual intercourse.

4 Q How do you know that?

5 A Because the noises he was making, and you know,
6 the grunting and, you know, all that. And then he
7 turns and looks at Becky Colvin and tells her, well,
8 don't you wish your stuff was as tight as this.

9 MR. HARVIN: Objection, Your Honor.

10 THE COURT: Objection is overruled.

11 BY MS. BARR:

12 Q All right. When you say he looks over at Becky
13 and says don't you wish your stuff was as tight as
14 this, who is the he that you're talking about?

15 A Oh, Jim Feagin, I'm sorry. I'm sorry.

16 Q No, no, you're fine. When he says that to Becky
17 what is he doing at that time?

18 A He's still, you know, having sexual intercourse.

19 Q With?

20 A With Amanda.

21 Q Okay. What is Becky doing when he says that to
22 her?

23 A She's leaning over her, over her face with her
24 hair in Amanda's face, Becky's hair in Amanda's
25 face, and holding her hands down where she couldn't

SW - C. R. [REDACTED] - DIRECT

1 move, move her arms or anything.

2 Q All right. Come down from the witness stand for
3 me. Let's -- we did this earlier. Let's just
4 pretend this is the sofa. Turn around for me.

5 Let's pretend this is the sofa that Amanda was on
6 that night. Let's assume just for argument sake
7 that her head is here, okay, and her feet are here.

8 A Yes, ma'am.

9 Q Where are you in relation to the sofa?

10 A I was on this side.

11 Q Okay, all right. So is the sofa up against the
12 wall?

13 A Yes, ma'am.

14 Q So let's just pretend this face here is the wall.

15 A Uh-huh.

16 Q So this is a wall, this is a sofa. Where were
17 you?

18 A Right here.

19 Q All right, you would have been down here?

20 A Yes, ma'am.

21 Q And if this is Amanda's, where Amanda's head
22 would have been and this is where her feet would
23 have been, where was Jim Feagin?

24 A He was -- okay, he was like this. He was right
25 here.

SW - C. R. [REDACTED] - DIRECT

1 Q Okay. On top of her?

2 A Yes, ma'am.

3 Q And where was Susan?

4 A She was at her head like leaning over where her
5 hair was, you know, in her face.

6 Q Okay. And how long was Susan's hair back then,
7 or Becky's hair?

8 A It was quite long.

9 Q And you can use me to demonstrate. Show the
10 jurors using me to demonstrate how long her hair
11 would have fell, how long her hair would have been.

12 A Maybe middle ways her back.

13 Q Okay, all right. And you describe Susan doing
14 something to Amanda's arm?

15 A Yes, sir, holding it down.

16 Q Okay. Use me to demonstrate. Pretend I'm
17 Amanda. And what would Susan have been doing to
18 Amanda as the defendant told her, don't you wish
19 yours was as tight as this? What did you see Susan
20 do to Amanda?

21 A She was just like brushing her hair and moving
22 her hair. She was, had her hands tight like beside
23 her like this (indicating) and she couldn't move.

24 Q Okay.

25 A If she was to come to she wouldn't have been able

SW - C. R. [REDACTED] - DIRECT

1 to move.

2 Q And do you recall at any point in time Amanda
3 coming to?

4 A No, ma'am.

5 Q Okay, all right. Thank you. You can have your
6 seat, sir, thank you. And do you have a nickname
7 for the defendant or is he known by a nickname?

8 A Jim Feagin.

9 Q All right. How long do you think this occurred?

10 A Maybe 30 minutes.

11 Q Okay. At any point in time was Amanda conscious
12 when this was taking place?

13 A No, ma'am.

14 Q And after the defendant makes the statement to
15 Becky about Amanda, then what happened?

16 A Then they stopped and he didn't put on -- he
17 didn't put back on her clothes; he just left them
18 off of her. And then he said, okay, well I'm going
19 to bed; and she said, okay, I'm going to bed too.

20 Q Who said that?

21 A Becky.

22 Q Okay, Becky says I'm going to bed too?

23 A Yes, ma'am.

24 Q All right. And then where do they go?

25 A They go into their bedroom.

SW - C. R. [REDACTED] - DIRECT

1 Q Okay, all right. Now Charles, you witnessed all
2 this?

3 A Yes, ma'am.

4 Q What happens next after they go back into their
5 room?

6 A We -- I went to sleep and the next morning she
7 was waking me saying what happened 'cause she had
8 told me the look on my face was, you know, it
9 unexplainable. And I told her about it the next day
10 whenever Becky took us home.

11 Q Okay. Tell me why you didn't try to stop the
12 defendant or try to intervene in some way, shape, or
13 fashion.

14 A Because maybe if he was, he was, maybe he would
15 have known if I was awake he might have would tried
16 to hurt me or maybe try to do the same thing or you
17 know what I mean.

18 MR. HARVIN: Objection.

19 THE COURT: Objection is overruled.

20 BY MS. BARR:

21 Q All right. Tell me what happens when Amanda
22 wakes up the next morning. You testified she had to
23 get her clothes.

24 A Yes, ma'am, she had to put back on her clothes.

25 Q Where was Becky and -- or Susan and the

SW - C. R. [REDACTED] - DIRECT

1 defendant?

2 A They come walking out of the bedroom whenever
3 they heard us up in there, and she fixed a cup of
4 coffee, sat at the table. He sat at the table.

5 Q She being who?

6 A Becky.

7 Q Okay. And then they were, you know, saying about
8 what happened that night before about he shouldn't
9 have left you and he shouldn't have did this and he
10 shouldn't have hurt you. That's all he could say.

11 MR. HARVIN: Objection, hearsay, double
12 hearsay.

13 THE COURT: Referencing whose
14 conversation?

15 MS. BARR: That's what I need to be clear
16 on.

17 BY MS. BARR:

18 Q Charles, stay with me just a moment, okay. When
19 you're testifying about what was said, who are you
20 talking about as to making certain comments that you
21 just testified about?

22 A Becky and Jim Feagin.

23 Q Okay, all right. What did Mr., if anything, what
24 did Mr. Feagin say? Was he in the conversation
25 about what had happened the night before?

SW - C. R. [REDACTED] - DIRECT

1 A Yes, ma'am. Jim Feagin said ---

2 MR. HARVIN: Objection, hearsay.

3 THE COURT: Objection is overruled,
4 defendant's statements.

5 BY MS. BARR:

6 Q You may proceed.

7 A Jim Feagin said, well, Amanda, Jamie shouldn't
8 have left you.

9 Q Okay. What was Amanda's demeanor when she woke
10 up that morning?

11 A Just crying and hysterical and asking me what was
12 wrong, what was wrong with her, and I was trying to
13 tell her but I didn't want to tell her in front of
14 them so I told her when she got home.

15 Q Okay. How'd y'all get home?

16 A Susan.

17 Q Susan took you home?

18 A Yes, ma'am.

19 Q Was Mr. Feagin with y'all when you went home?

20 A No, ma'am.

21 Q Did you give a statement to the police concerning
22 what you had seen that night?

23 A Yes, ma'am.

24 Q And, sir, prior to this incident did you have any
25 reason to have any ill will towards Jim Feagin or

SW - C.R. [REDACTED] - DIRECT

1 his girlfriend Becky?

2 A No, ma'am.

3 Q Sir?

4 A What did you say, I didn't hear.

5 Q Did you have any ill will toward the defendant or

6 his girlfriend Becky or Susan, whichever name you

7 want to call her?

8 A Ill will? Can you say it more...

9 Q Sure. Did you have any reason to dislike Jim
10 before this incident happened?

11 A No, ma'am.

12 Q Okay. Did you consider him a friend of yours or
13 friend of the family?

14 A Yes, ma'am.

15 Q Okay. Now during the time when Amanda and you
16 had gotten to the defendant's home that night up
17 until the time when the defendant actually assaulted
18 her, did you observe him making comments about her
19 or her appearance?

20 A Yes, ma'am.

21 Q Tell me about that.

22 A He kept saying all night every time she would
23 like walk by him, he would keep saying -- well, Jim
24 Feagin would kept saying that oh, yeah, I'm gonna
25 get that tonight, I'm gonna get that.

SW - C. R. [REDACTED] - CROSS

1 Q Okay. And was he within earshot of Amanda?

2 Could Amanda hear him?

3 A No, ma'am.

4 Q Okay, all right. Charles, please answer any
5 questions that defense counsel or the Court may have
6 for you. Thank you.

7 A Yes, ma'am.

8 THE COURT: Mr. Harvin.

9 MR. HARVIN: May it please the Court,
10 Your Honor.

11 THE COURT: Yes, sir.

12 **CROSS-EXAMINATION**

13 BY MR. HARVIN:

14 Q Good afternoon, Mr. Roberts.

15 A Good afternoon.

16 Q All right. You remember giving a statement to
17 the police?

18 A Yes, sir.

19 Q All right. And this statement you've given today
20 a little different; isn't it?

21 A Sir?

22 Q The statement you've given today is a little
23 different than when you gave to the police?

24 A Maybe a little.

25 Q Maybe a little?

SW - C. R. [REDACTED] - CROSS

1 A Yeah.

2 Q Okay. In that statement do you recall telling
3 that they pried open the door to the bathroom?

4 A No, sir.

5 Q Okay. So you didn't tell them that?

6 A No, sir.

7 Q You didn't tell them that Ms. Susan Colvin told
8 her daughter to get a knife and try and open the
9 door to the bathroom? You didn't tell the police
10 that?

11 A No, sir.

12 Q All right. And you gave this statement on
13 June 21st, correct?

14 A Yes, sir.

15 Q To the police?

16 A Yes, sir.

17 Q To Sergeant Pressley who is not in the courtroom.
18 But you gave it to Sergeant Pressley, correct?

19 A Yes, sir.

20 Q Okay. And so a year-and-a-half later you start
21 remembering new things, correct?

22 A Yes, sir.

23 Q Okay. And do you recall how many times you've
24 given this story either to a family member, to
25 Ms. Graham, or to Solicitor Barr?

SW - C. R. [REDACTED] - CROSS

1 A Sir?

2 Q How many times have you told this statement in
3 the last year-and-a-half?

4 A Not that much.

5 Q Did you talk to Ms. Barr about this statement?

6 A Yes, ma'am -- I mean, yes, sir.

7 Q You talked to Ms. Graham about this statement?

8 A Yes, sir.

9 Q You talked to your mother?

10 A I don't think so.

11 Q You didn't talk to your mother about this
12 statement?

13 A No, sir.

14 Q That's intriguing. Okay. And so you talked to
15 all these people between then and now, and now
16 you're giving a statement today which is much
17 different, correct?

18 A Yes, sir.

19 Q All right. Now you stated that at some point in
20 time you all were in a dark room. The living room
21 was dark, correct?

22 A Yes, sir.

23 Q All right. You cracked open your eye. Which eye
24 did you crack open?

25 A Both.

SW - C. R. [REDACTED] - CROSS

1 Q Both of them, you cracked them open. And you saw
2 Mr. Feagin having sex with Ms. Amanda Graham?

3 A Yes, sir.

4 Q All right. You saw his penis go into Amanda
5 Graham?

6 A Yes, sir.

7 Q How did you see that?

8 A 'Cause he was, he kept moving her like from just
9 moving, and you could actually see it.

10 Q Okay.

11 A 'Cause they had a light on.

12 Q Describe his penis to me.

13 A It was kind of long and it was going inside of
14 Amanda's vagina.

15 Q All right. And you told the police this back in
16 June of 2013, that you saw a long penis going inside
17 Amanda Graham?

18 A No, sir.

19 Q That's a new fact that you're telling us today?

20 A Yes, sir.

21 Q So every question you come up with a new fact; is
22 that correct?

23 A Yes, I mean, yes, sir.

24 Q Okay. Now you also mentioned today that you saw
25 Ms. Becky holding down Amanda Graham, correct?

SW - C. R. [REDACTED] - CROSS

1 A Yes, sir.

2 Q All right. In your statement to the police you
3 didn't tell them that part, did you?

4 A No, sir.

5 Q Okay. And when you gave your statement you
6 actually handwrote your statement, right, correct?

7 A Yes, sir.

8 Q And the statement was basically designed for you
9 to just tell the police every thing you knew,
10 correct?

11 A Yes, sir.

12 Q So the police didn't ask you questions, they just
13 let you just write down everything you know about
14 this incident on one sheet of paper, correct?

15 A Uh-huh.

16 Q Is that a yes?

17 A Yes, sir.

18 Q Okay. And all these facts that you mentioned are
19 not in that statement, correct?

20 A Sir?

21 Q The facts that you're mentioning now, some of
22 them aren't in that statement, correct?

23 A No, sir.

24 Q Okay. Now you say you're 16 years old?

25 A Yes, sir.

SW - C. R. [REDACTED] - CROSS

1 Q Are you in eighth grade now?

2 A No, I'm in tenth grade.

3 Q Oh, you're in the tenth grade. So on the
4 statement do you know what grade you put on the
5 statement?

6 A I was in ninth grade maybe.

7 Q Okay. Would seeing the statement refresh your
8 memory?

9 A Yes, sir.

10 Q Okay. Just read for me what grade you put down
11 as you were in. And don't say it out loud, just
12 read it to yourself. Let me know when you're
13 finished.

14 (Pause.)

15 THE WITNESS: I'm finished.

16 BY MR. HARVIN:

17 Q All right. And so what grade did you write down
18 you were in?

19 A Eighth.

20 Q Okay. Now you're in the tenth grade, a year
21 later, at Kingstree Senior High, correct?

22 A Yes, sir.

23 Q Now when you were at this residence your mother
24 wasn't with you?

25 A No, sir.

SW - C. R. [REDACTED] - CROSS

1 Q How about your father?

2 A No, sir.

3 Q Is that normal for you to be with Ms. Amanda
4 Graham without, without your parents?

5 A Yes, sir.

6 Q All right. And so you hang around adults while
7 they're drinking quite often?

8 A No, not without my...

9 Q Not without your parents?

10 A Uh-huh.

11 Q This particular day you were?

12 A Yes, sir.

13 Q Okay. Ms. Barr asked you a question about how
14 many times you saw Ms. Amanda Graham drunk or
15 intoxicated?

16 A Uh-huh.

17 Q You remember that question?

18 MS. BARR: Object, that wasn't the
19 question. I object to that characterization of ---

20 MR. HARVIN: I'll rephrase.

21 BY MR. HARVIN:

22 Q Ms. Barr asked how many times had you seen her
23 drinking. Is that a better ---

24 MS. BARR: It is.

25 MR. HARVIN: Thank you.

SW - C. R. [REDACTED] - CROSS

1 BY MR. HARVIN:

2 Q How many times did you see Amanda drink? You
3 remember that question?

4 A Yes, sir.

5 Q And I could hear for the life of me how much
6 times you said that you saw her drink. Can you
7 repeat the answer to that question?

8 A I seen her drink maybe all the time like maybe
9 every weekend I'm around her, but she's always at my
10 next door neighbor's, which my mom is right there.

11 Q Okay. How many times you think that was? Give
12 me an estimate if you can't remember exact.

13 A Maybe two nights every weekend, out of every
14 weekend.

15 Q For how long?

16 A For ever since I've known her I guess.

17 Q Wow, so for 12 years you've seen Amanda drink,
18 and let me put this in perspective. You said two
19 times every weekend for the last 12, 13 years?

20 A Uh-huh.

21 Q Is that correct? I don't want to put words in
22 your mouth.

23 A Yes, sir.

24 Q Is that correct?

25 A Yes, sir.

SW - C. R. [REDACTED] - CROSS

1 Q Okay. Wow, okay. And you stated you that don't
2 drink, you never drink?

3 A No, sir.

4 Q Smoke cigarettes, anything like that?

5 A No, sir.

6 Q Don't deal with any type of anything?

7 A No, sir.

8 Q Correct? You're just around the people who do?

9 A Yes, sir.

10 Q I got you. Now you made a comment that you're
11 all at Roy Nixon's house, correct?

12 A Yes, sir.

13 Q And while at Roy Nixon's house was Ms. Amanda
14 Graham drinking at that point?

15 A Yes, sir.

16 Q Okay. Was she drinking before Mr. Feagin got
17 there?

18 A Yes, sir.

19 Q Okay. So it wasn't like Mr. Feagin came with a
20 bottle of moonshine and everybody got turned up.
21 They were already drinking before Mr. Feagin got
22 there?

23 A Yes, sir.

24 Q I got you. Do you know what she was drinking
25 before Mr. Feagin arrived with his girlfriend?

SW - C. R. [REDACTED] - CROSS

1 A Bud Light.

2 Q Bud Light. You know how many she had?

3 A No, sir.

4 Q Now do you recall what color shirt Ms. Graham had
5 on that night?

6 A No, sir.

7 Q Did you get in the pool with them?

8 A No, sir.

9 Q Okay. Did you see them get into the pool?

10 A Yes, sir.

11 Q What -- did Amanda get into the pool?

12 A Yes, sir.

13 Q Okay. Is the pool in the backyard or the front
14 yard?

15 A The back.

16 Q The back yard, okay. And you talked about a
17 fight that happened up front in the front yard,
18 correct?

19 A Yes, sir.

20 Q Okay. And you ran up to the front yard to see
21 that fight take place?

22 A No, sir.

23 Q Okay. Now isn't it true you have stated that
24 when Ms. Graham had her argument or fight with her
25 boyfriend she was very upset when she came back in

SW - C. R. [REDACTED] - REDIRECT

1 the house?

2 A Yes, sir.

3 Q All right. And you saw this argument from
4 beginning to end?

5 A Yes, sir, but I didn't go outside when they were
6 physically arguing, no.

7 Q So you didn't go outside?

8 A No, sir.

9 Q I got you. Did you get to see what type of
10 vehicle Mr. Jamie Nixon got into?

11 A No, sir.

12 Q Did you see who was in that vehicle?

13 A No, sir.

14 Q So this particular night did you sleep at all?

15 A Yes, sir.

16 Q At some point you were asleep?

17 A Yes, sir.

18 Q Do you recall about what time you were asleep?

19 Was it between two and six, three and six?

20 A I think it might have been like four or five in
21 the morning.

22 Q Do you know if that's what you put in your
23 statement?

24 A No, sir.

25 Q Okay.

SW - C.R. [REDACTED] - REDIRECT

1 MR. HARVIN: And I have no further
2 questions for Mr. Roberts.

3 THE COURT: Ms. Barr.

4 **REDIRECT EXAMINATION**

5 BY MS. BARR:

6 Q Charles, let me ask you a couple of questions to
7 followup. Do you have a copy of the handwritten
8 statement you gave to police up there with you?

9 A No, ma'am.

10 Q Let me show you and ask you if you recognize this
11 as being your handwritten statement and read it to
12 yourself first and make sure that that is, in fact,
13 your statement.

14 (Pause.)

15 BY MS. BARR:

16 Q Is that your statement?

17 A Yes, ma'am.

18 Q That's the handwritten one you gave to the
19 police?

20 A Yes, ma'am.

21 Q And let me just clear up a couple of things. Now
22 Mr. Harvin asked you on cross-examination when you
23 told the police at that time that you were in the
24 eighth grade. Do you remember him asking you that
25 question?

SW - C. R. [REDACTED] - REDIRECT

1 A Yes, ma'am.

2 Q And on your statement do you see the portion of
3 your statement when he asked you the grade you
4 completed in school?

5 A Yes, ma'am.

6 Q All right. And in terms of that statement does
7 it ask you what grade you're in then or the grade
8 that you completed?

9 A The grade that I completed.

10 Q So it doesn't -- that statement doesn't ask you
11 what grade you're in now. Of course this was during
12 the summer and presumably school would have been
13 out?

14 A Yes, ma'am.

15 Q So the statement didn't ask you what grade you're
16 in now, it asked you grade you just completed,
17 correct?

18 A Yes, ma'am.

19 Q And in response to that particular question what
20 did you put?

21 A Eighth.

22 Q So you as of June 21st you had completed the
23 eighth grade, ---

24 A Yes, ma'am.

25 Q ---correct? And so during the 2013, 2014 school

SW - C. R. [REDACTED] - REDIRECT

1 year you would have been in what grade?

2 A Ninth.

3 Q And as we stand right now what grade are you in?

4 A Tenth.

5 Q So you're in terms of where you had just got
6 through completing school the eighth grade, you're
7 where you're supposed to be?

8 A Yes, ma'am.

9 Q Would you read for me what you told the police
10 happened.

11 A Read it off of this?

12 Q Yes, sir.

13 MR. HARVIN: I would object, Your Honor,
14 unless he's saying for some reason he doesn't
15 remember. Ms. Barr can just ask him about the
16 statement. He can give the statement instead of
17 just reading it into the record. Or if she's going
18 into the statement into the record that would be
19 more appropriate than asking him just to read it
20 into the record.

21 THE COURT: Okay, Ms. Barr.

22 MS. BARR: Your Honor, I believe that this
23 is appropriate redirect, rehabilitate the witness.
24 The Defense has implied that this witness has made
25 up facts and he's questioned him about well, didn't

1 you just now tell us this, is it's something you're
2 making up now, and I think that the jury is entitled
3 to know the full extent of all the statements he
4 made to the police at that time.

5 THE COURT: All right, Mr. Harvin.

6 MR. HARVIN: Your Honor, I don't know
7 about rehabilitating or why he needs to be
8 rehabilitated and why that can't happen just by
9 asking him the same questions that I asked him. He
10 has yet to say under her examination that he doesn't
11 remember and he's refreshed his memory with using
12 the document so I don't see why he needs to read it
13 into the record.

14 THE COURT: You don't see why he needs to?

15 MR. HARVIN: Yes, Your Honor. I don't
16 think it's appropriate for it to be read into the
17 record at this point.

18 MS. BARR: And Judge, I would maintain
19 it's prior consistent statement whereas the Defense
20 is trying to make it appear as if his testimony is
21 inconsistent.

22 THE COURT: All right. Now ladies and
23 gentlemen, we'll take a few minutes break. Please
24 go to the jury room. Please do not discuss the
25 case.

1 (WHEREUPON, the jury was removed from the
2 courtroom at 3:25 p.m., and the following
3 proceedings commenced in open court.)

4 THE COURT: You can step down for a little
5 break. You can do that.

6 (Witness steps down.)

7 THE COURT: Under Rule 801, 801(d)(1), a
8 statement is not hearsay if the declarant testifies
9 at the trial or hearing and is subject to
10 cross-examination concerning the statement and the
11 statement is: One, is (a) inconsistent with
12 declarant's testimony; or (b) consistent with
13 declarant's testimony and is offered to rebut and
14 express or imply a charge against the declarant of
15 recent fabrication or improper influence or motive
16 provided, however, the statement must have been made
17 before the alleged fabrication or before the alleged
18 improper influence or motive arose. And (d)
19 consistent with the declarant's testimony in a
20 criminal sexual conduct case where the declarant is
21 alleged victim and the statement is limited to time
22 and place. So concerning (d)(1)(b) where the
23 statement is consistent or, yeah, consistent with
24 declarant's testimony and is offered to rebut and
25 express or imply charge against the declarant of

SW - C. R. [REDACTED] - REDIRECT

1 recent fabrication or improper influence or motive
2 provided the statement must have been made before
3 the alleged fabrication or before the alleged
4 improper influence or motive arose.

5 Mr. Harvin started his cross-examination
6 by saying that the declarant's statement is
7 different than what it was -- that his testimony is
8 different from the statement that he gave to the
9 police. Further, that he was questioned as to
10 whether who all he talked to, including the
11 solicitor, with the inference being that his,
12 there's some improper influence on his testimony or
13 some recent fabrication. All of this makes the
14 statement admissible and whether the solicitor wants
15 to publish the statement or simply introduce it as
16 Mr. Harvin suggests and let the jury read it or
17 whatever the defense counsel suggestion, the State
18 can try the case as the State sees fit. I overrule
19 the objection. We'll take a couple of minutes.

20 (WHEREUPON, a recess was taken from the
21 proceedings and State Exhibit No. 2 was
22 marked for identification only.)

23 THE COURT: What else do y'all have ready
24 for the jury? Let's bring them on.

25 (WHEREUPON, the jury was returned to the

SW - C. R. [REDACTED] - REDIRECT

1 courtroom at approximately 3:37 p.m., and
2 the following proceedings commenced in
3 open court.)

4 THE COURT: All right, the jury is back.
5 Objection is overruled. You may proceed.

6 BY MS. BARR:

7 Q Charles, I'm gonna hand you what I have marked as
8 State's Exhibit Number 2. I showed you earlier my
9 copy of your statement. Let me have you look at
10 State's Exhibit Number 2 and make sure that's the
11 same document I handed you earlier. That's the same
12 one as my copy. Is that the same as what's been
13 marked at State's Exhibit 2?

14 A Yes, ma'am.

15 Q Okay. And this, again, is a copy of the
16 statement that you gave to the police on June 21st?

17 A Uh-huh.

18 Q Is that a yes?

19 A Yes, ma'am.

20 Q And the statement surrounding the sexual assault
21 of Amanda Graham; is that right?

22 A Yes, ma'am.

23 MS. BARR: Judge, we would move to
24 introduce State's Exhibit Number 2 into evidence at
25 this time.

SW - C. R. [REDACTED] - REDIRECT

1 THE COURT: Any further objection?

2 MR. HARVIN: Judge, just relevance. She's
3 already testified to everything that's in the
4 statement.

5 THE COURT: All right. It's admitted over
6 objection.

7 (WHEREUPON, State Exhibit No. 2
8 was admitted into evidence.)

9 BY MS. BARR:

10 Q Charles, let me have you look at the monitor.
11 And I put this on the monitor, State's Exhibit
12 Number 2 and publish it. Can you see it there?

13 A Yes, ma'am.

14 Q All right. At the top of this exhibit it has
15 Williamsburg County Sheriff's Office voluntary
16 statement; is that right?

17 A Yes, ma'am.

18 Q Okay. And your name is -- well, let me do this,
19 get you to come down for a moment for me. Let me
20 make sure of one more thing.

21 MS. BARR: Your Honor, with the Court's
22 permission may I redact the witness' social security
23 number from the statement?

24 THE COURT: Yes.

25 (Pause.)

SW - C. R. [REDACTED] - REDIRECT

1 BY MS. BARR:

2 Q Charles, if you will, show the ladies and
3 gentlemen of the jury where you identified your
4 name, your address, and birth date. Use my pen as a
5 pointer right here. And that's your correct name,
6 address, and birthday?

7 A Yes, ma'am.

8 Q You remember me asking you earlier about that
9 portion of the statement where you were asked the
10 last grade that you completed, you remember me
11 asking you that?

12 A Uh-huh.

13 Q Show the ladies and gentlemen of the jury where
14 that portion of the statement is.

15 A Right here (indicating).

16 Q And that reads what?

17 A I completed eighth grade.

18 Q Because I know longer have you at the microphone
19 make sure you keep up your voice so the court
20 reporter can hear you, okay. And this is in your
21 handwriting?

22 A Yes, ma'am.

23 Q Read to the ladies and gentlemen of the jury that
24 portion of your statement that you personally wrote
25 in your own handwriting.

SW - C. R. [REDACTED] - REDIRECT

1 A Here?

2 Q Yes.

3 A The party started at Roys. Then we went to Teeny
4 Boy and then Jamie, Amanda, and T-Roy and Becky got
5 out the pool. Then Teeny boy was saying all night
6 that he was going to get that, which he was saying
7 that to Amanda. Then Jamie and Amanda was fussing.
8 Then Jamie left then. Then Amanda fell asleep.

9 Then Teeny boy and Becky walked in the living room
10 and Teeny boy was pulling off her shorts, then he
11 pulled up her shirt, then he started to mess with
12 her, which was -- that's where you --

13 Q Yeah, stop there. When you say mess with her,
14 what do you mean in your statement? What did you
15 mean when you said mess with her?

16 A Meaning sex wise and the touching and whatever.

17 Q Okay, and finish reading.

18 A And then he told Becky, his girlfriend, he wished
19 her stuff was tight as this. Teeny boy messed --
20 they were just, Teeny boy and Becky, messed with her
21 most of the night. Then they covered her back up.
22 Then Teeny boy and Becky went and laid down. Amanda
23 woke up and had to put her clothes back on. Then
24 she started to cry. Then Becky took me and Amanda
25 home. The time was around 2:00 to 4:00 in the a.m.

SW - C. R. [REDACTED] - REDIRECT

1 And then Teeny boy took advantage of her just
2 because she was sleeping.

3 Q All right, you can have a seat. Now let me ask
4 you some followup questions. The defense attorney
5 asked you whether or not any portion of your
6 statement made reference to the defendant or Becky
7 prying open the bathroom door. Do you remember his
8 asking you those questions?

9 A Yes, ma'am.

10 Q And you acknowledge that in your statement, your
11 handwritten statement, you didn't mention the prying
12 of the bathroom door?

13 A Yes, ma'am.

14 Q You acknowledge that? Okay. Did anybody
15 actually ask you questions in detail like I asked
16 you in court?

17 A No, ma'am.

18 Q Okay. Did anybody ever ask you whether or not on
19 this date when you gave the statement, whether or
20 not the defendant and his girlfriend pried open a
21 door?

22 A No, ma'am.

23 Q Did anybody ever ask you whether there were any
24 weapons used, any knives, or anything like that?

25 A No, ma'am.

SW - C. R. [REDACTED] - REDIRECT

1 Q So your testimony about all of those things
2 happening, is that something you made up or did that
3 actually happen?

4 A No, that actually happened. It's all coming
5 back, you know what I mean. Like, you remember
6 something but then you -- it comes all back to you
7 whenever you're actually telling somebody about it.

8 Q Now on the portion of the statement where you say
9 they messed with her most of the night, who are the
10 "they" that you're referring to in that statement?

11 A Jim Feagin and Becky Colvin.

12 Q When you say "they messed with her", specifically
13 as relates to what Becky did to Amanda, what were
14 you referring to with that statement?

15 A That Becky was holding her hands down where she
16 couldn't move her hands and that's why her hair was
17 in Amanda's face.

18 Q And I believe I understood you to say that the
19 light in the living room was on when this happened?

20 A The light in the kitchen.

21 Q In the kitchen?

22 A Yes, ma'am.

23 Q All right. Did that make it easier for you to
24 see what was ---

25 A Yes, ma'am.

SW - W. LYNCH - DIRECT

1 Q ---going on?

2 A Yes, ma'am.

3 Q Is there a door between the kitchen and living
4 room where this happened?

5 A No, ma'am.

6 Q Thank you. Please answer any questions that the
7 Court or Defense counsel may have for you.

8 THE COURT: Mr. Harvin.

9 MR. HARVIN: No other questions, all
10 questions have been asked.

11 THE COURT: All right, thank you, sir.

12 You may step down.

13 THE CLERK: Place your left hand on the
14 Bible, raise your right hand.

15 WHEREUPON,

16 **WANDA F. LYNCH,**
17 having been duly sworn by the Clerk, testified as
18 follows:

19 THE CLERK: Just step around to the
20 witness box.

21 **DIRECT EXAMINATION**

22 BY MS. BARR:

23 Q Good afternoon, ma'am.

24 A Good afternoon.

25 Q Would you state your full name for me.

SW - W. LYNCH - DIRECT

1 A Wanda F. Lynch.

2 Q Okay. And Ms. Lynch, what is your relationship
3 to Amanda Graham?

4 A I'm her mother.

5 Q Okay. And do you know the defendant Jim Feagin?

6 A Yes, ma'am.

7 Q How long have you known him?

8 A For approximately 12 years.

9 Q Okay. And how is it that you know him?

10 A He'd done some work on my husband's car, and he's
11 done some work on my father's and my
12 father-in-law's. They used to come over and eat
13 supper with us.

14 Q He was a family friend?

15 A Yes.

16 Q Prior to June 20th of 2013 did you trust him?

17 A Yes, ma'am.

18 Q Did you trust him with your daughter?

19 A Yes, ma'am.

20 Q Okay. Did you have any reason to suspect that he
21 would ever want to hurt her or assault her in any
22 way?

23 A No, ma'am.

24 Q Now tell me the, about a first time you would
25 have seen or talked to your daughter on June 21st?

SW - W. LYNCH - DIRECT

1 A I seen her that morning.

2 Q Okay.

3 A I was coming out of my house. She lived right
4 beside me in a trailer.

5 Q Yes, ma'am.

6 A I was coming out of my house to go to my car,
7 excuse me.

8 Q That's okay.

9 A She was standing at her back door. She said,
10 momma, can you come here a minute. I said, yes,
11 ma'am. So I walked over there, I went in. She
12 walked back to her bedroom, and she said, momma,
13 something happened. I said, what is it, sugar? And
14 she said, momma, I don't know, she said, but when I
15 was over at Teekie [sic] Boy -- they call him Teekie
16 Boy. I was over at Teekie Boy, Becky's. She said,
17 when I woke up this morning I had to pull my pants
18 up. She said, I don't know what happened. And she
19 was hysteric. She said, I don't know something's
20 wrong. She said, I feel, she said, I feel dirty.

21 Q Okay.

22 A She said I feel like something happened. She
23 said, I don't remember.

24 Q All right. Now at some point later in the day
25 did Charles R. [REDACTED] come to your home or come to

SW - W. LYNCH - DIRECT

1 Becky's home -- not Becky's home, I'm sorry, to
2 Amanda's home?

3 A If he did it was after I left.

4 Q Okay.

5 A 'Cause I had to go to work.

6 Q You were not in here during the testimony of the
7 other witnesses, but there was evidence that your
8 daughter had gone to the emergency room. Do you
9 know how she got there?

10 A Brittany Conyers.

11 Q Okay. Who all was with her when she went to the
12 emergency room?

13 A I'm not sure. I know Brittany; I'm not sure.

14 Q Okay. Did you go with her, pick her up, or tell
15 her to go to the emergency room?

16 A I tried to get her to let me take her that
17 morning; but she said, momma, she said, all I want
18 to do is wash, take a bath, clean up. She said, I
19 feel so dirty.

20 Q Okay. Ms. Lynch, while you're having this
21 conversation with your daughter do you notice any
22 scratch marks on her?

23 A Yes, ma'am. She had a pair of shorts on and I
24 could see marks on the inside of her right leg.
25 There was three bruises.

SW - W. LYNCH - CROSS

1 Q Okay. On the inside of her right leg?

2 A (Shakes head.)

3 Q Is that a yes?

4 A Yes.

5 Q What did the bruises look like?

6 A Looked like about the size of fingerprints.

7 Q Like the size of fingerprints?

8 A (Shakes head.)

9 Q Is that a yes?

10 A Yes.

11 Q That's all the questions I have. Thank you very
12 much.

13 THE COURT: Mr. Harvin.

14 MR. HARVIN: Just a few questions if I
15 may, Your Honor.

16 **CROSS-EXAMINATION**

17 BY MR. HARVIN:

18 Q Ms. Lynch, what do you do for a living?

19 A I'm the administrative assistant for Williamsburg
20 County EMS.

21 Q EMS?

22 A Yes, sir.

23 Q What does EMS stand for?

24 A Emergency Medical Services.

25 Q All right. And so you have friends who work in

SW - W. LYNCH - CROSS

1 emergency services, I would imagine?

2 A Yes, sir.

3 Q All right. And do you remember the exact time
4 you had this conversation with your daughter?

5 A I have to leave around 7:30, 7:40, to be at work
6 by 8.

7 Q All right. And so you all had this conversation
8 about her feeling like something happened. Did you
9 know the importance of not taking a shower for an
10 investigation like this?

11 A Yes, sir.

12 Q You didn't deem it appropriate to call 9-1-1 at
13 that time?

14 A No, sir, not the ambulance, no, sir.

15 Q So your daughter's frantic, she comes to you in
16 panic, you see bruise marks that you say look like
17 fingerprints, but you did not call 9-1-1? You did
18 not take her to the hospital?

19 A I asked her if she wanted me to take her to the
20 hospital. I tried to persuade to go. She did not
21 want to go.

22 Q I got you. You remember what color shirt she had
23 on?

24 A No, sir, all I know it was a tank top.

25 Q All right, no further questions.

1 THE COURT: Anything further?

2 MS. BARR: No, Your Honor.

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

4 MS. BARR: Your Honor, at this time the
5 State would rest.

6 THE COURT: All right, ladies and
7 gentlemen of the jury, that's the State's case. We
8 need you to go to the jury room for a short while..
9 Please do not discuss the case.

10 (WHEREUPON, the jury was removed from the
11 courtroom at 3:53 p.m., and the following
12 proceedings commenced in open court.)

13 THE COURT: Any matters of law at this
14 moment?

15 MR. HARVIN: Judge, if I may be given just
16 a moment, I do have a motion for directed verdict.

17 THE COURT: All right.

18 MR. HARVIN: May it please the Court, Your
19 Honor.

20 THE COURT: Yes, sir.

21 MR. HARVIN: The statute that Mr. Feagin
22 is charged under is criminal sexual conduct in the
23 third degree, which the Court knows reads a person
24 is guilty of criminal sexual conduct in the third
25 degree if an actor engages in sexual battery with

1 the victim and if any one or more of the following
2 circumstances are proven. They list actor uses
3 force or coercion to accomplish the sexual battery
4 in the absence of aggravating circumstances; and
5 (b), the actor knows or has reasons to know that the
6 victim is mentally defective, mentally
7 incapacitated, or physically helpless. Aggravated
8 force, aggravated coercion was not used to
9 accomplish a sexual battery.

10 Judge, we concede that circumstantial
11 evidence was presented to the jury, but we believe
12 that substantial circumstantial evidence was not
13 presented to the jury to make this a jury question.
14 As we read the law the State would have to provide
15 substantial circumstantial evidence to prove that he
16 knew or had reason to know that the victim is
17 mentally defective. There wasn't any testimony that
18 talked about Mr. Feagin's knowledge of the victim's
19 situation, her mental status, or physical
20 helplessness or anything of that matter. And in
21 effect they talked about what everybody else saw,
22 what everybody else knew, but not what Mr. Feagin
23 did, and this statute seems to be specific that the
24 actor knows or had reason to know. And Judge, we
25 would surmise that and submit that there's

1 substantial circumstantial evidence for that prong
2 for this particular charge.

3 THE COURT: All right. How about that,
4 Ms. Barr?

5 MS. BARR: Your Honor, the evidence before
6 the Court was that both parties had been drinking
7 and consuming alcohol, that the defendant and his
8 girlfriend come in and seem to the suggest forcibly
9 on the victim while she was in the bathroom, that
10 the victim then goes and she lays down on the sofa
11 and falls asleep. Your Honor, the defendant as this
12 incident occurred inside his home, would have had
13 reason to know that the victim was drinking both at
14 his home and at the location of the victim's
15 boyfriend's father's home as both of them were out
16 there drinking. There was testimony that the
17 defendant was the one who made the moonshine, that
18 the victim acknowledged drinking some of the
19 moonshine. There was testimony in the record that
20 the victim also drank beer prior to the sexual
21 assault. When she comes back and out of the
22 bathroom she lays down on the sofa and falls asleep.
23 There is testimony that the defendant and his
24 girlfriend then comes in to the living room. They
25 turned the light on in the kitchen. They -- the

1 defendant removes her shorts and her underwear which
2 also there was testimony that the victim did not
3 awake at any point during this time that she
4 remained unconscious; that the defendant had sexual
5 intercourse with the victim; that throughout the
6 sexual battery the defendant -- the victim did not
7 wake up and did not regain consciousness; that while
8 he is having sex with her he makes a lewd comment
9 about her to his girlfriend. Even during that
10 stance, the victim does not wake up or ever resume
11 consciousness. And so, Judge, we would argue to the
12 Court that there is substantial evidence in the
13 record to show this defendant had knowledge of the
14 victim's condition given that she was drinking at
15 his home and drinking at a location prior to getting
16 to his home and given the fact that she has no
17 reaction at all to lights being turned on, people
18 talking, the defendant removing her clothing, and
19 the defendant having sexual intercourse with her.

20 And the victim testified that she has no
21 memory of the sexual assault. When I asked her why
22 it is that that was so, she testified because of the
23 amount of alcohol that she drank. So we would
24 submit that there's substantial evidence in the
25 record that the defendant knew or reasonably should

1 have known what her condition was at the time.

2 THE COURT: All right, Mr. Harvin.

3 MR. HARVIN: Judge, our response is while
4 I don't think there was evidence, or at least maybe
5 there was conflicting evidence, I don't want to
6 misstate any facts, that she was drinking before Jim
7 got there. There's no evidence that prescribes that
8 she was drunk in his presence that I remember and
9 that he would have known that she was drunk. And I
10 do believe the knowledge element is one that they
11 have to get over. It's not enough to say that
12 everybody else knew. Everybody else isn't the
13 person who is being accused of being the actor is
14 what he knew at the time that the accident took
15 place or alleged incident took place. And I haven't
16 heard anything from anybody that gives any statement
17 as to what he knows his statement to the police was
18 very specific and then nothing happened, Ms. Graham
19 straddled him and he couldn't get an erection.
20 That's it.

21 THE COURT: That was his statement, his
22 statement.

23 MR. HARVIN: As I recall that's his
24 statement that was testified to.

25 THE COURT: Of course, you want me to base

1 this ruling on not just on his statement, but all of
2 the evidence that I heard.

3 MR. HARVIN: Definitely, Judge. Obviously
4 I know you have.

5 THE COURT: Okay.

6 MS. BARR: Judge, may I?

7 THE COURT: Yes, ma'am.

8 MS. BARR: Judge, may I also put on the
9 record counsel's argument reminded me of the
10 evidence from Sergeant Pressley that the defendant
11 initially told her that nothing happened and that
12 the victim was drunk. So from his own words, the
13 jury is free to believe all of what a person says or
14 none of what a person says or a portion of what a
15 person says and disbelieve another person; but
16 certainly that statement in the record is evidence
17 that he had knowledge that she was intoxicated.

18 THE COURT: Well, the essence of the
19 criminal sexual conduct statute is a lack of consent
20 by the victim, and criminal sexual conduct in the
21 third degree is when a person engages in sexual
22 intercourse with a person who he or she knew was
23 mentally defective, mentally incapacitated, or
24 physically helpless. Being physically helpless
25 means that the victim was unconscious, asleep, or

1 for any other reason physically unable to
2 communicate consent to the sexual battery. So if
3 it's based on the victim being physically helpless,
4 that would include being asleep and not capable or
5 able to consent.

6 And there is not -- this is not a case of
7 substantial circumstantial evidence. This is a case
8 of substantial direct evidence that the defendant
9 gave, committed sexual battery against the victim
10 who was physically helpless. And whether the State
11 is also seeking as the indictment says mentally
12 defective, mentally incapacitated, mentally
13 incapacitated means the victim is rendered
14 temporarily unable to evaluate or control his or her
15 conduct. This condition may be caused by the
16 illness, defect, influence of a substance or some
17 other cause. That's mentally incapacitated. And so
18 whether the State is seeking physical helplessness,
19 mental incapacity, and mental defectiveness, that's
20 all a matter of the jury charge certainly any and
21 all of it causes the case to survive directed
22 verdict so I deny the motion.

23 Ms. Harvin, do you -- where is that
24 witness you said you claim to have this morning?

25 MR. HARVIN: Judge, I have his phone

1 number but I haven't taken the time to contact him
2 during any breaks. And to be honest, after the
3 State's case I don't need to present any evidence.
4 I can argue after the State's case.

5 THE COURT: You got what you want, sir?

6 MR. HARVIN: Yes, sir.

7 THE COURT: How about the lady that's been
8 sequestered?

9 MR. HARVIN: She was on Ms. Barr's
10 subpoena.

11 THE COURT: She's on her, State's side ---

12 MR. HARVIN: That's what they say.

13 THE COURT: ---their subpoena? Where is
14 she now?

15 MS. BARR: She should be in the break
16 room, Judge. I didn't see her.

17 THE COURT: So the State has rested. You
18 don't need to bring her. She can come on out here.

19 All right, y'all ready to argue and
20 charge?

21 MS. BARR: Judge, will you let us do that
22 in the morning?

23 THE COURT: Tomorrow morning?

24 MS. BARR: Yes, sir. Well, I'm sorry ---

25 MR. HARVIN: Judge, I would rather do it

1 today. I've obligated myself to be somewhere in the
2 morning.

3 THE COURT: Public defender?

4 MR. HARVIN: Yeah.

5 THE COURT: Obligated to be someplace else
6 during court?

7 MR. HARVIN: Well, I think this will be
8 over with by 4 unless there's some issue with
9 Ms. Barr. Let's take the time to go over. I'm
10 ready, I'm just ready to finish the case.

11 THE COURT: Ready to do it, huh?

12 MR. HARVIN: And I want the jury to hear
13 closing argument, to get the charges, without having
14 to go home and reflect all that. I want it to be
15 fresh in their head 'cause, otherwise, I feel like
16 they're tainted with television and all other things
17 that they come in contact with.

18 THE COURT: Keep them while in
19 semi-sequestered state?

20 MR. HARVIN: Yeah, 'cause I don't think
21 they want to just come back here just to hear me and
22 Ms. Barr. While your voice is eloquent, I don't
23 know if they want to come back here and hear you
24 talk either.

25 THE COURT: All right. Anything else

1 then, Ms. Barr?

2 MS. BARR: Beg the Court's indulgence,
3 Your Honor.

4 THE COURT: All right.

5 (Attorneys confer.)

6 MS. BARR: Judge, I was trying to figure
7 out -- Mr. Harvin presented to me on yesterday that
8 he had an issue of tomorrow morning. Judge, he says
9 that he can be back at, be back here by 11 a.m. And
10 Judge, I'll do whatever the Court wants to. My
11 preference would be to argue and charge in the
12 morning only because I think that between closing
13 arguments and the charge, the jury will not likely
14 get the case until 5:30 with it being 10 after 4 at
15 this time. And I, you know, I just wonder whether
16 or not they'll be kind of aggravated by the whole
17 process. I think that the pendulum kind of swings
18 both ways as to whether or not it hurts or helps
19 but.

20 THE COURT: They came at -- they just got
21 here at 11:00; didn't they?

22 MS. BARR: They did. They did.

23 THE COURT: And they have the option of
24 deliberating today and not having to come tomorrow
25 versus having to come tomorrow. You know, Mr.

1 Harvin has already argued that he eliminate as many
2 efforts as he could so they wouldn't have to serve
3 twice. I don't know whether he tried to slip in he
4 wanted to have them deliberate today and you force
5 them come back tomorrow.

6 MR. HARVIN: And Judge, if we can put it
7 off until 11 a.m. I don't have a problem with it.
8 It's just something I really have to do in the
9 morning and ---

10 THE COURT: Well ---

11 MR. HARVIN: I hate to say my life depends
12 on it but ---

13 THE COURT: I understand.

14 MR. HARVIN: Somebody's livelihood does.

15 THE COURT: I'm actually thinking the jury
16 hasn't served that much and whereas, there is a --
17 it's suggested that we do not charge the jury after
18 4:00. That's based primarily on, I think, employees
19 who typically get off work at five and, you know,
20 not wanting and keeping courthouses running late and
21 all that; but that's in places like in Richland when
22 Court runs after hours it causes 20 something people
23 to have to work beyond the regular time of leaving
24 work. I don't think we have that situation here. I
25 know we don't have that situation here. And the

1 jury can always be given an option if they do not
2 reach a verdict within a reasonable time of coming
3 back tomorrow, as opposed to staying late into the
4 night. But I'm gonna opt to charge and let them
5 deliberate today rather than tomorrow, so we'll take
6 about a -- how many minutes you need to get ready
7 for closing?

8 MS. BARR: Judge, I guess about 10 or 15.

9 THE COURT: All right, we'll take 15
10 minutes and then we'll proceed today.

11 (WHEREUPON, a recess was taken from the
12 proceedings.)

13 THE COURT: You know, the older I get, the
14 more I change my mind. I'm thinking that it's 4:30
15 already; and by the time they get the case it's
16 5:30, pushing 6:00. They may be in there who knows
17 how long so.

18 MS. BARR: Judge, I've got Bible study
19 tonight.

20 THE COURT: Bible study.

21 MR. HARVIN: I teach Bible study but they
22 know I'm not coming, I had this issue.

23 THE COURT: So I'm thinking we will not be
24 here into the night on this case. We've got to end
25 up in Columbia at some point so, then be back here

1 tomorrow so. So I'm thinking we probably should not
2 go beyond, continue to go try to finish it today.
3 So I changed my mind on that one again.

4 MS. BARR: Judge, we appreciate that.
5 Maybe we can find the defendant tonight.

6 THE COURT: Yeah, how about that. Well,
7 we've issued a bench warrant. Y'all looking for
8 him?

9 THE DEPUTY: I didn't know there was a
10 bench warrant, Judge.

11 THE COURT: Yeah, we issued a bench
12 warrant. Ms. Richardson is holding it in her hand.
13 I'm not sure how that's going to get to you until
14 she passes it on to you. Yeah, it would be good to
15 apprehend him on the bench warrant. Of course the
16 question would be what happens if he just shows up
17 after all the evidence. We'll then have to give the
18 defense a chance to re-open and have him testify if
19 he wants to on that issue. Well, we'll bring the
20 jury out and let them go and then we'll talk about
21 jury charge for just a minute.

22 (WHEREUPON, the jury was returned to the
23 courtroom at approximately 4:30 p.m., and
24 the following proceedings commenced in
25 open court.)

1 THE COURT: Ms. Burrows, if you'd come
2 stand right here for me.

3 THE FOREPERSON: Right here?

4 THE COURT: Yes, ma'am. Ms. Burrows, I'm
5 gonna name you to be the foreperson of the jury. If
6 you'd take the first seat right there, switch with
7 the man there. And as the foreperson you'll have
8 the responsibility of serving as the spokesperson
9 for the jury and presiding over the jury
10 deliberations and signing the verdict form
11 representing the unanimous verdict of the jury. You
12 got that?

13 THE FOREPERSON: Yes, sir.

14 THE COURT: Ladies and gentlemen, you've
15 heard the State's case. It's now the Defense's
16 turn.

17 Mr. Harvin.

18 MR. HARVIN: Thank you, Your Honor. At
19 this time, Your Honor, the Defense does not present
20 any evidence as relates to this case.

21 THE COURT: All right. Ladies and
22 gentlemen, the Defense has rested. That means
23 you've heard all of the evidence in the case. What
24 remains will be for you to hear closing arguments,
25 the jury charge, and deliberations, and all of that

1 will take over an hour. And considering that we're
2 pushing 5:00, we're not going to continue any longer
3 today. We're gonna have you all come back tomorrow
4 at 11:00, the same time as you came today. We need
5 you to come back at 11 tomorrow. Please do not
6 discuss the case with anyone or allow anyone to
7 discuss it in your presence, and we look forward to
8 seeing you all tomorrow at what time?

9 (Jurors respond.)

10 THE COURT: 11:00 in unison, very good.
11 We'll see you all then. Please come directly into
12 the jury room.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 4:33 p.m., and the following
15 proceedings commenced in open court.)

16 THE COURT: Okay. Now regarding requests
17 to charge Ms. Barr mentioned some of it there on the
18 question of the indictment says that the victim was
19 mentally defective, mentally handicapped, I mean
20 mentally incapacitated or physically helpless, and
21 each of those terms are then defined. What is the
22 State seeking to have the jury charged? Which ones?

23 MS. BARR: Mentally incapacitated which is
24 Subsection F under 16-3-651, and physically helpless
25 which is in subsection G. Judge, we would also ask

1 the Court to charge Subsection H which is sexual
2 battery; Subsection I which defines who the victim
3 is. Going back into that same statute ---

4 THE COURT: Let me write all those down,
5 what you just said.

6 MS. BARR: Yes, sir. We would also ask
7 that the Court define actor as reflected under
8 Subsection A. And given that the statute
9 specifically references that, when I say the statute
10 I mean the CSC third degree statute, references the
11 actor uses force or coercion to accomplish the
12 sexual battery in the absence of aggravated
13 circumstances, we believe that it is appropriate for
14 Your Honor to define aggravated force and aggravated
15 coercion under subsection B and C of 16-3-651.

16 THE COURT: 16 dash ---

17 MS. BARR: 3-651, which is the definition
18 section of the CSC statute.

19 THE COURT: All right, Mr. Harvin.

20 MR. HARVIN: Judge, I would like to
21 actually see your jury charges as relates to how the
22 statute and what Ms. Barr wants. I have no objection
23 as to the rest of that, but there are some things
24 that I've seen in jury charges that I would like to
25 address so I would actually like the pleasure of

1 reviewing those jury charges and making those
2 requests after I review them.

3 THE COURT: All right. Ms. Barr, you said
4 aggravated coercion?

5 MS. BARR: Yes, sir. And Judge, I'm
6 specifically looking at 16-3-654 which says, a
7 person guilty of criminal sexual conduct with the
8 third degree if actor engages in sexual battery with
9 the victim and any one or more of the following
10 circumstances are proven: (b), the actor knows or
11 has reason to know that the victim is mentally
12 defective, mentally incapacitated, or physically
13 helpless and aggravated force or aggravated coercion
14 was not used to accomplish the battery. And Section
15 16-3-651 Subsections(b) and (c) define aggravated
16 coercion and aggravated force respectfully. And
17 Subsection (f) and (g) define mentally incapacitated
18 and physically helpless.

19 THE COURT: All right. Ms. Richardson, do
20 you know what happened to the jury charge that, from
21 the case we had last week, the Faron Clements' case?
22 I usually have the jury return the charge when they
23 reach a verdict.

24 THE COURT REPORTER: Judge, I think I have
25 it.

1 THE COURT: That's okay. I just wondered
2 what happened to it. Okay, no problem.

3 MR. HARVIN: Judge, I can receive the
4 standard jury charges if you want to email them to
5 me. I can give your law clerk my email address.

6 THE COURT: Yeah, just email him the --
7 what you sent to me, I mean, what you have so far so
8 you can give him a head start on whatever he's
9 talking about.

10 All right, what else y'all got for me
11 today?

12 MR. HARVIN: You taking us to dinner?

13 MS. BARR: I've got to go to church.

14 THE COURT: Ms. Barr's got bible study,
15 we've got to get to Columbia and back here one more
16 time.

17 MR. HARVIN: If I come to Columbia will
18 you take me to dinner? You can tell I'm hungry,
19 Judge, sorry.

20 THE COURT: Aggravated coercion means the
21 actor threatens to use force or violence of high and
22 aggravated to overcome the victim or another person
23 if the victim believes an actor has the present
24 ability to carry out threat. Aggravated force means
25 the actor uses physical force or physical violence

1 of a high and aggravated nature or includes the
2 threat of the use of a deadly weapon. Now CSC third
3 degree means that the victim did not do these
4 things. So you want me to define what the victim
5 did not do, or I mean?

6 MS. BARR: And Judge, the only reason I
7 bring that up is because I think that you, you're
8 gonna charge them 16-3-654(b) which talks about the
9 actor having knowledge or having reason to know that
10 the victim is mentally defective, mentally
11 incapacitated, or physically helpless and aggravated
12 force or aggravated coercion was not used to
13 accomplish the battery. And Judge, I may just, I
14 may withdraw my request to charge as it relates to
15 aggravated coercion or aggravated force.

16 THE COURT: All right.

17 MS. BARR: I think probably in hindsight I
18 will withdraw my request to charge that. I don't
19 want to make it unnecessarily complicated.

20 THE COURT: Generally you don't charge
21 something that defines things that did not happen, I
22 mean, did not, is not alleged to have occurred. All
23 right. Well, we will be in recess until the a.m.

24 MR. HARVIN: Thank you, Your Honor.

25 (WHEREUPON, the proceedings were concluded

1 and reconvened on October 23, 2015.)

2 THE COURT: Back on the record regarding
3 State versus Feagin. Mr. Harvin, you said you had
4 something regarding jury charges you want to say?

5 MR. HARVIN: May it please the Court, Your
6 Honor. After reviewing the jury charges, our only
7 request is that the paragraphs under presumption of
8 innocence and reasonable doubt be read before the
9 conclusion and jury verdict. And also ---

10 THE COURT: Well, that should go without
11 saying. I don't know what's, you know, ---

12 THE DEFENSE: I mean ---

13 THE COURT: You have the charges. I mean,
14 I don't know what sequence you may have received
15 them in. They may not be the sequence that I give
16 them to the jury and.

17 MR. HARVIN: Okay, and ---

18 THE COURT: But obviously the conclusion
19 would come at the end.

20 MR. HARVIN: And Judge, we are requesting
21 that it be read directly before that part of the
22 jury charges.

23 THE COURT: Say it again now.

24 MR. HARVIN: We're requesting that --
25 well, I am requesting that it be read right before

1 the conclusion.

2 THE COURT: You need to be specific so I
3 understand, be sure that I'm understanding what
4 you're asking.

5 MR. HARVIN: Yes, Your Honor. In addition
6 ---

7 THE COURT: No, I didn't understand what
8 you just asked. I said be specific as to what
9 you're asking.

10 MR. HARVIN: Specifically I'm requesting
11 that the paragraphs presumption of innocence and
12 also reasonable doubt be read directly before the
13 paragraph of conclusion and jury verdict.

14 THE COURT: Oh, you want, so the last
15 thing the jury should hear be presumption of
16 innocence and reasonable doubt, then hear the
17 conclusion.

18 MR. HARVIN: Yes, sir, that would be our
19 request.

20 THE COURT: Okay.

21 MR. HARVIN: Also, as it relates to the
22 conclusion and jury verdict, the first sentence of
23 the second paragraph says that it's the duty as
24 jurors to consult with one another and to deliberate
25 in an effort to reach an agreement. We have an

1 objection to the idea that they have to reach an
2 agreement. Obviously each person has, we feel like,
3 each person has to make their own decision as to
4 what they feel is the guilt or innocence of the
5 client; and what we are afraid that will happen is
6 that people will feel like they have to concede and
7 go with the group or go with the majority instead of
8 standing as a juror and up to the power as an
9 individual. And that will be all that we'd ask of
10 the Court.

11 THE COURT: Okay. Well, I disagree with
12 everything that you've said with regard to the
13 charge since the charge says you are to consult with
14 one another in an effort to reach a verdict. It
15 doesn't say you must reach a verdict because the
16 very next sentence says each of you must decide this
17 case for yourself, but only after impartial
18 consideration with fellow jurors. That means that
19 that's what deliberation, jury deliberation is,
20 consulting with one another to see if they can agree
21 and but they have to decide the case for themselves.
22 And it further says do not surrender your honest
23 conviction as to the weight or effect of the
24 evidence solely because of the opinion of your
25 fellow jurors or for the mere purpose of returning a

1 verdict. So I think the charge must be considered
2 as a whole. I also think that the order in which
3 the charge is given, and that is, telling the jury
4 about presumption of innocence and defining
5 reasonable doubt, the -- whether that should be the
6 last thing the jury hears versus hearing it earlier
7 on it's a matter of opinion. I don't know what
8 order you have this in and I didn't anticipate that
9 your concern would be the order in which I give the
10 charge, I thought you had something relating to the
11 substance of the charge. But I'll give the charge
12 as I see fit. I think your hands are full in doing
13 your job which is convincing the jury through the
14 argument, and the charge will speak for itself.

15 MR. HARVIN: Thank you, Your Honor.

16 THE COURT: Yes, sir. We're gonna take
17 two minutes, then we'll be ready to roll.

18 (WHEREUPON, a recess was taken from the
19 proceedings.)

20 THE COURT: You can bring the jury.

21 (WHEREUPON, the jury was returned to the
22 courtroom at approximately 11:19 a.m.,
23 and the following proceedings commenced
24 in open court.)

25 THE COURT: Good morning. Madam Forelady,

1 how's the jury doing?

2 THE FOREPERSON: Good.

3 THE COURT: Ladies and gentlemen, you've
4 heard the case, the arguments of the State -- I'm
5 sorry, you heard the evidence. It's now time for
6 the arguments by the State and the Defense, Ms. Barr
7 first, and Mr. Harvin will come after Ms. Barr.

8 MS. BARR: Thank you, Your Honor, may it
9 please the Court.

10 THE COURT: Yes.

11 MS. BARR: Madam Forelady, ladies and
12 gentlemen of the jury, good morning. I'm gonna
13 start this morning, I started on yesterday, I thank
14 you all for your attentive service on yesterday. I
15 have a habit typically during the course of the
16 trial to periodically look over at the jurors to see
17 whether or not they're paying attention and
18 listening to the witnesses as they testify and I am
19 pleased to report that all of you all were
20 attentive. And that tells me that you take your job
21 here today very seriously so I thank you for that.
22 Mr. Harvin and Mr. Feagin also thank you for that
23 and Amanda Graham thanks you for that as well.

24 Let me start by saying that in every case
25 the trial is a search for the truth. When you all

1 were here on yesterday and while you're here today,
2 a trial I like to kind of look at it like a journey.
3 We are taking you all on a journey. And during the
4 course of that journey, if you will, we're gonna
5 give you some tools and we're giving you some tools
6 to help you reach a verdict in this case. And
7 interestingly, verdict derives from a Latin term
8 veredicto. Veredicto, never, stands for truth.
9 Dictum means to speak. So literally, your verdict
10 means to speak the truth. So when you all go back
11 there, Madam Forelady, you all begin your
12 deliberations, when you reach a verdict that verdict
13 should represent the truth, the truth of what
14 happened in this case. The tools that we have armed
15 you with and will arm you with in the case are the
16 tools about the facts and tools about the law.
17 We're gonna talk a little bit about both.
18 Mr. Harvin gets to come up and tell you his points,
19 and then the judge is gonna give you the law in the
20 case. Let's talk about the law first.

21 The defendant, as you know, is charged
22 with criminal sexual conduct in the third degree. I
23 talked about that a little bit on yesterday in my
24 opening statement. I'm gonna publish the indicted
25 portion of criminal sexual conduct in the third

1 degree. Now the defendant is charged under Section
2 16-3-654 of the South Carolina Code of Laws, and
3 that statute essentially says that a person is
4 guilty of criminal sexual conduct in the third
5 degree when the defendant engages in sexual battery
6 with the victim and the following circumstances are
7 proved. You have to -- the State has to show that
8 the defendant knows or has reason to know that the
9 victim is mentally defective, mentally
10 incapacitated, or physically helpless. Those terms
11 are important. I've highlighted them for a reason.
12 They're very, very important.

13 What do we mean when we say under Section
14 (a) that a person is guilty of criminal sexual
15 conduct in the third degree if the defendant engages
16 in sexual battery with the victim. That's the first
17 question you have to ask yourself. And again, we
18 help you in that we've given you facts that will
19 assist you in your determination, and the judge is
20 going to give you the law. And what Judge Newman is
21 gonna tell you is that sexual battery means sexual
22 intercourse. Cunnilingus is oral sex on a woman.
23 Fellatio is oral sex on a man. And anal intercourse
24 or any intrusion, however slight, into any part of a
25 person's body or any object into the genital or anal

1 openings of another person's body. So the first
2 question you have to ask yourself, ladies and
3 gentlemen, is did the State prove that the defendant
4 committed a sexual battery upon the victim. In that
5 analysis you have to look back on the evidence.
6 What did the evidence show about whether or not the
7 State has proven that the defendant committed a
8 sexual battery on the victim.

9 Three things. One, probably the most
10 telling was the eyewitness testimony of **Charles R.**

11 **██████████** was there in the house.

12 The defendant did not know it, but he saw and heard
13 everything. See, the defendant thought that Charles
14 was asleep, did not realize that he had heard and
15 seen everything that happened in that room that
16 night. And you know, that's kind of tough for a kid
17 his age to have seen something like that. And I
18 remember when he was testifying I asked him, why
19 didn't you come forward, why didn't you tell
20 anybody, why didn't you stop it. As soon as the
21 words came out of my mouth I felt bad because in
22 that moment it just -- I'd forgotten that he was a
23 kid who had probably never seen anything like this
24 before in his life, probably did not know what to
25 do. You heard him testify. He was afraid that he

1 will be harmed in some way and who can blame him
2 after being exposed to something like that. That
3 testimony was key.

4 The second testimony that you heard about
5 is defendant's own statements. And folks, I'm
6 sorry, and I hated to have done it but it's
7 important, but you heard some vile things come out
8 of the defendant's mouth about the victim and that
9 is certainly an admission on his part that he
10 committed a sexual battery on her. The words that
11 he told his girlfriend, that's evidence of sexual
12 battery. And even more telling than that is his
13 June 26 statement to the police where he says, well,
14 I was laying on the floor and Amanda jumped on top
15 of me and straddled me but I couldn't get on hard.
16 That, his own statements to the police, are evidence
17 of his sexual battery on Amanda.

18 Now if you determine that the State has,
19 in fact, proven to you that the defendant committed
20 a sexual battery on the victim, then you have to go
21 to part two of the statute which says that we have
22 to establish to you that the defendant knew or
23 should have known that the victim was mentally
24 incapacitated or physically helpless. Let's talk
25 about mentally incapacitated first. I think the

1 judge is going to tell you that in order for you to
2 find the defendant guilty the State must have proven
3 to you that the defendant was rendered temporarily
4 incapable of appraising or controlling her conduct
5 whether this condition is produced by illness, a
6 defect, or the influence of some substance. The
7 portion of that statute that's applicable here is
8 that her condition was rendered temporarily
9 incapable and that was produced by the effects of
10 alcohol. She told you that she knew she had drank
11 too much.

12 Also, you can equally find that the victim
13 was physically helpless because under Subsection (g)
14 of that statute the State has to show that the
15 victim was unconscious or asleep or of any other
16 condition that made her incapable of communicating
17 willingness to engage in a sexual battery with the
18 defendant. Folks, when you look at the evidence and
19 you're trying to figure out, one, whether or not the
20 victim was in fact in that state; and two, whether
21 or not the defendant knew about it, the evidence is
22 clear, it's overwhelming. Amanda's testimony was
23 that she had drank too much alcohol.

24 She has no memory of the assault other
25 than a brief memory of the defendant being on top of

1 her and the memory of long hair in her face.
2 Charles testified that he had never seen Amanda in
3 that type state of mind, had never seen her that
4 way. And folks, if you really, really want to be
5 sure and you want to be firmly convinced as the
6 judge is going to tell you ought to be when you're
7 deliberating, you have to look no farther than the
8 defendant's own words. You remember that first
9 statement that he gave to the police when they came
10 and asked him some questions? Folks, that statement
11 is telling because the first thing that he says when
12 the cops come out to ask him some questions after
13 initially took the report, I didn't touch her,
14 didn't put my hands on her, Amanda was drunk. Those
15 are his own words that he acknowledges that she was
16 drunk. And candidly, folks, if an individual is
17 asleep and the defendant comes and turns on a light,
18 that would automatically, I'm assuming, wake
19 somebody up. That didn't wake her up. When people
20 are talking, that didn't wake her up. When he pulls
21 off her shorts and her underwear, that did not wake
22 her up. It doesn't take a rocket scientist to
23 figure out that he knew, he knew that she was
24 mentally incapacitated or helpless. He knew that,
25 and he took advantage of that situation. And you

1 can look at the words of a 16 year old child, Teeny
2 Boy took advantage of Amanda because she was asleep.
3 He figured that out from day one.

4 Now let's talk about some things. When an
5 individual is charged with rape, criminal sexual
6 conduct, there are only two possible defenses: One,
7 it didn't happen; or two, it happened but it was
8 consensual. That's it; that's all you got. My
9 grandmother used to always tell me that, you know,
10 the thing about a good lie, a really good lie, is
11 there's always some degree of truth in it; I don't
12 care how minute. If you look at any good lie, what
13 makes it a good lie is that there's an element of
14 truth to it. And so let's talk about the two good
15 lies the defendant told.

16 The first good lie was at the time police
17 first interviewed him. The first good lie was, I
18 didn't touch her, didn't touch her, Amanda was
19 drunk. Well, you know, part of that statement is
20 true, Amanda was drunk. But the part about him hot
21 touching her, complete lie, complete lie. So he's
22 sitting around in jail for five days. Sergeant
23 Pressley then comes over to the jail and says, hey,
24 Mr. Feagin, we want to get a DNA sample from you.
25 Now mind you, this guy's in jail, he's charged with

1 rape. He's already told the police nothing
2 happened, didn't touch the girl; and here, low and
3 behold come the police, and they want a DNA sample.
4 Now the important thing about an innocent man and a
5 man who is telling the truth who is charged with
6 rape who never touched the girl, that story wouldn't
7 change, right? I mean, if you're telling the truth,
8 you never touched the girl, she's just making all
9 this stuff up, if you told the police that you never
10 touched her, then that wouldn't change. Then no,
11 not for the defendant. The story changed because at
12 this point he's realizing, wait a minute now, wait a
13 minute, I already told the police that I didn't
14 touch her, now they're coming they want my DNA. I
15 imagine in his mind he's probably thinking, you
16 know, what if my DNA turns up on something. Well
17 now, now I've got to double back and go to plan b.
18 The first lie is not going to work because, see, if
19 police find some DNA on the rape kit or something
20 like that, then that's gonna incriminate me, then
21 nobody will believe me so let me double back, let me
22 go on to plan B. And plan B is, well, it happened,
23 it happened, but Amanda straddled me and that's kind
24 of what happened. But you know, and I submit to you
25 that that was another big lie. Do you know what's

1 interesting about that lie -- again, I go back to
2 what my grandmother said. Every good lie has an
3 element of truth to it. What he essentially had
4 done during that second lie on June 26th is that he
5 admitted, he admitted in that lie that he penetrated
6 the victim. That's what that admission has
7 essentially boiled down to. He admitted that he
8 committed a sexual battery of the victim.

9 One of the things that I, I don't
10 particularly like about this part of our rules of
11 court, is that the defense in a case like this has
12 an opportunity to give the last closing and I like
13 to give the last closing before you hear from the
14 judge because I want to be the last voice and the
15 last advocate that you hear from but the rules are
16 what they are. And you know, it gives my opponent
17 the opportunity to sit down and write down
18 everything that I'm saying and give you every reason
19 why you should discount everything that I said and I
20 want to be the one to do that. And it also has a
21 tendency to make me focus too much on what he's
22 going to say and not what I'm gonna say, but I'm not
23 gonna do that in this case. I'm not gonna do that
24 in this case. What I'm gonna do instead is I'm
25 gonna ask you, no matter is said to you, to remember

1 one important point, that a trial is a search for
2 the truth, the truth of what happened.

3 I don't know if you all realize this or
4 not, but the witnesses, except for the victim and
5 the officer, were sequestered on yesterday which
6 means that they had to wait outside of the courtroom
7 until it was their time to testify. You all know
8 that most of them were coming out of that door. And
9 the reason why that was done was because they
10 couldn't all sit in the courtroom and listen to each
11 other and say, okay, well, you know, Amanda said
12 this so I'm gonna make sure I say this so my
13 testimony will fit with Amanda's testimony and so
14 forth. It gives you a clean, unobstructed view of
15 all of the evidence. That's why that was done that
16 way so you can hear all of the evidence, good, bad,
17 or indifferent, so that you would know the truth.
18 And folks, the truth about Amanda's statement and
19 the truth about Charles' statement, it never
20 changed, it did not change. The only story that
21 changed in this case was that of the defendant. The
22 only person with a motive to lie in this case was
23 the defendant, no one else. Because see, Mr. Feagin
24 does not want to be held to account for what he did
25 and so he's had every reason and every motive to

1 lie, but Amanda didn't.

2 One the things that's so important about
3 Charles' testimony is that -- of course Charles
4 is -- I called Amanda first and Charles didn't have
5 the benefit of hearing what Amanda said. But one of
6 the things that was critically important about his
7 testimony is that he didn't have a dog in this
8 fight. I mean, he was friends with Amanda. He was
9 friends with Mr. Feagin. He just happened to be
10 there. Probably in hindsight he wanted to be any
11 place else but there, but just happened to be there.
12 And he didn't have the benefit of hearing what the
13 nurse said. He didn't know that the nurse had
14 testified about bruising on Amanda's arm and
15 bruising on her thighs; he didn't know that. But
16 when he came in he testified about how the
17 defendant's girlfriend held Amanda's arms to her
18 side so that she couldn't move, and obviously she
19 didn't want a situation where Amanda is laying on
20 the sofa and then her hand just goes to fall over
21 the sofa, then hits him 'cause we don't want to wake
22 him up. They don't realize though he's already
23 awake.

24 But he didn't hear Amanda testify that she
25 felt this long hair in her face; he didn't hear

1 that. But what he did testify was that Becky was
2 over Amanda's head and Becky has long hair. You
3 remember he said all the way down her back? And it
4 was all in Amanda's face. And when you think about,
5 folks, how this sexual assault occurred and where
6 the bruises were on Amanda, isn't that consistent
7 with how this happened, with somebody holding her
8 arms? Do you remember somebody, there was testimony
9 from the ER nurse there had been a bruise at her
10 hip. And I don't know whether it was the hand of
11 Becky or the hand of Jim Feagin that caused the
12 bruises on Amanda's inner thigh, but everything that
13 Charles told you was corroborated.

14 And folks, when Mr. Harvin got up there
15 and made it look like this kid is lying about what
16 grade he's in, I mean, I pulled out that statement
17 'cause I knew what it said and I wanted you to know.
18 This is not a situation where this kid is making it
19 up on the fly while he's on the witness stand. I
20 wanted you all to see and I wanted you all to hear
21 everything that he told the police that day. Now
22 did somebody sit him down and talk to him and ask
23 him and Q and A on that day like I did? No. No,
24 his story didn't change, it just simply got more
25 detailed because more detailed questions was asked

1 of him. There was nothing changed about it. You'll
2 have an opportunity to take his statement back into
3 your room. Tell me if you believe he's telling the
4 truth.

5 You know, I've prosecuted a number of
6 these cases, and the overwhelming sentiment I hear
7 from victims in this type of situation is the
8 feeling of being ashamed and embarrassed like they
9 did something wrong. So when listening to Amanda's
10 mother on yesterday talking a bout seeing her
11 daughter crying and her daughter coming here saying,
12 mom, something happened, something happened, when I
13 got up this morning I had to put my short pants back
14 on, I just feel so dirty I want to take a bath.
15 Folks, that is the sentiment of a person whose been
16 violated in the worst possible way. And it doesn't
17 make it easier that it's somebody you know; it makes
18 it worse. It makes it worse.

19 And I can just imagine her in that
20 situation. It didn't dawn on me until she said it
21 yesterday. I asked her when her birthday was and
22 she said it was [REDACTED] And after she said it, it
23 dawned on me yesterday was her birthday so she spent
24 her birthday on the witness stand in front of
25 fourteen strangers on a jury telling them about

1 probably one of the worst nights of her life, then
2 having to sit in court as a sixteen year old kid
3 talks about all the things that were done and all
4 the things that were said about her that morning
5 and the fact that she had the fortitude, one, to
6 call the police and report it, and then to come up
7 here and tell you about what happened to her.

8 Ladies and gentlemen, I submit to you that is
9 corroboration of truth. There is nothing about a
10 jury of a rape victim that is -- you're made to feel
11 like it's your fault, you asked for it, you allowed
12 for it to happen, you were drinking too much. Let
13 me just tell y'all something in case anybody has a
14 doubt, there's nothing wrong with a person over the
15 age of 21 having something to drink, there's
16 absolutely nothing wrong, absolutely. Wasn't behind
17 the wheel of car, she didn't hurt a single person.
18 She trusted that man. She trusted him. And he
19 completely violated that trust, completely.

20 The judge is gonna tell you that the State
21 has to prove the defendant's guilt beyond a
22 reasonable doubt, and he's going to tell you that
23 guilt beyond a reasonable doubt is established by
24 evidence that leaves you firmly convinced of the
25 defendant's guilt, firmly convinced. Mr. Harvin and

1 I have been in this courtroom before. We've tried
2 cases against each other before, and he's an
3 excellent trial lawyer. And what I suspect that he
4 may try to convince you that, well, you know, the
5 State didn't show pictures of the house and the
6 State didn't bring the victim's panties and put them
7 up on the projector screen and there's no DNA
8 evidence to tie this man back to the rape. Would I
9 have liked to have pictures? Yeah, absolutely,
10 absolutely, no doubt about it, no doubt about it.
11 Would I have liked to have a rape kit that said,
12 that showed his DNA in her in the rape kit? Would I
13 have liked to have that? Absolutely, no doubt.

14 But let me tell you all something about
15 evidence that's not presented. The lack of evidence
16 is not evidence. To give you an example, if I were
17 to walk across the street to my office and then come
18 back and I would come in here and somebody asked me,
19 what happened while you walked over to the office
20 and came back? And I tell you it was raining cats
21 and dogs and I saw somebody I knew in the parking
22 lot and dada dada da; but I don't mention to you
23 that there's a big red car sitting out in the front
24 of the courthouse. Does that mean I'm lying because
25 I don't mention to you there's some big red car

1 sitting out in front of the courthouse? No.

2 You know, the fact that there was not
3 semen in the rape kit, the only thing that that
4 tells us is he didn't ejaculate. That's all that
5 tells us. The fact that the victim's shorts and her
6 panties were not thrown before you, the only thing
7 that tells you is that it wouldn't have had any
8 evidentiary value. She wasn't wearing her underwear
9 and her shorts at the time the sexual assault
10 happened. But I would urge you all, implore you all
11 not to fall into that trap. Only ask yourselves
12 what is the truth in this case, did it happen? I
13 submit to you that the question is did he do it.
14 It's a simple one. It is a simple one. But the
15 answer is just as simple. That answer is yes, he
16 did, he absolutely did.

17 I had a former prosecutor, former
18 prosecutor, he was a prosecutor for 25 years. We
19 were sharing war stories about our trials and he
20 told me that -- he said, you know, trials are a
21 search for the truth, a trial is not a search for
22 reasonable doubt, it's the search for the truth.
23 The jurors, it's the jurors' job to figure out what
24 happened. And he told me about a case that he tried
25 and he put his heart and soul into it and, you know,

1 he felt good about it after he had given his closing
2 statement. He thought that the jury was going to
3 come back quick and they were gonna find the person
4 guilty. And the jury deliberated a long time and
5 they eventually came back and it was a not guilty
6 verdict. So he said after everyone was dismissed he
7 ran to one of the jurors and said, do you mind
8 talking to me, kind of sharing with me about your
9 deliberations and tell me, you know, how I could
10 have done anything better, was it just lack of
11 evidence or what was the situation, why did you all
12 find and reach the verdict that you did. And he
13 said the juror told him, oh, we all knew he was
14 guilty, we were back in the jury room, all of us
15 knew he was guilty but the State didn't prove it.
16 He said that's what the juror told him. And he
17 said, well, how could y'all believe he was guilty if
18 the State didn't prove it 'cause those are things
19 seem to be opposite end. He said, well, the State
20 just didn't prove it, there wasn't any DNA, no
21 forensic evidence.

22 Folks, I would submit to you, if when you
23 go back to the jury room and in your heart of hearts
24 you know that the defendant is guilty, the only way
25 you could have known that is how? From evidence,

1 from what you heard off this witness stand, and from
2 the other evidence that was admitted in the form of
3 exhibits. That's the only way you would know he's
4 guilty. And ladies and gentlemen, if you are firmly
5 convinced that he's guilty, I submit to you that it
6 is your obligation as jurors to find him guilty.
7 The beautiful thing about the jury system is that
8 you all have no enemies to punish and no friends to
9 reward. The only thing that everyone in this
10 courtroom is asking for in this case is justice.
11 Now Mr. Harvin and I obviously don't see justice as
12 being the same outcome; but folks, once you all have
13 satisfied your oath and fulfilled your obligation as
14 jurors and return a verdict that speaks the truth,
15 you will have done your job. And ladies and
16 gentlemen, I submit to you that the appropriate
17 verdict in this case is that of guilty and I ask you
18 all to return a guilty verdict. Thank you so much
19 for your time. Thank you some for your attention.

20 THE COURT: Mr. Harvin.

21 MR. HARVIN: May it please the Court,
22 Madam Solicitor, Madam Clerk, Madam Foreperson.
23 Good morning. I am a fan of whenever possible doing
24 closings after people hear testimony because a lot
25 of times that's the time that you all remember

1 everything you heard. You don't have to rely on an
2 attorney telling you what you should have remembered
3 and what you should have heard or what you should
4 have saw or what this person said and what that
5 person said. Whenever you do closings right after
6 testimony typically people already remember
7 everything that happened that day; and so when we
8 kind of bifurcate things, it gives us the
9 opportunity to kind of put a different shade or
10 twist on what you heard the day before. Obviously
11 we had all afternoon on yesterday, morning today, to
12 look at what was presented in court. We come up
13 with our own twist on those things.

14 Ms. Barr mentioned that she likes going
15 last behind defense attorneys because a savvy
16 attorney like myself -- she didn't say savvy but I
17 like to call myself that. A savvy attorney like
18 myself will be sitting over there writing down her
19 closing arguments; and if anybody looked over when
20 she made that statement, I made more notes. I need
21 not make any notes about this particular case is
22 what Ms. Barr is gonna say. That's not my position
23 here. I'm not a trial strategist; I'm just somebody
24 here to defend an innocent man. I don't rely on
25 courtroom technique to defend innocent people. I

1 don't rely on anything that Ms. Barr talked about.
2 But what I do rely on is everyday people, fathers,
3 mothers, working people, to use their common sense.

4 Now Ms. Barr mentioned at the end of her
5 soliloquy that if you feel in your heart of hearts
6 that a person is guilty, then you should find that
7 person guilty. And I disagree with her a little bit
8 about that 'cause this is supposed to be a place
9 where we just look at proof and emotion is something
10 that we do not use. When using your heart implies
11 that somehow you should use your gut instinct, you
12 should use an emotion. I don't want you to use that
13 part of your body. I want you to use your brain as
14 to what makes sense.

15 Each of you, I'm sure, have gone to school
16 in some way, shape, or form. Judge Newman went over
17 a great deal of questions in voir dire, talked about
18 education level, ability to read and write, and so I
19 know most of you at least as a child went through
20 the basic levels of math and science. And what math
21 and science tells us is it's interesting -- y'all
22 probably say what does math and science have to do
23 with this case? But math and science have a lot to
24 do with this case. In math you learn two plus two
25 always equals four, undisputed. You put two things

1 down, you add two more things you have four. You
2 also learn in math that two times two equals four
3 always as well. And we take that same logic and we
4 apply it to science. We say when we have a theory,
5 we take that theory, we set up a study, we decide
6 whether or not the theory, the study, and what's
7 applied to it creates a law, meaning that when this
8 happens and that happens, when it's added it to and
9 it's following thing it takes place.

10 Ladies and gentlemen, in this case two
11 plus two just does not equal four. What the State
12 would have you to believe is that a woman could be
13 sexually assaulted for 30 minutes while asleep with
14 an individual with a long penis and there'll be no
15 signs of trauma to the vaginal or rectum area of
16 that female. The State would have you believe that
17 when no condom or lubrication is used that this can
18 take place, and there'd be no signs whatsoever that
19 it happened. That's a pretty hard argument. It
20 almost implies that magic can happen. I don't know
21 if you've ever seen David Copperfield, but it's one
22 of them situations where you see a man levitating.
23 You think to yourself, how is that man levitating, I
24 know something is afoot, I can't put my finger on
25 it, but my common sense tells me everything I know

1 about human beings, everything I've ever seen in my
2 life, tells me a man cannot levitate. That's what
3 your common sense tells you. So does your common
4 sense tell you that a man can sexually assault a
5 sleeping woman for 30 minutes with no lubrication,
6 with no condoms, with a long penis, and there'll be
7 no signs of physical trauma.

8 Now Ms. Barr points to a Mr. Charles R.

9 [REDACTED] She said Mr. Charles R. [REDACTED] is a credible
10 witness. This individual, he told the State he was
11 traumatized to all of these things. And it led me
12 back to not anything any lawyer told me; but it led
13 me back to thinking about my own mother, my mother's
14 intuition. And what stood out to me was not
15 anything he said, but one very key thing. I asked
16 him specifically, Mr. Roberts, did you tell your
17 mother this story? He said no. I found that odd
18 because if I were going to be traumatized, if trauma
19 ever came into my life, my mother and my father,
20 especially my mother, would be the person I would go
21 to and tell them about what happened. But you know
22 why he didn't do that? Because your mother can see
23 through your lies. Your mother is the one person in
24 your life that when you're doing something you're
25 not supposed to do, her intuition will sink in and

1 say, now I don't believe that, that doesn't sound
2 right. And the State wants you to believe that we
3 as individuals, our memory increases as time goes by
4 so on the day an event happens we're fuzzy and
5 vague, and then a year-and-a-half later we're very
6 specific in detail. Ladies and gentlemen, you all
7 have common sense and I'm not gonna tell you how to
8 look at that 'cause your common sense already tells
9 you how to look at that.

10 Ms. Barr says my client changed his
11 statement so you shouldn't believe him. What about
12 all the witnesses she put on the stand that changed
13 their statements. It's her burden of proof. It's
14 the State's burden of proof to prove what actually
15 happened. And so when she talks about and mentions
16 this concept that we're here to determine the truth,
17 let me ask you this, when you're trying to determine
18 the truth do you look at part of the facts, do you
19 look at part of the stories, do you present people
20 with a segment of evidence that you want them to see
21 and not the rest? A truth seeking court would allow
22 in everything, you get to see everything, you get to
23 hear everything, you get to be a part of everything.

24 Now she says the lack of evidence is not
25 evidence. That is true; that is very true. I agree

1 with her on that. But you all have to think to
2 yourself, why would you not present certain pieces
3 of evidence if you're in the truth seeking function.
4 If you're trying to figure out what happened, why
5 not bring a sofa in here and have a police officer
6 tell you that there are no semen stains on a sofa
7 after 30 minutes of vigorous sex with a sleeping
8 woman with no condom. If the police officers had
9 believed this statement initially, don't you think
10 they would have went out to the scene and took
11 pictures, took evidence? If the police officers or
12 anybody who heard these stories believed them, would
13 they have dismissed the charges against Ms. Susan
14 Colvin?

15 It's very intriguing to me when I heard
16 from Ms. Graham -- actually Ms. Graham's mother.
17 And Ms. Graham's mother mentioned that her daughter
18 came home and said she felt like something had
19 happened; and this is, again, well, mother's
20 intuition kind of tells you something. I don't know
21 any mother who if their daughter had said that to
22 them and they believed them would have just hopped
23 in their car and gone to work. I don't know one,
24 not one. So you know what that tells me? That at
25 that time her mother didn't even believe her.

1 Mother didn't believe her that anything had happened
2 on that day, and she went on with her day.

3 Now Mr. Roberts, Ms. Barr says he was
4 traumatized because he had just seen for 30 minutes
5 a woman being raped in her sleep. But the
6 interesting thing is he testified he went to sleep
7 for another two hours, relaxed, calm, 'cause you
8 can't sleep if you're traumatized. I don't know one
9 traumatized person who just falls back to sleep and
10 continues on with their day, but that's what
11 happened. This traumatized young boy testified that
12 at the scene a violent rape for 30 minutes, just
13 went back to sleep. Now his statement you all will
14 take back. Ms. Barr has placed into the record
15 which I'm happy that she did, you won't see any
16 mention about 30 minutes of watching somebody have
17 sex. You won't see not one mention. You won't see
18 30 in anywhere in that statement. You won't see the
19 word "minutes" anywhere in that statement. You
20 won't see he had a long penis. You won't see that
21 any statement about Ms. Susan Colvin held her down.
22 You won't hear any of that.

23 You know what absolutely kind of makes
24 sense? I was sitting there thinking, it's like
25 there was a male in a dark room with Ms. Graham and

1 there was a male with long hair in a dark room with
2 Ms. Graham, and then I looked at the witness stand
3 and saw Mr. Charles R. [REDACTED] And what's intriguing
4 about that is lies typically have a snow ball
5 effect. My mother always told me, Keith -- that's
6 my middle name -- Keith, when you tell one lie,
7 somebody asks you a question, you have to make up
8 another lie, and then it starts to snowball. Now
9 every time somebody asks you a question, you got to
10 make up another lie and that lie gets bigger; and
11 then you find yourself in a weave of lies that you
12 can't get yourself out of. That's what you saw of
13 Mr. Charles R. [REDACTED] His first lie he saw it
14 breaking down, damn. The first lie breaking down,
15 they're asking me more questions. Second lie
16 breaking down. Third lie breaking down. Every time
17 the Solicitor's Office brings me up here, every time
18 somebody asks me anything, the lie gets worse and
19 worse so I take the witness stand, I have no, I have
20 nothing else to do but just throw out random lies.
21 Tiffany Feagin took a knife with a nine year old
22 girl, gave it to her parents to pry open the door.
23 New lie. And when I asked him, I said, you just
24 making this up? You heard the response.

25 Now Ms. Barr did what we call rehabilitate

1 the witness, at least that's what the attempt was.
2 But if you know all these specifics and the police
3 hand you a sheet of paper and they say, please,
4 write down everything you saw, everything you heard,
5 everything you know, and you leave out the fact that
6 you watched for 30 minutes a man with a long penis
7 penetrating a sleeping woman while another person
8 holds that person down, that's a pretty important
9 fact. And then a year-and-a-half later somehow your
10 mind puts it together. It's that snowball; it's
11 that mother's intuition. It's small things that
12 your common sense tells you just don't make sense.

13 Now you're not the first group of people
14 in history to sit where you sit. We have been doing
15 this since the beginning of time. You read in a
16 history book it tells you that people were gathered
17 together to hear the accusations posed upon men and
18 the State levied whatever they felt appropriate
19 afterwards. History has always, also told us, that
20 we must rely on more than a fickle minds and
21 emotions of humans when we're determining what
22 happened with a person or what happened with people
23 in particular situations and what we try to rely on
24 is science. We try to rely on science. We try to
25 rely on experts.

1 Now the State didn't provide a rape trauma
2 expert to come and testify about what happens after
3 rape, what happens in rape trauma situations. They
4 provided a nurse who is a expert in whatever she
5 says she was an expert in, triage I guess, and she's
6 dealt with 10 to 15 rape cases. The lack of
7 evidence isn't evidence, but hearing from a rape
8 trauma expert would have been great evidence if
9 you're seeking the truth. But if you're creating
10 your own box of the truth, you're trying to fit a
11 square peg into a round hole, you have to keep some
12 things out. You have to keep out somebody who might
13 refute what you're trying to prove.

14 Now Ms. Barr says -- and most of you all
15 cannot see the diagram that there's a sofa that was
16 placed in front of you all. And if you believe this
17 idea that the bruises would have come from -- well,
18 the bruises I remember was here, here, and here,
19 okay. If you're laying in a sofa on your back in
20 this position and this is the back of the sofa, then
21 isn't your arm and your hip on the back of the sofa?
22 And if a person was holding you on both sides, then
23 wouldn't there be some bruising to this side?
24 Certain things don't add up.

25 I'm not asking you to find that reasonable

1 doubt exists; that's not what I'm asking. I'm not
2 asking you to say that you're gonna hesitate to find
3 him not guilty. I'm not asking that either. I'm
4 asking you to find Mr. Jim Feagin innocent, which is
5 totally different. I want you to find him innocent
6 of doing any wrongdoing because the State hasn't
7 presented evidence that he did. What they presented
8 was a square peg being forced into a round hole
9 where individuals who had told their story to each
10 other, each one I asked, gave the same statement --
11 we talked about it, we rode together, we talked to
12 the solicitor -- putting their statements together.
13 And see, the thing about sequestering witnesses, it
14 is pretty intriguing. And it typically works but
15 for the fact that they rode here together, but for
16 the fact they'd been hanging together, but for the
17 fact that the Solicitor has questioned all of them.
18 Yes, sequestering them would typically work. But
19 one thing that did work about the sequestering,
20 Mr. Roberts didn't know that the nurse had testified
21 that there wasn't any physical trauma to the vaginal
22 area or the rectum area. And when I say vaginal and
23 rectum area, I'm not just referring to the vagina or
24 to the rectum. I'm referring to the complete area
25 surrounding it from the buttocks to the inner thigh,

1 the whole area, no cuts, bruises, rashes, scars,
2 nothing after 30 minutes of rigorous sex with a
3 sleep woman by a man with a long penis with no
4 lubrication and no condoms.

5 I ask you, ladies and gentlemen, to take
6 your time, don't rush, think about your decision
7 greatly. And I think when you do, and I submit to
8 you you will come back with a verdict of not guilty.
9 I thank you for your attentiveness, and I thank you
10 all for making yourselves available once again.
11 Jury service, I wish more people would make
12 themselves available so other people like yourself
13 wouldn't have to serve two or three, four times.
14 Maybe one day we'll come up with a system that
15 solves that problem. We thank you. You all have a
16 wonderful every day.

17 THE COURT: Madam Forelady and members of
18 the jury, you've heard the testimony, received the
19 evidence, and heard the arguments of the State and
20 the Defendant. I will now explain to you the law
21 that applies to this case. Under the Constitution
22 and laws of South Carolina you are the finders of
23 the facts in this case. I do not have the right to
24 pass upon the facts or even to express any opinion
25 that I might have as to them because this is a

1 matter solely for you, the jury, to determine. As
2 jurors then, it is your duty to determine the
3 effect, the value, the weight, and the truth of the
4 evidence presented during this trial.

5 Now as the trial judge it is my
6 responsibility to preside over the trial of the case
7 and to rule upon the admissibility of the evidence
8 offered during the trial. You are to consider only
9 the testimony which has been presented from this
10 witness stand together with any exhibits which have
11 been made a part of the record. Additionally, I
12 have the duty to charge you the law applicable to
13 this case. As the presiding judge I am the sole
14 judge of the law of this case. It is your duty as
15 jurors to accept as correct the law as I now state
16 it to you and apply it to the facts as you find them
17 and then reach your verdict.

18 Finally I charge you in this regard that
19 you should not be concerned with what you think the
20 law ought to be, but rather, what I charge you that
21 the law is. You are also the judges, the sole
22 judges of the credibility, that is, the
23 believability of the witnesses who have testified
24 and of the evidence which has been presented during
25 this trial. You must evaluate the credibility of

1 the testimony which has been presented. You must
2 evaluate the credibility and the testimony of the
3 alleged victim regardless of whether or not it is
4 corroborated understanding that the law does not
5 require corroboration. In evaluating credibility
6 you must take into consideration many things such as
7 the demeanor or manner of testifying, whether the
8 witness had reason to be biased or prejudiced or
9 whether the testimony of a witness was contradicted
10 on the one hand or supported and corroborated on the
11 other hand. All these things you will consider
12 bearing in mind that you should give the defendant
13 the benefit of any reasonable doubt. It becomes
14 your duty as jurors to analyze and to evaluate and
15 determine that evidence which convinces you of its
16 truth.

17 Normally a person cannot give opinion
18 testimony. Normally when a person testifies they
19 must testify as to what they either saw, heard, or
20 sense by smell or something of that nature.
21 However, there is an exception when someone is
22 qualified because of education and experience to
23 offer an opinion. They are permitted to give their
24 opinion in certain areas if the Court qualifies them
25 that way. This witness has been qualified in the

1 area of general -- or the witness who testified as
2 an expert was qualified in the area of general
3 nursing or emergency nursing care. This does not
4 mean that you must accept the testimony, but it is
5 evidence for you to use in any way you see fit and
6 give the testimony the weight and the credibility
7 that you believe is appropriate.

8 I instruct you and emphasize the fact that
9 under the laws of this state a defendant may be
10 tried even if the defendant does not attend the
11 trial, but the fact that the defendant is not
12 present may not be considered against the defendant
13 in any manner whatsoever. I instruct you and
14 emphasize that the fact that the defendant did not
15 testify is not a factor to be considered by you in
16 any way in your deliberations or on the question of
17 the guilt or the innocence of the defendant. It
18 must not be considered by you in any manner
19 whatsoever. A defendant has the constitutional
20 right to remain silent, and the assertion of this
21 right must not be considered by you in your
22 deliberations.

23 So I repeat, under your oath you're to
24 draw no conclusion whatsoever from the fact that the
25 defendant in this case did not testify. The fact

1 that this defendant did not testify should not even
2 be discussed in the jury room. The burden of proof
3 as I have stated to you is on the State. The
4 defendant is not required to prove his innocence.
5 The burden of proof remains on the State to prove
6 guilt beyond a reasonable doubt.

7 Now the fact that the defendant Jim Edward
8 Feagin was charged and indicted in this case is not
9 evidence in this case and cannot be considered by
10 you as evidence of guilt in this case, nor does it
11 create any presumption or inference of guilt. This
12 indictment is simply the formal written instrument
13 which contains the charge made against the
14 defendant. This indictment is the formal document
15 by which this case is brought into this court.

16 The defendant has pled not guilty to the
17 charge alleged against him. The burden is on the
18 State to prove the defendant guilty. A person
19 charged with committing a criminal offense in South
20 Carolina is never required to prove himself
21 innocent. So I charge you that it is an important
22 rule of the law that the defendant in a criminal
23 trial, no matter what the seriousness of the
24 charges, will always be presumed to be innocent of
25 the crime for which the indictment was issued unless

1 guilt has been proven by evidence satisfying you of
2 that guilt beyond a reasonable doubt.

3 This presumption of innocence does not end
4 when you begin your deliberations, but it
5 accompanies the defendant throughout the trial until
6 you reach a verdict of guilt based on evidence
7 satisfying you of that guilt beyond a reasonable
8 doubt. The presumption of innocence is like a robe
9 of righteousness placed about the shoulders of the
10 defendant which remains with the defendant until it
11 has been stripped from the defendant by evidence
12 satisfying you of the defendant's guilt beyond a
13 reasonable doubt. The presumption of innocence is
14 not a mere legal theory; it's not just a legal
15 phrase. It is a substantial right to which every
16 defendant is entitled unless you, the jury, are
17 satisfied from the evidence of the guilt of the
18 defendant beyond a reasonable doubt.

19 The State must prove the defendant guilty
20 beyond a reasonable doubt. So what is a reasonable
21 doubt in the law? A reasonable doubt is a doubt
22 which makes an honest, sincere, conscientious juror
23 in search of the truth to hesitate to act. Proof
24 beyond a reasonable doubt must therefore be proof of
25 such a convincing character that a reasonable person

1 would not hesitate to rely and act upon it in the
2 most important of his or her own affairs. Proof
3 beyond a reasonable doubt can also be described as
4 proof that leaves you firmly convinced of the
5 defendant's guilt.

6 Now there are very few things in this
7 world that we know with absolute certainty, and in
8 criminal cases the law does not require proof that
9 overcomes every possible doubt. If based on your
10 consideration of the evidence you are firmly
11 convinced that the defendant is guilty, then you
12 must find him guilty. If on the other hand you
13 think there is a real possibility that he's not
14 guilty, you must give him -- then you must give him
15 the benefit of the doubt and find him not guilty.

16 The defendant is charged with criminal
17 sexual conduct in the third degree. In order to
18 prove criminal sexual conduct in the third degree
19 the State must prove beyond a reasonable doubt that
20 the defendant engaged in a sexual battery with the
21 victim. A sexual battery is sexual intercourse,
22 cunnilingus, fellatio, anal intercourse, or any
23 intrusion, however slight, of any part of a person's
24 body or any object into the genital or anal openings
25 of another person's body, except when the intrusion

1 is accomplished for medically recognized treatment,
2 or diagnostic purposes. If you find that a sexual
3 battery did occur, you must then decide whether the
4 State has proven beyond a reasonable doubt that the
5 defendant knew or had reason to know that the victim
6 was mentally defective, mentally incapacitated, or
7 physically helpless, and that aggravated force or
8 aggravated coercion was not used to accomplish the
9 sexual battery.

10 Mentally defective means that a person
11 suffers from a mental disease or defect which
12 renders the person temporarily or permanently
13 incapable of the nature of his -- of understanding
14 the nature of his or her conduct. Mentally
15 incapacitated means that a person is rendered
16 temporarily incapable of appraising or controlling
17 his or her conduct whether this conduct is produced
18 by illness, defect, the influence of a substance, or
19 for some -- or from some other cause. Physically
20 helpless means that a person is unconscious, asleep,
21 or for any other reason physically unable to
22 communicate unwillingness to an act.

23 A statement alleged to have been made by
24 the defendant has been admitted into evidence in
25 this case. While the Court has determined that the

1 statement is admissible, I instruct you that you
2 make the ultimate decision of whether or not the
3 defendant made the statement. If the defendant did
4 make the statement, you must determine whether the
5 statement was made by the defendant voluntarily and
6 of his own free will. This means that the statement
7 was not caused by pressure, force, fear, threats,
8 coercion, or intimidation, or by hope or a promise
9 of leniency or reward of any kind. In determining
10 whether the statement was voluntary you should
11 consider both the characteristics of the defendant
12 and the details of the questioning.

13 Some of the factors that you must consider
14 are the age of the defendant, the defendant's
15 education or lack of education, the defendant's
16 mental ability or capacity, the defendant's IQ or
17 intelligence, the defendant's background and
18 environment, the place and length of detention, the
19 nature of the questioning, and the advice or lack
20 thereof to the defendant of his constitutional
21 rights, including but not limited to the right to
22 remain silent, that any statement could be used
23 against him in a court of law, the right to have a
24 lawyer present, that if he cannot afford a lawyer a
25 lawyer would be appointed to represent him without

1 cost, and that he could stop making a statement at
2 any time.

3 You must carefully consider all of the
4 surrounding circumstances before you give any weight
5 to an alleged statement. The State has the burden
6 of proving beyond a reasonable doubt that the
7 alleged statement was voluntary. If you determine
8 it was, you may give the statement any further
9 consideration you deem proper. You must decide what
10 weight, if any, should be given to the alleged
11 statement. If you determine the alleged statement
12 was not the free and voluntary statement of the
13 defendant, then you should not consider the
14 statement at all.

15 Now while arguments of counsel is a
16 beneficial part of every trial, you should remember
17 that the statements made by counsel are not
18 evidence. In presenting arguments counsel often
19 refer to the evidence; however, you should base your
20 verdict on the evidence as you remember it.
21 Therefore, if there are any conflicts between the
22 recollection of counsel about the evidence and your
23 own recollection, you should rely on your own
24 understanding of the evidence.

25 Now you've been chosen and sworn to give

1 the parties in this case a fair and impartial trial.
2 When you have done so you will have complied with
3 your oath and no one will have a right to criticize
4 your verdict. You must not be influenced by
5 opinions or expressions of opinion you may have
6 heard outside of the courtroom, but rather, should
7 base your verdict solely on the testimony of the
8 sworn witnesses who took the stand, the exhibits
9 received into evidence, and the law which I have
10 stated. You should not be swayed by caprice,
11 passion, prejudice, or improper sympathy for or
12 against anyone in this case. Remember, you have no
13 friends to reward or enemies to punish and all
14 parties are entitled to a fair and impartial trial.

15 It is your duty as jurors to consult with
16 one another and to deliberate in an effort to reach
17 an agreement. Each of you must decide this case for
18 yourself, but only after impartial consideration of
19 all the evidence with your fellow jurors. In the
20 course of your deliberations do not hesitate to
21 reexamine your own views and change your opinion if
22 you become convinced it is erroneous; however, do
23 not surrender your honest conviction as to the
24 weight or effect of the evidence solely because of
25 the opinion of your fellow jurors or for the mere

1 purpose of returning a verdict. As I stated
2 earlier, you are the judges, judges of the facts.
3 Your sole interest is to seek the truth from the
4 evidence in this case. Your verdict must represent
5 the considered judgment of each juror. In other
6 words, your verdict must be unanimous.

7 Now you may have noticed that I've read
8 these instructions to you. I do so to give you the
9 law as accurately as possible. I will give you a
10 copy of these instructions to have in your jury
11 room. You may refer to these instructions to assist
12 you in your deliberations. You must consider the
13 instructions as a whole and not follow some and
14 ignore others.

15 Now Madam Forelady, it will be your duty
16 to preside over the deliberations of the jury. If
17 during your deliberations you should desire to
18 communicate with the Court, please reduce your
19 message or question to writing signed by your
20 foreperson, and pass the note to the bailiff who
21 will bring it to my attention. I will then respond
22 as promptly as possible either in writing or by
23 having you return to the courtroom. I caution you,
24 however, with regard to any message or question you
25 might send, that you should never state or specify

1 your numerical division at that time.

2 You've heard the evidence and now you have
3 heard the law. Whatever your verdict, guilty or not
4 guilty, Madam Forelady, you will indicate it on the
5 back of the indictment, this indictment. You will
6 indicate it on the back of the indictment on the
7 portion that says verdict and indicate the verdict,
8 guilty or not guilty, sign and date the verdict
9 form, the indictment. Remember that although the
10 foreperson is the only juror who writes the verdict,
11 it is not hers alone. The verdict has to be
12 unanimous. And Madam Forelady, you're not
13 authorized to write the verdict until all of you
14 have agreed on the verdict.

15 Now ladies and gentlemen, I'm going to
16 send you to your jury room, but do not begin your
17 deliberations until you've received a copy of this
18 jury charge which includes the indictment and the
19 exhibits. Once you receive these things that will
20 be your signal to begin your deliberations. Once
21 you begin deliberations you will deliberate until
22 you have reached a verdict. And after you've
23 reached a verdict you will knock on the door, advise
24 the bailiff, and we will bring you out to receive
25 your verdict. We have taken the liberty to order

1 lunch for you since deliberation may go into the
2 lunch hour and the lunch will be brought to you
3 shortly if it's not already here. Now we picked 14
4 jurors, but we can only use 12. So from the first
5 12 selected, if any of you are unable to continue
6 with the deliberations, then we'll use one of the
7 last two jurors selected in your stead. So if
8 you're unable to continue with the deliberations
9 please raise your hand.

10 (There was no response.)

11 THE COURT: All right, all jurors appear
12 to be able to proceed with deliberations so,
13 therefore, the last two jurors elected, Ms. Jonte,
14 Mr. Bell, you all will remain in the courtroom when
15 the others go into the jury room. It's just the
16 luck of the draw whether you get picked in the first
17 12 or not, and you all were picked after the first
18 12 so you all will remain in the courtroom while the
19 others go to the jury room. As indicated, please go
20 but do not begin your deliberations until you
21 receive the jury charge, verdict form, and exhibits,
22 and that will be your signal to begin deliberations.

23 (WHEREUPON, the jury was removed from the
24 courtroom at 12:30 p.m., and the following
25 proceedings commenced in open court.)

1 THE COURT: Any additions, exceptions to
2 the charge?

3 MS. BARR: None from the State, Your
4 Honor.

5 MR. HARVIN: None from the Defense.

6 THE COURT: All right, if you all will
7 check the exhibits and we'll pass it on and let the
8 jurors get going.

9 Regarding lunch, Sharon.

10 THE CLERK: I sent one of the bailiffs to
11 pick it up. They should be here shortly.

12 THE COURT: All right, Mr. Bell, you
13 finally made it to jury duty. All right, you made
14 it. And Ms. Jonte, you made it back to jury duty.
15 Well, we would have plugged you in had something
16 happened to one of the others, but they made it
17 through so you can't participate in the
18 deliberations and we'll release you from jury duty.
19 You're welcome to stick around for the verdict or
20 leave, whatever your preference is. We have no idea
21 how long it will take them to make a decision, if
22 they actually make a decision, so we'll just wait
23 and see.

24 (Alternates were excused.)

25 THE COURT: The jury can have at it.

1 (Jurors began deliberations at 12:39 p.m. and court
2 was in recess.)

3 (WHEREUPON, the jury was returned to the
4 courtroom at approximately 2:21 p.m., and
5 the following proceedings commenced in
6 open court.)

7 THE COURT: Madam Forelady, if you'd stand
8 for me. Have you reached a verdict?

9 THE FOREPERSON: We have.

10 THE COURT: Is it a unanimous verdict?

11 THE FOREPERSON: It is.

12 THE COURT: And what's the verdict?

13 THE FOREPERSON: Guilty.

14 THE COURT: Guilty. Thank you very much.
15 You may be seated. If you will pass it up.

16 (Verdict tendered to the Court.)

17 THE COURT: If that's the verdict of each
18 and every juror please let me know by raising your
19 right hands.

20 (Jurors complied.)

21 THE COURT: All hands are raised. Thank
22 you very much.

23 Any additional polling requested?

24 MR. HARVIN: None from the Defense.

25 THE COURT: Any post-trial motions?

1 MR. HARVIN: Judge, we would ask that we
2 be given the option of, or have the option to file
3 those motions by tomorrow.

4 THE COURT: All right. Ms. Barr.

5 MS. BARR: Your Honor, I don't have any
6 objection to that.

7 THE COURT: All right. Very good. Well,
8 ladies and gentlemen, we'll give you till tomorrow
9 to file any motions, but I'm going to proceed with
10 sentencing today unless there's some need to delay
11 that.

12 Ms. Barr?

13 MS. BARR: Your Honor, I can't think of
14 any.

15 THE COURT: Mr. Harvin?

16 MR. HARVIN: Judge, I just don't have
17 anything to argue mitigation. I have been told that
18 they may have located him somewhere earlier today.

19 THE COURT: Who may have located him?

20 MR. HARVIN: The bondsman.

21 THE COURT: All right.

22 MR. HARVIN: So I think she's supposed to
23 stake out in the area that he is located and
24 possibly have him here tomorrow so I don't have any
25 mitigation at this point. That would be the only

1 reason to ask for a continuance on sentencing.

2 THE COURT: Okay. Ms. Barr, do you have
3 any details I need to know about Mr. Feagin?

4 MS. BARR: Judge, I didn't know whether or
5 not Ms. Graham wanted to speak as relates to
6 sentencing. I certainly want to give her an
7 opportunity to do that if she so choose.

8 THE COURT: Okay, if you all will come
9 around then.

10 Ladies and gentlemen, thank you very much
11 for your jury service. You have no role in
12 sentencing but when a jury finds a person guilty,
13 then it becomes my responsibility to impose a
14 sentence. We've been trying to get Mr. Feagin to
15 get here all week. His live-in girlfriend has been
16 here and she was on the witness list, and I've been
17 talking with her the past two to three days. You
18 any know, he's claimed to be sick, claimed to be at
19 the hospital, the doctor; and but when the bondsman
20 and police would go home he wouldn't be there. And
21 he won't come here even though the girlfriend told
22 him, the lawyer told him, everyone told him. He
23 refuses, refused to come to court. And with that,
24 that doesn't stop the process; he just waives his
25 right to be present. But when you have found a

1 person guilty under this situation, we proceed with
2 sentencing and the sentence is sealed up and
3 whenever he is located -- I issued a bench warrant
4 for him to be arrested before now. Well, actually,
5 I was going to issue it the day before yesterday and
6 the lady, Ms. Colvin, said Judge, please don't issue
7 a warrant, I'll have him here in the morning. That
8 was going to be yesterday. And yesterday he didn't
9 come, and she said she left him at home and told
10 him, and when the police got there he wasn't home
11 and so. But the sentence will be sealed, and when
12 he is arrested and brought before me or some other
13 judge, the sentence will be opened up and he'll know
14 what the sentence is.

15 Criminal sexual conduct third degree
16 carries up to ten years in prison. That's the
17 possible sentence for criminal sexual conduct second
18 degree. There are three degrees of criminal sexual
19 conduct. First degree is up to 30 years where
20 there's force. Second degree is up to 20 years
21 involving a minor over the age of 11 or some other
22 type force that's not overly aggravated. And third
23 degree is up to 10 years.

24 That is right; isn't it?

25 MS. BARR: Correct, Your Honor.

1 THE COURT: Up to ten years. So we'll
2 hear what else I need to hear in deciding Mr.
3 Feagin's sentence.

4 Go ahead, Ms. Barr.

5 MS. BARR: Please the Court, Your Honor,
6 the defendant was arrested in 1988 and charged with
7 accessory after the fact of murder. His wrap sheet
8 does not reflect a disposition on that offense. He
9 was arrested in 2000, was convicted of driving under
10 the influence and resisting arrest. He was ordered
11 to pay a fine or serve 30 days in jail as relates to
12 those charges. He was arrested again in 2000 on the
13 offense of simple assault battery, and he was found
14 not guilty of that offense. And that's the extent
15 of his wrap sheet.

16 THE COURT: Ms. Graham, I'll be happy to
17 hear anything you want me to hear further concerning
18 the matter.

19 THE VICTIM: What he did it took a really
20 big toll on me and my family and my four kids that I
21 can't get back so I have a lot of trust issues with
22 people, trust issues with people now, because this
23 is a man I trusted and came into our house, ate at
24 our table, who I never thought would do anything.

25 THE COURT: Have you seen him lately?

1 THE VICTIM: No, sir.

2 THE COURT: How far way does he live from
3 you?

4 THE VICTIM: About four miles.

5 THE COURT: No further contact since then
6 or?

7 THE VICTIM: No, no, sir.

8 THE COURT: He's facing up to ten years.
9 How much you want me to give him?

10 THE VICTIM: As many as you can.

11 THE COURT: As many as I can, all right.
12 All right. Anything else you'd like to tell me?

13 THE VICTIM: No, sir.

14 THE COURT: Anything else, Ms. Barr?

15 MS. BARR: No, sir, Judge, except that the
16 defendant is 46 years old. Judge, it is certainly
17 regrettable that he would voluntarily choose not to
18 be here for his own trial, and we just look forward
19 to the day that he's picked up and that his sentence
20 is imposed.

21 THE COURT: All right.

22 Mr. Harvin.

23 MR. HARVIN: The only thing I have to add,
24 Judge, we prepared for this case and he actually
25 had -- his account of events was actually in my eyes

1 pretty credible, but not having him here to present
2 that account to the jury hindered my ability really
3 to represent him and so, Judge, obviously I don't
4 know anything more about him than what was just read
5 as far as his date of birth and he has a daughter
6 that I know about that lives with him. That's all
7 that I know. I'd ask the Court for any leniency,
8 but I know that's gonna be a hard one but.

9 THE COURT: What happened to the
10 girlfriend today?

11 MR. HARVIN: Yesterday on her way back up
12 here 'cause she was under subpoena, her car broke
13 down somewhere out there somewhere, and she had
14 somebody bring her up here and had somebody to take
15 her back; but this morning she just said she didn't
16 have a way to get here. So I told her because the
17 subpoena had been lifted, she wasn't on trial, there
18 was no reason for her to be beat her head over the
19 wall to come up here and she had to take care of his
20 child and also get him back and forth to work.

21 THE COURT: All right. Anything else,
22 Ms. Barr?

23 MS. BARR: No, Your Honor, thank you.

24 THE COURT: All right. We will tend to
25 his sentence and seal it up and have him picked up

1 as soon as possible and either he'll be held in the
2 county jail until court resumes again if he's not
3 picked up by tomorrow and sentence will be imposed.

4 MR. HARVIN: Judge, I just have one
5 request that you ask the jury members if any of them
6 are willing to talk to defense counsel concerning
7 the case I would love to hear their incite.

8 THE COURT: All right. Ladies and
9 gentlemen, after you during the course of a trial
10 the judge always says don't talk about the case,
11 don't talk to anyone or allow anyone to talk about
12 the case in your presence. After you have reached a
13 verdict in the case you can talk to any, everyone
14 you like to about it. You know, in a high profile
15 case like some of the ones out in California, jurors
16 end up writing books about it. You can talk to
17 anyone you want to about it, write a book about it,
18 but you're not required to talk to anyone about it
19 and no one can force you to discuss anything with
20 them. And no one should harass or annoy you in any
21 way concerning your service on a case or on jury
22 duty in general. So with all of that, thank you for
23 your service and you all are free to go. I'd like
24 to speak with the forelady before she goes. And
25 otherwise, Mr. Harvin, will be in the back there.

1 (Whereupon, court was adjourned and the following
2 proceedings were held on October 24, 2014.)

3 THE COURT: Ms. Barr.

4 MS. BARR: Your Honor, may it please the
5 Court, we're back on the record regarding indictment
6 number 2014-GS-45-168, State versus Jim Edward
7 Feagin. Your Honor may recall that the defendant
8 was charged with criminal sexual conduct in the
9 third degree. He was tried in his absence. The
10 trial began on Wednesday, concluded on yesterday.
11 Mr. Doward Harvin was his counsel. The jury
12 returned a guilty verdict and Your Honor imposed a
13 sentence which was sealed on yesterday. As a result
14 of the efforts of Mr. Feagin's bondsman as well as
15 the Williamsburg County Sheriff's Office, the
16 defendant was picked up this morning and brought
17 here today pursuant to the Court's bench warrant.

18 Judge, Mr. Feagin is here. His attorney
19 is here. The victim in the case Amanda Graham is
20 here as well for the purpose of the Court announcing
21 the sentence.

22 THE COURT: All right. Anything before
23 the sentence is announced, Mr. Harvin?

24 MR. HARVIN: Judge, just that originally
25 on yesterday we asked for a day to render our

1 posttrial motions. Now that Mr. Feagin is here I
2 would like the opportunity to discuss posttrial
3 motions with him so if we can have the, I guess,
4 nine days from today which the ten day period to
5 file any posttrial motions.

6 THE COURT: All right, Ms. Barr?

7 MS. BARR: Judge, we don't have any
8 objection to that.

9 THE COURT: And there's no -- the
10 defendant will be given that time to file any
11 posttrial motions, but the -- that does not delay
12 the imposition of the sentence.

13 Mr. Feagin, you're able to stand up?

14 THE DEFENDANT: Huh-uh.

15 THE COURT: What's wrong with you?

16 THE WITNESS: I was supposed to have went
17 to the hospital three days ago when the court thing
18 and have me an operation. I find I been having -- I
19 can't, two weeks or three weeks, and I had it set up
20 with my doctor that same day to go in and to see him
21 and go into the hospital, and I decided to do that
22 instead of come here.

23 THE COURT: All right.

24 THE DEFENDANT: Then after I went down
25 there I didn't get that done either.

1 THE COURT: All right, well, the question
2 was whether you can stand up so if you don't -- you
3 can't stand up?

4 THE DEFENDANT: Oh, I can try.

5 THE COURT: All right.

6 THE DEFENDANT: I can't stand.

7 THE COURT: All right. I'm gonna pass the
8 sentence to the clerk to unseal the sentence and to
9 read it.

10 THE CLERK: In indictment number
11 2014-GS-45-168, the State versus Jim Edward Feagin,
12 the State Department of Corrections for the term of
13 ten years. Credit for time served.

14 THE COURT: All right, that's the sentence
15 of the Court. You've been sentenced to the State
16 Department of Corrections for a period of ten years.
17 That's the maximum sentence for criminal sexual
18 conduct third degree.

19 MS. BARR: Thank you, Your Honor.

20 THE COURT: Before he's taken, anything
21 further from the State or Defense?

22 MS. BARR: Nothing further from the State,
23 Your Honor.

24 THE COURT: Mr. Harvin?

25 MS. BARR: We do have his bondsman here in

1 the event that anything was needed from her.

2 THE COURT: All right, Ms. Tanner, how are
3 you?

4 MS. TANNER: I'm good. Yourself?

5 THE COURT: All right. Mr -- we've -- the
6 sealed sentence for Mr. Feagin has been opened and
7 he's been sentenced to ten years in prison for
8 criminal sexual conduct third degree. If you will
9 state on the record -- I think you've been here as
10 bonds lady and any efforts that you had to undertake
11 to get him here, any problems you had during the
12 course of the week and get him in here. If you
13 would tell me about that. If you would stand right
14 there by Ms. Barr.

15 MS. TANNER: Your Honor, the problems I
16 had with him was when Mr. Harvin called and asked me
17 to go get him his girlfriend Becky Susan Hilton, I
18 followed her out there. She told me he was so sick
19 he couldn't get up out of bed so I told Mr. Harvin I
20 would go get him. Went out there, he wasn't there.
21 She said she didn't know where he was. So I called
22 him back and let him know. Then I went back that
23 afternoon. She stood me she didn't know where he
24 was but I could -- I felt like she was lying. So
25 then I went back that night. I sat in the woods a

1 little bit. Thought I heard him one time come out
2 the shed. But then anyway, the law went back 3:30 I
3 think this morning and he wasn't there so I went
4 back about 8:00 and got in the woods, and she said
5 she had just called Mr. Kennedy, he was on his way.
6 I said, well, I thought I heard something but I
7 don't think that was him at that time so 'cause I
8 thought she was kind of feeding me a line of bull.
9 Well, then Mr. Kennedy left, told her if she saw ---

10 THE COURT: She works for law enforcement,
11 Mr. Kennedy?

12 MS. TANNER: Archie Kennedy. And he told
13 her if she seen anything to dial 991. Well, as soon
14 as he left her phone rang and I grabbed it from her
15 and it was him and he said is it safe to come back
16 home, and I said, yeah, whispered yeah. He said,
17 well, you need to come get me. I said. Where you
18 at? He said, I'm right down the road, I still got
19 my camo on, and I'm right down the road right down
20 by Bobby's shop. So I went, I called 9-1-1 and got
21 Archie in on the way and I went that way but then
22 she told me that was the wrong way. She was kind of
23 leading me on a little bull chase. And then we had
24 to turn around and go back, and luckily I called his
25 cell phone bank and he answered and I told him that

1 I was a lady that worked with her 'cause her car was
2 tore up and I was trying to help her get it to him.
3 And then he said he would be standing aside the
4 road, for me to pull up and he would jump inside the
5 car. And Archie and them kind of stayed back. And
6 he jumped in the car, but she did know where he was
7 and she has been helping him.

8 THE COURT: Has she been made aware that
9 the, there's a separate criminal offense for —

10 MS. TANNER: She did, and I told her they
11 could be charged.

12 THE COURT: —harboring or concealing
13 someone?

14 MS. TANNER: Yes, sir.

15 THE COURT: All right. Thank you for your
16 efforts.

17 MS. TANNER: Thank you. Good luck.

18 MR. HARVIN: And Judge, just while Mr.
19 Feagin is here, can I just say one thing about his
20 trial?

21 THE COURT: Yes, sir.

22 MR. HARVIN: Judge, I did the best that I
23 could do with what I had. Mr. Feagin wasn't here to
24 see that, but I definitely want it to be known on
25 record that the case was made substantially harder

1 by his presence not being with me and so.

2 THE COURT: In his absence?

3 MR. HARVIN: His absence changed the way
4 that I had to defend his case. And so while I do
5 know he got a ten year sentence and I know he's
6 gonna probably be a little upset about that, I tried
7 my best and that's all I can do without you here.

8 THE COURT: Yeah, well, sentence is up to
9 the Court and whether guilt -- or whether he's
10 guilty or not was up to the jury. They had the
11 benefit of the State's presentation of evidence, did
12 not have the benefit of any defense he might have
13 wanted to offer because he dodged court and would
14 not come so it is what it is.

15 I do want to give the victim an
16 opportunity to say anything further that she might
17 want to say if she wants to say anything further.
18 Ms. Graham.

19 (There was no response.)

20 THE COURT: Nothing further? All right,
21 thank you. That's the Court's order, ten year
22 sentence.

23

24 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

25

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 14th day of July, 2015.

S/Frances B. Ray

FRANCES B. RAY, RPR

STATE OF SOUTH CAROLINA))
COUNTY OF WILLIAMSBURG)) GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)

STATE,)

V.

TRANSCRIPT OF RECORD
14-GS-45-00168

JIM EDWARD FEAGIN,)

DEFENDANT.)

April 2, 2015
Kingstree, South Carolina

B E F O R E :

THE HONORABLE CLIFTON B. NEWMAN, JUDGE

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

KIMBERLY V. BARR, ESQ.
Assistant Solicitor

DOWARD K. HARVIN, ESQ.
Attorney for Defendant

FRANCES B. RAY, RPR
Circuit Court Reporter

INDEX

	Page
Motion for new trial	4
Remarks by the defendant	9
Motion for reconsideration	21

EXHIBITS

Defense:

No.	Description	I.D./EVD.
1	List of medications	

1 MS. BARR: May it please the Court, Your
2 Honor.

3 THE COURT: Yes, ma'am.

4 MS. BARR: The next matter before you is
5 indictment number 2014-GS-45-168. It's the State
6 versus Jim Edward Feagin. Judge, this was an
7 indictment for criminal sexual conduct in the third
8 degree. The defendant was before you back in
9 October. He was tried in his absence and convicted.
10 The sentence was sealed. I believe he came before
11 the Court -- I believe he was convicted by the jury
12 on the 23rd of October last year. He was picked up
13 on a bench warrant the following day, and he is
14 before Your Honor and the sentence was unsealed. He
15 was sentenced to ten years in the Department of
16 Corrections. He's here with his lawyer Mr. Harvin,
17 and he filed a motion for reconsideration of that
18 sentence. Judge, the victim is also here.

19 THE CLERK: Place your left hand on the
20 Bible, raise your right hand.

21 WHEREUPON,

22 **JIM FEAGIN,**
23 having been duly sworn by the Clerk, testified
24 as follows:

25 THE COURT: Mr. Harvin.

1 MR. HARVIN: May it please the Court, Your
2 Honor, just -- we actually filed two motions. The
3 first motion was a motion for a new trial, and also
4 a motion for his sentence to be reconsidered in the
5 alternative. Judge, before this case was tried I
6 requested a continuance and laid out the fact that
7 Mr. Feagin had just been in the hospital the weekend
8 prior to court beginning and that he had been taking
9 several different medications. Your Honor
10 diligently worked through, I believe, his asking his
11 wife some questions, Ms. Colvin, and also the bonds
12 man, bonds person, bonds woman Ms. Tanner, some
13 questions about her efforts to get him to court. At
14 that time while we knew he had some medical issues,
15 we really -- I didn't know the extent of those
16 issues until after he had been picked up and I
17 realized he was unable to speak. He had issues
18 expressing himself in full sentences; he had issues
19 just talking to me. He seemed to be disoriented.
20 He seemed not to be able to understand what was
21 going on. And so one of the bases for our requests
22 for a new trial is, even if he was here, it looks
23 like the medications that he was taking and the
24 situation that he was in, from a physical standpoint
25 led him incapable of being competent to assist

1 counsel in trying his case. And so at this point he
2 is -- the conversation we've been having back and
3 forth, and even today he's much more cognizant and I
4 think he has some information about the period-----
5 leading up to the day of trial, that week of trial
6 and his health condition that I didn't even know
7 when I requested the motion for continuance 'cause
8 obviously he couldn't express himself to his wife
9 and she couldn't express what she did not know to
10 the Court or to myself. And so we were unaware that
11 the medication had him in the state that he was in.

12 I will tell the Court that during that
13 week as I was, you know, attempting to get him here
14 for court, there was a conversation that I had with
15 his daughter who expressed that she made several
16 attempts one, one day, to even wake him up and he
17 was just out of it to the extent that he couldn't
18 even revive himself to just wake up and say any
19 words. And so, Judge, we're asking the Court to
20 give him a new trial.

21 Just to refresh the Court's memory as to
22 what took place during the trial, the evidence
23 presented, none of the evidence was physical
24 evidence. All the evidence was that of testimony.
25 The primary evidence that I believe led to

1 Mr. Feagin's conviction would have been the
2 testimony of a teenage child by the name of
3 Christopher Roberts, I believe, who testified that
4 he eyewitnessed the incident. I stand corrected;
5 there was one piece of physical evidence I believe.
6 There was a bruise to the shoulder of Ms. Graham
7 that was entered into evidence through testimony as
8 well. And so it really was a case that I believe if
9 I had a competent client sitting next to me, a
10 competent client who could have taken the stand and
11 maybe even given some insight to the actions that
12 took place or refute the fact that those actions
13 took place, I believe he would have been found not
14 guilty. And so we're asking the Court to revisit
15 this issue and make a decision as it relates to
16 whether or not he can get a new trial. Before Your
17 Honor moves to the Solicitor and hears any other
18 testimony I would like for the Court to hear from
19 Mr. Feagin concerning how he was feeling during that
20 period of time.

21 THE COURT: That's opening statement or
22 closing statement or evidence what, you just gave?

23 MR. HARVIN: Well, his statement would be
24 evidence. I'm just laying a foundation for the
25 motion.

1 THE COURT: So the Solicitor has a right
2 to lay her foundation too.

3 MR. HARVIN: All right, in whatever order
4 your say, Judge.

5 THE COURT: Ms. Barr.

6 MS. BARR: Judge, you may recall that this
7 trial concerned the defendant's rape of a young
8 woman who was a friend of his family. There was
9 testimony that he had eaten at her dinner table.
10 Mr. Harvin is correct there was testimony that there
11 was an eyewitness to the rape which is unusual to
12 have happen, but the defendant was not aware that
13 the eyewitness, who he thought to be was asleep, was
14 actually awake. But in any event, regardless of the
15 facts of the case I think the jury's verdict has
16 spoken on that issue. More importantly, Judge, a
17 couple of things that I was concerned about during
18 the trial and think the Court may have been
19 concerned about as well. The defendant's purported
20 wife who has also been charged with criminal sexual
21 conduct in the third degree for her participation in
22 the case, came to court without the defendant.
23 There was a request by the State to issue a bench
24 warrant to the defendant. She represented while in
25 tears that she would have him here, that he had a

1 doctor's appointment. When she was queried more in
2 detail by the Court she was vague on doctor's
3 appointment, what time it was. The next day when we
4 were scheduled to begin his trial, again she was
5 here; the defendant, of course, was not here. I
6 believe the excuse that she advanced was that after
7 she talked to his lawyer and then his lawyer advised
8 that he was needed in court, that he took pain
9 medicine that knocked him out.

10 Judge, after he was picked up on the bench
11 warrant, Ms. Tanner who is present in court, she was
12 his bonds man, she outlined the great lengths that
13 she went through to try to get him here. She was
14 able to find out that, in fact, it appeared that his
15 codefendant, a/k/a his wife, was actually hiding him
16 out, that she overheard a conversation between the
17 two where the defendant asked his wife, is it okay
18 to come home now, and his wife told him yes. And
19 Ms. Tanner then finds him in full fatigue coming out
20 of some wooded area, and that's how she was able to
21 capture him. And Judge, and I don't know what his
22 medical situation is. I do know that based upon the
23 information that was provided by his bonds man, the
24 defendant purposefully absented himself from his own
25 trial. I don't think that he should now have the

1 benefit of coming back before the Court when his
2 absence was necessitated by his own conduct and ask
3 now that the Court set aside that verdict and grant
4 him a new trial.

5 THE COURT: All right. Mr. Harvin, I'll
6 hear from Mr. Feagin. He's under oath, Madam Clerk?

7 THE CLERK: Yes.

8 THE COURT: All right.

9 THE DEFENDANT: On that day I was supposed
10 to be tried, I had went to the hospital the night
11 before that Monday. They had give me IVs. I stayed
12 up about half the night. They give me medication
13 and all that, and I already was on all kind of
14 medication. I had took the medication, like I said,
15 I'd been laid up and all that. On the day before,
16 like the last day of court, I had took -- no, two
17 days before -- I had took the medication, I had
18 wondered off in the woods. I didn't know where I
19 was. A friend of mine had called me on my cell
20 phone and asked me to come get him. I told him I
21 didn't know where I was, I was lost. I couldn't
22 walk. I crawled out. I don't know if anybody or
23 Mr. Harvin seen it when I came to court I had
24 britches, the knees was out, the knees was tore up.
25 I couldn't walk. I had been -- I hadn't ate in ten

1 days. And that's why I was at the hospital 'cause I
2 had stomach problems. I have a ulcer in my stomach,
3 you see, and I couldn't eat and I had been in the
4 hospital. They set me up for me to go back in the
5 hospital to do tests and run all that and do
6 research. And back then I didn't weigh but probably
7 120 pounds. Now look at me, I mean, I weigh 150
8 now.

9 THE COURT: So you're doing better now
10 than you were doing then.

11 THE DEFENDANT: After I got to R&E and
12 their medical and all that, that's what I'm saying.

13 THE COURT: All right. You want to ask
14 him any questions, Mr. Harvin?

15 MR. HARVIN: Well, Judge, what we would
16 like to do is enter into the record the same
17 documents related to his prescriptions that we
18 entered into or gave to the Court at the motion for
19 continuance. I've shown those documents to Ms. Barr,
20 and so we would like to enter that as part of the
21 defendant's exhibit for this particular motion.

22 THE COURT: All right.

23 (WHEREUPON, Defendant Exhibit No. 1 was marked for
24 identification and entered into evidence.)

25 MR. HARVIN: And Judge, what we believe

1 those limited records show is just the medications
2 that he had been prescribed, the medications he was
3 on at the time, and also the fact that he had been
4 at Carolina Hospital before this trial was called.

5 THE COURT: All right, Ms. Barr.

6 MS. BARR: Judge, may I ask him some
7 questions?

8 THE COURT: Sure.

9 MS. BARR: Mr. Feagin, when were you in
10 the hospital?

11 THE DEFENDANT: I can't remember the date.
12 It was like Sunday night. I don't know the exact
13 date. I don't remember.

14 MS. BARR: Did you have communication with
15 Ms. Colvin about when you were to be in court for
16 your trial?

17 THE DEFENDANT: Well, I knew it was that
18 Monday.

19 MS. BARR: Okay. Were you in the hospital
20 on Monday?

21 THE DEFENDANT: No, I stayed there Sunday
22 night about all night.

23 MS. BARR: Were you in the hospital on
24 Tuesday?

25 THE DEFENDANT: No.

1 MS. BARR: Were you in the hospital on
2 Wednesday?

3 THE DEFENDANT: No, I wondered off in the
4 woods.

5 MS. BARR: And if your trial was to begin
6 on October 22nd, you were not hospitalized and
7 capable of being here; is that correct?

8 THE DEFENDANT: No, I was on medication.

9 MS. BARR: All right.

10 THE DEFENDANT: 'Cause I had contacted Mr.
11 Harvin and sent her to give him, sent my medical
12 stuff.

13 MS. BARR: Do you deny to this Court
14 having a conversation with your wife wherein you
15 asked her after your conviction, was it okay for you
16 to come back to the house?

17 THE DEFENDANT: Yeah, I deny that.

18 MS. BARR: You deny that, that did not
19 happen?

20 THE DEFENDANT: That did not happen.

21 MS. BARR: Okay. I don't have any other
22 questions of him.

23 THE COURT: All right. Mr. Harvin, you
24 talked to Mr. Harvin about coming to court here?

25 THE DEFENDANT: Huh?

1 THE COURT: Did you talk to Mr. Harvin
2 about you having to come to court?

3 THE DEFENDANT: No, not with, none during
4 that week I didn't.

5 THE COURT: Did he call you?

6 THE DEFENDANT: No, well -- no. Oh, he
7 had sent a message through my old lady or called ---

8 THE COURT: Your old lady was here that
9 day ---

10 THE DEFENDANT: Yeah.

11 THE COURT: And she ---

12 THE DEFENDANT: Yeah.

13 THE COURT: ---prevented a bench warrant
14 from being issued against you, and she came home and
15 told you that you were supposed to be here the next
16 day?

17 THE DEFENDANT: Yeah, and I told her I was
18 too sick to come and tell Mr. ---

19 THE COURT: Just answer my question now.
20 I know you want to get in being sick, get in being
21 in the woods; but did she tell you that you were
22 supposed to come back here and be here the next day?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you just didn't come?

25 THE DEFENDANT: Well ---

1 THE COURT: You went in the woods instead?

2 THE DEFENDANT: I wandered off on
3 medication, I mean.

4 THE COURT: Wondered off on medication.

5 THE DEFENDANT: Yeah.

6 THE COURT: What are you talking about?

7 THE DEFENDANT: I just walked out and
8 wondered off and got lost.

9 THE COURT: What kind of medication were
10 you on?

11 THE DEFENDANT: I was on Percocets, not
12 counting I already had, I took nerve pills. I took
13 muscle relaxers. I was already on the fall of that
14 and I have all kind of stomach medicine and stuff. I
15 was taking like 15 medications a day.

16 THE COURT: You took, you take 15
17 medications?

18 THE DEFENDANT: Yeah, I mean, sinus and
19 allergy medicines for breathing.

20 THE COURT: For how long were you taking
21 15 medications?

22 THE DEFENDANT: I've been taking up to 10,
23 12 for last years, it's been a couple of years.

24 THE COURT: All right. And you were
25 working someplace?

1 THE DEFENDANT: No, I don't work. I draw
2 disability.

3 THE COURT: Drawing disability.

4 THE DEFENDANT: I'm disabled.

5 THE COURT: Okay. Well, I mean, when you
6 were taking those 10, 12 medications it didn't cause
7 you to wander off in the woods every day, did it?

8 THE DEFENDANT: When I wasn't taking as
9 much as what they give me 'cause they had given me
10 at the hospital and then they give me more.

11 THE COURT: Why didn't you come to court?
12 Why didn't you come for your trial? You knew you
13 had a trial. The lady told you you had a trial.
14 Why didn't you come?

15 THE DEFENDANT: I was still sick and
16 couldn't hardly go.

17 THE COURT: So it was your choice not to
18 come because you were sick?

19 THE DEFENDANT: I guess, if that's the way
20 you look at it, I mean, I was sick.

21 THE COURT: Well, I mean, in your mind you
22 said, well, I'm not going because I'm sick. You
23 knew you were supposed to be here. Mr. Harvin was
24 sending messages by your lady friend ---

25 THE DEFENDANT: Yeah.

1 THE COURT: ---trying to find you. We're
2 sitting up here waiting on you. We delayed the
3 trial after she said she'd go and get you and have
4 you come here, called the bonds lady and told her to
5 go get you. And you're in the woods and she comes
6 back and says that she's there, and while she's
7 there talking to your lady friend you call and you
8 say, is it safe to come out the woods now? This is
9 what the bonds lady said ---

10 THE DEFENDANT: I know what she said.

11 THE COURT: ---here in court.

12 THE DEFENDANT: I ain't come out ---

13 THE COURT: Is it safe to come out the
14 woods. And then she arranged with the police to get
15 you and bring you on in so they drag you on in here.
16 That was after -- by that time we were through
17 with the trial.

18 THE DEFENDANT: When she had called I knew
19 who she was.

20 THE COURT: They found you guilty.

21 THE DEFENDANT: When she had called I knew
22 who she was 'cause her number showed up.

23 THE COURT: And your bond papers told you
24 that you had a right to come to trial and to be here
25 when your case goes on, and the bond papers had a

1 warning that if you did not appear the case would go
2 on without you. That's the law. I mean, the fact
3 that you're accused of a crime, you can't control
4 when a case is gonna happen because you decide that
5 you don't want to come, you decide that you don't
6 feel good. Or even if you don't feel good, you
7 can't decide, well, I'm not going and they can't
8 have my case because the rules are that if you do
9 not appear the case can proceed without you. And
10 the Rule 16 of the Rules of Criminal Procedure says
11 that except in cases wherein capital punishment is
12 permissible sentence, that's like a death penalty
13 case. You weren't facing the death penalty. A
14 person indicted for misdemeanors and/or felonies may
15 voluntary waive his right to be present and may be
16 tried in his absence upon a finding of the court
17 that, number one, the person received notice of his
18 right to be present; and two, that a warning was
19 given that the trial would proceed in his absence
20 upon his failure to attend. And all that is right
21 there on your bond papers, number one, that warning.
22 And then you had the people telling you to come.
23 The lady told you, and you decided, well, you know,
24 you decided that you're not coming, that you're
25 sick. And now you're adding on that you wandered in

1 the woods for two days and then didn't get out the
2 woods until what'd you say?

3 THE DEFENDANT: I said it was true. I'm
4 not lying.

5 THE COURT: You didn't get out the woods
6 until when?

7 THE DEFENDANT: That Friday, Thursday,
8 Friday, I can't remember.

9 THE COURT: You got a cell phone in the
10 woods?

11 THE DEFENDANT: Yeah, it dead. A friend
12 of mine had called me and, yeah, it was about dead.

13 THE COURT: About dead?

14 THE DEFENDANT: And then I had called her
15 and -- well, she had called me back, the bonds man
16 number, and I knew, I knew, I was weak after when I
17 told her where I was at.

18 THE COURT: Unfortunately for you when you
19 were on the phone with her, the bonds lady was on
20 the phone listening to you saying, is it safe to
21 come out the woods now.

22 THE DEFENDANT: I had talked to her on the
23 phone, the bonds lady. I knew what she was planning
24 with the old lady. I told her where I was.

25 THE COURT: That's the bonds lady right

1 there. I see you looking over that way.

2 THE DEFENDANT: Yeah, I mean, I had talked
3 to her.

4 THE COURT: Oh, okay.

5 THE DEFENDANT: I talked to her on the
6 phone.

7 THE COURT: All right, Ms. Tanner, remind
8 me about this again. I'm kind of -- when was this
9 trial?

10 MS. BARR: This was in October.

11 THE COURT: I'm trying to recollect these
12 details. Tell me about it.

13 THE BONDS WOMAN: Mr. Harvin called and
14 asked me to get him in court. His -- Susan came by
15 my office and told me he was at home, he was sick.
16 So we went out there and then she said, oh, he's
17 gone. We looked through the house. He had left his
18 medicine at home. So then we kept going back along
19 with law enforcement, they would go. Then she
20 called and said she thought she heard him in the
21 woods. So then the following morning I pulled up
22 and she was out in her yard, and I was asking her
23 had she seen him, she said no. She had her phone in
24 her hand and it rang. And I grabbed her phone and
25 answered her phone that he called, not my phone.

1 And he said, is it safe to come home, and I said
2 yes. And then he told me, he says he didn't know
3 where he was, but he told me how to get to where he
4 was so he knew where he was at. He told me he would
5 be hiding down the dirt road in his camo right
6 beside a shop.

7 THE COURT: Be hiding down the dirt road
8 in his what?

9 THE BONDS WOMAN: Camo.

10 THE COURT: Camo. What's a camo?

11 THE BONDS WOMAN: His camouflage.

12 THE COURT: Camouflage, oh, okay.

13 THE BONDS WOMAN: Keeping the dirt ---

14 THE COURT: All right.

15 THE BONDS WOMAN: So I called the
16 Sheriff's Office, and we agreed for me to get him in
17 my car. And as a matter of fact, he called back in
18 15 minutes and I told him that my name was Linda and
19 that his wife's car was tore up and I would have to
20 give her a ride to get him. And he said, okay, just
21 pull up beside the road and I'll jump in the car and
22 that's what he did.

23 THE COURT: You're still tieing up our
24 time on this situation.

25 THE DEFENDANT: No, 'cause that isn't

1 true.

2 THE COURT: About a new trial?

3 THE DEFENDANT: That ain't true about what
4 she -- she called me. Her number was on my cell
5 phone.

6 THE COURT: All right, I hear you. But
7 I'm not granting a new trial. That motion is
8 denied. Mr. Harvin did his best to get you here.
9 We're in here fussing at him because you weren't
10 here. He was trying his best to get you here, and
11 the lady tried to get you here or tried to help hide
12 you, I don't know. What's her situation? Where is
13 she today? She's back here too? Where is she at?

14 MS. BARR: Has blue on, Judge, blue top.

15 THE COURT: All right. So that motion is
16 denied.

17 MR. HARVIN: Judge, our second motion in
18 anticipation that you may deny the motion for a new
19 trial.

20 THE COURT: Anticipated it. In the event
21 I did, okay, I hear you.

22 MR. HARVIN: Yeah, in the event you didn't
23 see things our way. We field a motion for his
24 sentence to be reconsidered at the time. Obviously
25 when the trial ended we weren't able to put up any

1 mitigation regarding his sentencing and we ask ---

2 THE COURT: I heard from him before I
3 sentenced him. I mean, I didn't -- the sentence was
4 held in abeyance until he was brought in and then
5 y'all had a chance to talk and all that.

6 MR. HARVIN: Well, and because he was not
7 able to communicate himself there really wasn't much
8 that I could ---

9 THE COURT: He was still on the medicine
10 so he couldn't present a good explanation.

11 MR. HARVIN: Well, I don't know if it was
12 the medicine or something else, but I know he could
13 not communicate to me effectively at that time.

14 THE COURT: All right, happy to hear.
15 We've got him here. We got the victim here. I'm
16 happy to hear it all over again as to what the
17 sentence should be.

18 MR. HARVIN: Thank you, Your Honor. We've
19 gone over the facts. I think that his criminal
20 record was read. It wasn't substantial at all.
21 Actually I don't think ---

22 THE COURT: What kind of stuff does he
23 have on there? You have it, Ms. Barr?

24 MS. BARR: Yes, I do, Judge. He was
25 convicted of DUI and resisting arrest back in 2000,

1 and it looks like he had a assault and battery in
2 2000 but that was -- he was found not guilty of
3 that.

4 THE COURT: All right.

5 MR. HARVIN: He does have one child, a
6 young girl who he was helping Ms. Susan Colvin to
7 raise. I don't think that they're married. I think
8 they just lived together ---

9 THE DEFENDANT: Common law.

10 MR. HARVIN: ---for a substantial period
11 of time, and he was helping to provide for the
12 family. We received a list of individuals -- I'm
13 gonna have to rely on Ms. Colvin because she reached
14 out to these individuals that wanted to be here
15 today to speak on Mr. Feagin's behalf. I know
16 there's at least two gentlemen sitting in the rear
17 who would like to speak.

18 THE COURT: I'll be happy to hear from
19 anyone who would want to say anything.

20 Who do you have here, Mr. Feagin? Who are
21 these people?

22 THE DEFENDANT: That's James Langley.
23 He's been in my family for years. And that's Louis,
24 he's, that's her brother. He's been in the family.

25 THE COURT: Say their names again.

1 THE DEFENDANT: James Langley and
2 Louis ---

3 THE COURT: Langley?

4 THE DEFENDANT: Langley.

5 THE COURT: Langley, all right. And
6 Cooper?

7 THE DEFENDANT: No.

8 MR. HILTON: Louis Hilton, Your Honor.

9 THE COURT: Hilton. All right.

10 MR. HILTON: Ms. Susan's brother.

11 THE COURT: Okay, who's going to talk
12 first? Mr. Hilton?

13 MR. HILTON: Yes, sir, I can.

14 THE COURT: Yes, sir.

15 MR. HILTON: Your Honor, I'm here today
16 not only on behalf of Mr. Feagin, but my sister as
17 well. I've known Mr. Feagin now for eight or nine
18 years, and I've, in the -- this is the first I've
19 ever known him to be in any type of trouble. And
20 also, like his lawyer stated, they do have a child
21 together and I do know that this past five months
22 has been torture on her. It's really affecting her.
23 I've spoke with her a couple of times.

24 THE COURT: What do you know about this
25 rape case?

1 MR. HILTON: From what I been told, Your
2 Honor, and from what I've seen and heard of it, I,
3 in my honest opinion, Your Honor, I do not believe
4 Mr. Feagin has done this because I have been to
5 their residence numerous times. I have even left my
6 wife and my daughter with him numerous times, and I
7 would right now today if he was out and free, I
8 would have not the slightest inkling ---

9 THE COURT: Well, perhaps you didn't
10 understand my question. I said what do you know
11 about this rape case. You start out telling me what
12 you heard and what you think, but what do you know
13 about it?

14 MR. HILTON: I know that he is accused of
15 raping a woman in the presence of my sister, and I
16 don't -- from what I've heard there's way too many
17 holes in the story.

18 THE COURT: Well, the jury heard it and
19 heard the whole case from people who were there.
20 You weren't there, were you?

21 MR. HILTON: No, sir, but I have seen
22 documentations and ---

23 THE COURT: They heard, the heard the
24 whole story from people who were there, and they
25 decided he was guilty, that he's guilty, of your

1 sister holding this lady down -- and of course, she
2 was out of it because she was drinking -- holding
3 her down because of his desire to have sex with her.
4 And that your sister not only agreed for it to
5 happen, but she helped it happen. That's what they
6 all told they jury.

7 MR. HILTON: I don't believe that, Your
8 Honor. I've known her for 38 ---

9 THE COURT: Of course, I mean ---

10 MR. HILTON: I've known her ---

11 THE COURT: You would never be on a jury
12 if your sister is accused of doing stuff like that.
13 You wouldn't make it to the jury.

14 MR. HILTON: No, I've know her for 38
15 years. I've seen her in multiple relationships ---

16 THE COURT: Yeah, that's why we don't put
17 brothers and ---

18 MR. HILTON: And she has never ---

19 THE COURT: Excuse me, sir, Mr. Hilton.
20 That's why we don't put brothers and sisters on a
21 jury. We get people who don't know anything about
22 it who is not biased and favored to people. We get
23 people who are unbiased, people who don't know
24 anything about it, who listen to the evidence and
25 decide. So, that's my only question to you about

1 what you know about it. I'm willing to hear
2 anything else you want to say about what a great man
3 Mr. Feagin is.

4 MR. HILTON: Well, like I said, Your
5 Honor, I -- I believe what he says, and almost nine
6 years I've known him he's never shown any ill intent
7 toward me or anyone for that matter.

8 THE COURT: All right, thank you, sir.

9 MR. LANGLEY: Well, I've knowed this boy
10 ever since he was a little child.

11 THE COURT: What you got in your pockets
12 there?

13 MR. LANGLEY: But um ---

14 THE COURT: Madam Clerk, who is the head
15 policeman in here? Who's the head police person in
16 here? There he is. When these people come up here
17 putting their hands in their pockets, boy, it makes
18 a judge nervous. I just said -- I just got through
19 this death penalty case in Aiken. When the police
20 stopped the guy and the fella got out of his car,
21 they stopped him in suspected drive-by shooting. He
22 got out his car like this, and the policeman said,
23 take your hand out your pocket. It was caught on
24 video. He pulled his hand out his pocket and shot
25 the policeman right here in the head. And I sat

1 through that death penalty trial. So when these
2 people come up here with their hands in their
3 pockets, it gets me nervous. So for all of law
4 enforcement and defendants otherwise.

5 Of course, as a young lawyer, Mr. Harvin,
6 you know, I'd get up, I was like this making my
7 argument before a judge and he -- and the judges
8 were pretty mean back then. Counsel, get your hands
9 out your pockets. And I've never forgotten that
10 lesson either. So that's for the lawyers too.

11 MR. HARVIN: I don't want to make you
12 nervous, Judge.

13 THE COURT: Yes, sir, go ahead, Mister.

14 MR. LANGLEY: But it's a habit I got, like
15 this.

16 THE COURT: I understand. When you're
17 outside in the yard it's one thing; but you stand
18 talking to me, please don't do it.

19 MR. LANGLEY: I understand.

20 THE COURT: Go ahead.

21 MR. LANGLEY: I've knowed this boy for
22 ever since he was a child with his parents, all of
23 his kin people. I've never known him to be no
24 trouble like this. But he had been coming to Bible
25 study from Sunday morning. We have a Bible study at

1 my house.

2 THE COURT: What night was this? Was it
3 Saturday night or Friday night or what, this crime,
4 this case?

5 MS. BARR: Thursday night.

6 THE COURT: Thursday night, all right.
7 We'd gotten — okay, go ahead.

8 MR. LANGLEY: But the Sunday before this
9 happened they didn't come, him and his woman.' But
10 they got a beautiful child and the child is hitting
11 it rough now as well as his wife. But I wasn't
12 there so I don't know anything.

13 THE COURT: You know, everyone in this
14 courtroom, they have a loved one here for someone
15 who is facing time. They have someone who will miss
16 them if they go to jail. And you know, that's
17 understandable; I understand it.

18 MR. LANGLEY: I do.

19 THE COURT: I appreciate your comments. I
20 understand exactly what you're...

21 MR. LANGLEY: But I've never known him to
22 do nothing, you know, but be a normal child.

23 THE COURT: What kind of cookout or
24 something this was?

25 MS. BARR: He had a bond fire or something

1 earlier.

2 THE COURT: What kind of affair was this?

3 MS. BARR: They were having a bond fire at
4 the home of the victim's boy friend, and I think
5 they had gone over to the defendant's house to swim
6 in the pool. This was during the summer.

7 THE COURT: Bond fire, then swim in the
8 pool. So that was the -- you didn't make it to that
9 event, did you?

10 MR. LANGLEY: Sir?

11 THE COURT: You didn't make it over there,
12 did you, to the bond fire and the swimming in the
13 pool?

14 MR. LANGLEY: No, sir.

15 THE COURT: Swimming in the pool?

16 MR. LANGLEY: No, sir, I didn't make that.

17 THE COURT: All right, let's see what date
18 that was, that offense. June 21st. All right.
19 What else you got, Mr. Harvin?

20 MR. HARVIN: Judge, obviously his common
21 law wife Ms. Colvin is here and she may want to say
22 something to the Court.

23 THE COURT: And who is Ms. Colvin's
24 lawyer?

25 MR. HARVIN: Ms. Amanda Shuler.

1 THE COURT: Shuler, I'm just asking. I'm
2 happy to hear from her.

3 MS. SHULER: Your Honor, she and I have
4 not discussed her speaking in court today. If I may
5 have a moment with her?

6 THE COURT: All right.

7 MR. HARVIN: And while they're talking,
8 Judge...

9 (Pause While Ms. Shuler and Ms. Colvin confer.)

10 THE COURT: Yes, ma'am.

11 MS. COLVIN: This is the first time -- our
12 daughter turned 11 years old back on March 10th.
13 This is the first time he has ever been away from
14 his daughter. She went through Christmas, well,
15 Thanksgiving without her daddy, Halloween,
16 Thanksgiving, Christmas, birthday, and now we're
17 facing, as you know, Easter Sunday. This is the
18 first time he has ever missed any, anything of
19 importance concerning his daughter. I have had a
20 time with her, Your Honor. She's crying. She goes
21 to bed at night crying, wakes up crying, you know,
22 you know, momma, why can't I see my daddy, when is
23 my daddy coming home, momma, why did they do this to
24 my daddy. And a lot of times I don't have the
25 answers to her questions, but this has really taken

1 a toll on his daughter 'cause, like I said, out of
2 the 11 years -- I'm gonna say 11 'cause she just
3 turned 11 back on March 10th.

4 THE COURT: All right. Thank you, Ma'am.

5 THE DEFENDANT: Your Honor, I'd like to
6 make a statement.

7 THE COURT: Yes, sir.

8 THE DEFENDANT: I'm sorry if she thinks
9 that it happened. I'm sorry the Court went through
10 this, and putting it through it. I just want to get
11 the best that I can get and get out to my child.

12 THE COURT: All right.

13 MR. HARVIN: Just in closing, Your Honor,
14 while the plea offer was taken off the table at one
15 point, there was a plea offer that was never
16 communicated to Mr. Feagin because of the
17 circumstances, and that plea offer was that of a
18 four year sentence being recommended to the Court.
19 In many instances, you know, we see the news, we see
20 things where juries listen to testimony and find
21 people guilty in rape cases and 20 years later DNA
22 evidence or some physical evidence comes back and
23 exonerates that person. In this particular
24 instance, because the police did not gather any DNA
25 evidence, did not gather any evidence from the

1 scene, did not take any evidences, that will never
2 happen because the only thing that we can bank on is
3 that one day somebody who testified comes back and
4 says, I told a lie on the stand, and that's really
5 his only recourse if this never took place.
6 Obviously we're sympathetic to the victim. I
7 believe Mr. Feagin is very sympathetic to the victim
8 in the sense that information has been presented
9 that would lead one to believe that something
10 heinous happened on a particular night when
11 everybody had been drinking alcohol, including
12 Mr. Feagin, including Ms. Graham, including some
13 other adults.

14 But just looking at his criminal record, a
15 sober Mr. Feagin is not a problem to our society.
16 He is, seems to be from his history and his, and
17 from the time he's lived in this county, not to have
18 given law enforcement too much trouble from his
19 criminal history. And so, Judge, we'd ask the Court
20 to obviously consider those things when you consider
21 whether or not a ten year sentence that was imposed
22 originally was the appropriate sentence, and we ask
23 that you reconsider it and lower it to some other
24 number other than ten years. That would be ---

25 THE DEPUTY: Take your hand out your

1 pocket.

2 MR. HARVIN: Sorry, my hand was in my
3 pocket, I apologize.

4 THE COURT: All right. Ms. Barr.

5 MS. BARR: And Judge, Ms. Graham wants to
6 address the Court directly. I'd certainly allow her
7 the opportunity to do so. She would ask that the
8 court not reduce the sentence. Judge, in terms of
9 plea offers, oftentimes particular with rape cases,
10 victims find the whole process of trial testifying
11 in front of strangers embarrassing candidly, and we
12 take those type of things into consideration when
13 we're making plea offers. And so I don't want the
14 Court to think that based on the plea offer that was
15 made pretrial that that is some indication as to
16 what I believe the merits of the case were. Judge,
17 I think when, as I recall, when I was trying the
18 case and the young man who was the eyewitness to the
19 rape testified, that was the first time that the
20 victim really heard everything that was said and
21 done to her that night. Judge, you may recall that
22 there was testimony that they were all drinking
23 moonshine. She was completely out of it. The young
24 man testified that she had gone into the bathroom.
25 The victim had gone into the bathroom after an

1 argument with her boyfriend. The boyfriend leaves.
2 She locks herself in the bathroom. The defendant
3 and his wife, I believe the wife went and got a
4 butter knife to unlock the bathroom door. He test--
5 the witness testified that the victim who was
6 wearing shorts and a top at the time, had a bathing
7 suit underneath, had gone to sleep on the sofa. She
8 knows that the last thing she remembers she was
9 fully clothed. Judge, when she woke up the next
10 morning she had nothing on; she was completely nude
11 from the waist down. And of course, the witness
12 described in very graphic detail what the defendant
13 did, what he said. When she woke up and realized
14 she was not wearing underwear, did not have any
15 shorts on, she recalls that I guess during the
16 period of the sexual assault very long hair. She
17 testified very -- she remembers feeling very long
18 hair on her face, and that was consistent at the
19 time with the defendant's wife who had very long
20 hair. She's since cut it but had very long hair at
21 the time.

22 The witness said that the defendant's wife
23 was actually holding the victim down by her arms.
24 And Judge, what made that testimony credible was the
25 testimony of the ER nurse where she said she had

1 fingerprints, bruise like fingerprints on her arm.
2 In addition, she had bruises to the inside of her
3 thighs that her mom, who works for EMS, said looked
4 like finger marks. And again, that testimony was
5 consistent with what the victim, with what the
6 witness testified to.

7 Judge, the fact that -- you know, we see
8 rape cases all the time where somebody says didn't
9 happen or we had sexual encounter but it was
10 consensual. But for the defendant to have
11 intercourse with this woman, who is essentially
12 unconscious, I think says a lot about the type of
13 person he is. Now Mr. Harvin says that the sober
14 defendant is not a problem for law enforcement. A
15 sober defendant perhaps, but he was not sober on
16 that night. He was not sober at the time he was
17 arrested and convicted of DUI so I don't know if has
18 an alcohol problem.

19 He talks about all this medication very
20 powerful. Percocet is a narcotic pain medication.
21 And it seems like to me since he's been
22 incarcerated, Judge, I don't know if you remember
23 when he came in but his hair was all long, he was
24 thin. It seems like to me just looking at him that
25 incarceration is probably the best thing that's

1 happened to him. But Judge, we just view this crime
2 as a particularly egregious one. We believe that
3 the sentence that was imposed by the Court was
4 appropriate given the facts of the case; but more
5 importantly, Judge, his lack of regard for his own
6 trial I think, again, says a lot about him. And I
7 think the time to present his case and plead for
8 mercy is when he was here, when he should have come
9 for trial, and when he should have been heard or
10 should have voiced all these things at sentencing.

11 THE COURT: All right. Ms. Graham.

12 THE VICTIM: I think he deserves this day
13 because I have to live every day knowing what he
14 did, and I can't never get back what he took so I
15 think he deserves to stay the ten years.

16 MS. BARR: And Judge, if I may just add
17 one more thing. When it was said that we hear about
18 cases where DNA exonerates people, that there's not
19 that possibility here, Mr. Doward, Mr. Harvin did
20 say earlier that there -- I don't know if he said
21 this on the record or said it some point earlier,
22 that the DNA samples that was taken from her rape
23 kit, they -- SLED did not determine that there was
24 semen present; but I don't want it to be put out
25 there that there was no DNA at all taken from the

1 victim. There was DNA taken but it simply said it
2 was not semen. And Judge, I think that when you say
3 things like that that's, you know, that's important
4 for those cases where he said/she said. This is a
5 case where she didn't say that he did all these
6 things. There was an eyewitness and the jury found
7 him credible.

8 THE COURT: All right. Ma'am, is there
9 anything you would like to say? You're the mother?

10 MOTHER OF THE VICTIM: Yes, sir.

11 THE COURT: Anything?

12 MOTHER OF THE VICTIM: Your Honor, I have
13 to see what ---

14 THE COURT: Tell me your name one more
15 time please.

16 MOTHER OF THE VICTIM: My name is Wanda
17 Lynch.

18 THE COURT: Yes, ma'am.

19 MOTHER OF THE VICTIM: I'm the mother, and
20 I'd like to say I have to see her every day. She
21 lives right next door to me, and I see her every
22 day, and I've seen it's taken effect on her. But
23 not only her, Your Honor, she's got four children
24 and it's taking effect on them also. And I just, I
25 ask, Your Honor, that you grant the sentence and

1 leave it like it was.

2 THE COURT: And what's the difference that
3 you notice in your daughter from the day before this
4 event and the day after?

5 MOTHER OF THE VICTIM: She's kind of
6 withdrawn to herself. And when that morning after
7 she called me over there, I could look at her and
8 tell something happened. She was just, she said
9 momma, I know something happened. She said, I don't
10 remember what it was, she said, but when I woke up
11 my pants and panties was down.

12 THE COURT: All right. Anything else,
13 Ms. Barr?

14 MS. BARR: No, Your Honor.

15 THE COURT: Anything else, Mr. Harvin,
16 Mr. Feagin?

17 MR. HARVIN: And Judge, not to belabor
18 the point, but I don't want -- I definitely don't
19 want the Court to believe that I was somehow trying
20 to misinterpret any fact as relates to DNA testing.
21 I just, I don't have any paperwork that says there
22 was any analysis done with DNA from my client and
23 the victim and so that's what I was referring to.
24 They did take swabs. So I didn't want the Court to
25 believe that I was just lying to the Court in any

1 way.

2 THE COURT: No, I see the SLED report,
3 State's Exhibit Number 1.

4 MR. HARVIN: Yeah, they did.

5 THE COURT: The SLED report by serology
6 analysis. That was introduced into evidence during
7 the trial. You know, the one thing that a man
8 knows, and that is, that if you have sex with a lady
9 without their consent it's rape. And there are
10 different degrees of rape. There's rape in the
11 first degree where it's forceable, rape in the
12 threat of force, rape in the second degree, and
13 there's rape in the third degree. First degree rape
14 is a most serious offense; it carries 30 years in
15 prison, no parole. You got to go about 25 of those
16 30 before you can even be considered for parole.
17 Second degree is up to 20 years, no parole. Third
18 degree carries up to 10 years. And the third degree
19 is where the person is under a handicap or
20 disability. This lady was intoxicated; she was
21 under disability. So despite the fact that there is
22 some evidence of force which could have made it a
23 second degree or something else, because of her
24 helpless condition it was a third degree instead of
25 a second degree or first degree. And the third

1 degree carried up to 10 years, and I gave a 10 year
2 sentence, the maximum sentence. Not because you
3 bruised her up and toned her up physically, but
4 because of the mental damage, the emotional impact
5 that was done on the victim and the, just nature of
6 the crime itself. The statement of Charles R.
7 who was, is that the witness?

8 MS. BARR: Yes.

9 THE COURT: "He started to mess with her."
10 Then he told Becky, his girlfriend, in quotes, "You
11 wish your stuff was as tight as this." So just --
12 and he testified to that. And so those are the
13 facts that the jury heard. And just based on the
14 nature of the offense and the damage -- and I hear
15 your daughter misses you, but how about those four
16 children that she has, her biological children,
17 those four. So had you been charged with something
18 else facing more than 10 you would have got more
19 than ten. If you're facing with force first degree
20 facing 30, you might have gotten 30, or 20. You got
21 10, and that's not considered a -- it's not a no
22 parole and the Department of Corrections seem to put
23 people out of prison as fast as they can get them
24 out of there, especially someone who has not been
25 there and had a record before, a record of coming

1 back and forth. So you know, you're eligible for
2 parole in a fifth of the time. And you've been in
3 jail now since when?

4 THE DEFENDANT: 24th of October last year.

5 THE COURT: October. You know, another
6 year or so they'll be putting you out of there. So,
7 and this lady's agony will continue and you'll be
8 back in Kingstree somewhere with your family and
9 friends; but her agony will go on so. I think
10 you've got the benefit of -- it's not to your --
11 because of you, because the lady happened to be in
12 the helpless state that meant that by definition the
13 crime wasn't as severe as it otherwise would have
14 been, and you're -- you were in there but you can
15 get out without a having to be there a long time if
16 you comply with all the rules. You seem to be doing
17 okay. You don't seem to be, you know, you gained
18 weight, look cleaned up, you know, seem to be doing
19 fine. I don't know what possessed you to make that
20 decision that night, but you have to deal with the
21 consequences of it, and the consequences is that you
22 got a ten year sentence and I'm not gonna change it.

23 MR. HARVIN: Thank you, Your Honor.

24 THE COURT: Motion is denied.

25 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 18th day of July, 2015.

S/Frances B. Ray

FRANCES B. RAY, RPR

THE STATE OF SOUTH CAROLINA)
 COUNTY OF WILLIAMSBURG)

THE STATE OF SOUTH CAROLINA)

v.)

Jim Feagin,)

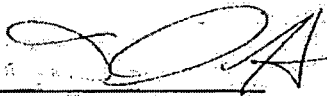
DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS

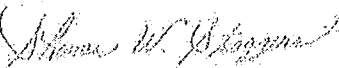
INDICTMENT NO.: 2014-GS-45-168

MOTION FOR NEW TRIAL

The Defendant, Jim Feagin, by way of his Attorney Doward Harvin, moves the Honorable Court for a New Trial. The Defendant was tried in his absence by the Honorable Court on objection of the Defendant based on the fact that the he was ill and could not attend. The Defendant requested a Motion for Continuance based on Rule 7 of the South Carolina Rules of Criminal Procedure because the Defendant was a material witness and was unavailable for trial. The Defendant presented the Court with medical records that showed he was taking over fifteen (15) different medications and had been in the emergency room for a medical issue the day before trial. The Honorable Court denied said motion for a continuance and tried the Defendant in his absence. As a result the Defendant was not able to assist his Counsel in the trial of his case nor was he able to testify before a jury of peers and present evidence. This was a crucial problem for the Defense because the case was based completely on testimonial evidence and no physical evidence was presented by the State. In addition, the State entered a statement by the Defendant that was made without Miranda warnings being read to him right before that statement. It is the Defendant's position that these things as a whole, harmed him greatly and the Court erred in not providing the Defendant with a continuance until his medical issues could be resolved before Trial. The Defendant request that the Court grants him a new trial that would allow him to present evidence and information related to this case. The Defendant would also request that he be allowed to argue other matters of law pertaining to this issue at a scheduled hearing including South Carolina Laws and Constitution, the United States Law and Constitution, and any other rules or laws.


 Attorney for Defendant
 Doward K. Harvin, SC Bar 77933
 Post Office Box 520
 Hemingway, SC 29554
 843-558-9000 /fax: 888-828-9536

A CERTIFIED TRUE COPY


 SHARON W. STAGGERS
 CLERK OF COURT
 WILLIAMSBURG COUNTY

15 APR -1 PM 1:03

THE STATE OF SOUTH CAROLINA)
 COUNTY OF WILLIAMSBURG)

THE STATE OF SOUTH CAROLINA)

v.)

Jim Feagin,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT NO.: 2014-GS-45-168

MOTION FOR SENTENCE RECONSIDERATION

The Defendant, Jim Feagin, by way of his Attorney Doward Harvin, moves the Honorable Court for a Reconsideration of the sentence imposed by Judge Clifton Newman on October 23, 2014 of a term of 10 years in the South Carolina Department of Corrections.

The Defendant was tried in his absence and convicted by a jury of his peers for the offense of Criminal Sexual Conduct in the Third Degree. At the time of sentencing the Defendant was not present to provide the Court with any information regarding mitigation of sentencing. The Defendant sentence was initially seal after the jury rendered their verdict. On October 24, 2014, the Defendant was apprehended by law enforcement and brought to Court for his sentence to be read in open court. After the Court read the Defendant's sentence, the Defendant was taken to the South Carolina Department of Corrections to serve that sentence.

At this time, we would request that the Honorable Judge Clifton Newman allow the Defendant to present matters related to mitigation at a hearing scheduled by the Court and reconsider the original sentence that was imposed by the Court.

s/ DK Harvin
 Attorney for Defendant
 Doward K. Harvin, SC Bar 77933
 Post Office Box 520
 Hemingway, SC 29554
 843-558-9000 /fax: 888-828-9536

FILED
 2014 NOV -3 PM 4:40
 CLERK OF COURT
 JUDICIAL BRANCH
 WILLIAMSBURG, S.C.

November 3, 2014

WITNESSES

Sgt. Shirell Pressley
Williamsburg County Sheriff's Office

DOCKET NO. 2014-GS-45-168

The State of South Carolina
County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

AUGUST TERM 2014

THE STATE

vs.

JIM EDWARD FEAGIN

ARREST WARRANT NUMBER

2013A4510100558

Indictment for

CRIMINAL SEXUAL CONDUCT IN THE THIRD
DEGREE

ACTION OF GRAND JURY

TRUE BILL

Date

Foreperson of Grand Jury
Date: 7/31/14

VERDICT

Guilty

Foreperson of Petit Jury
Date:

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

Ana P. ... 10/23/14

STATE OF SOUTH CAROLINA)
)
 COUNTY OF WILLIAMSBURG)

INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT IN THE THIRD
 DEGREE

At a Court of General Sessions convened on July 31, 2014, the Grand Jurors of
 WILLIAMSBURG County did present upon their oath:

COUNT ONE - CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE

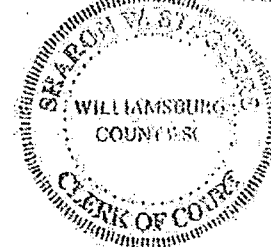
That the defendant, Jim Edward Feagin, in Williamsburg County, South Carolina
 on or about June 21, 2013, commit the offense of criminal sexual conduct in the third
 degree in that he engaged in sexual battery with the victim, Amanda Graham, when he
 knew or had reason to know that the said victim was mentally defective, mentally
 incapacitated or physically helpless, in violation of §16-3-654, South Carolina Code of
 Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such
 case made and provided.

Solicitor

James W. Stepp

A CERTIFIED TRUE COPY
Sharon W. Stepp
 SHARON W. STEPP
 CLERK OF COURT
 WILLIAMSBURG COUNTY



STATE OF SOUTH CAROLINA

COUNTY OF Williamsburg
 STATE VS.
Jim Edward Feagin

AKA:

Race: White Sex: M Age: DOB: SS#: Address: City, State, Zip: Cades, SC 29518DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Sex / Criminal sexual conduct - Third degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014-ES-45-162-1615A/W#: 2013A4510100558Date of Offense: 6/21/2013S.C. Code §: 16-03-0654CDR Code #: 0162

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0654 of the S.C. Code of Laws, bearing CDR Code # 0162

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:
Barry, Kimberly V.

Barry
 SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPSRecipient:

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$ <u>500.00</u>
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>18.90</u>
TOTAL	\$	\$ <u>648.90</u>

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning Sharon W. StaggSubstance Abuse Counseling SHARON W. STAGGRandom Drug/Alcohol testing COURT OF COURTSFine may be pd. in equal, consecutive weekly/monthly/quarterly pmts. of \$ beginning \$ paid to Public Defender Fund STOther:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code: 2127Sentence Date: Oct 23, 2014

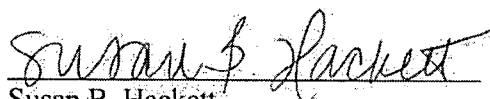
Clerk of Court/ Deputy Clerk

Court Reporter: Sharon W. Stagg

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."

This 14th day of January, 2016



Susan B. Hackett
Appellate Defender

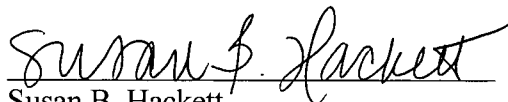
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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."

This 14th day of January, 2016


Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT