

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Robert E. Hood, Circuit Court Judge

RANDOLPH ASHFORD,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001268

APPENDIX

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1 Mr., Barry Taylor. Elimination prints means if you
2 are the victim of a crime, I am going to take your
3 fingerprints and then compare them to whatever prints
4 I may also collect just to make sure that they're not
5 your prints that I'm looking at, that I'm looking at
6 the right, the bad guy's prints.

7 And per his report, he says that when he took
8 the lifted prints from the car and compared them to
9 the elimination prints they came back from the same
10 person which is Mr. Barry Taylor, the victim in this
11 case.

12 Q So all the prints that he was able to get from that
13 1985 --

14 A Oldsmobile.

15 Q -- Oldsmobile belonged to the victim in this case?

16 A Yes, they did.

17 Q And in your experience as a crime scene investigator,
18 is that unusual?

19 A No, it's not.

20 Q Now, when you go and you process a car, explain to
21 this jury, how do you actually collect a print, or
22 how you do you try to establish whether or not there
23 is a print?

24 A Well, basically, if I can say the bad guy, say I knew
25 he was in the driver's side of the car, that's the

1 only place he went, that is actually usually going to
2 be the first place I am going to go to, is just the
3 driver's side of the car if I know that's where the
4 person was at. Visual inspection. First you're
5 going to photograph it. Then you're going to kind of
6 visually inspect the car.

7 And the most common thing that we use for
8 fingerprints is the black fingerprint powder and the
9 little tiny twirly brush, just like on TV, kind of
10 different powder in it and kind of focus on like the
11 car window, the car surfaces, something that's kind
12 of smooth, those are going to be your best areas to
13 go back and lift an identifiable print.

14 Q I'm going to show you some photographs, State's
15 Exhibits 10, 12 and 13. Would those have been
16 photographs taken of that Oldsmobile by Sergeant
17 Scott?

18 A These match the description he put in his report.
19 And it also has the same tag number,

20 Q And that would have been the car that was taken from
21 his information from the corner of Oakland and
22 Randall, and he actually processed those at Wash
23 World?

24 A That's what he says.

25 Q All the prints he was able to lift -- now, say, if

1 I'm in a car and I go and I put my hands on the
2 steering wheel, on the shift, on the door, am I
3 necessarily going to leave a print?

4 **A** No, you won't. Not all the time, no.

5 **Q** Explain that to the jury?

6 **A** Sometimes, I mean, basically, your fingerprints, oil,
7 if you're real greasy and you kind of take your hand
8 and you put it down and lift it up, chances are
9 you're going to leave a pretty good print. But maybe
10 you're not so oily that day, you might touch it kind
11 of lightly, you might not leave a print. Or maybe
12 you did leave it and you kind of wiped it, if you
13 open and close a door or if you grab like a door
14 handle, you could leave a fingerprint; the second
15 that you turn it a little bit, you're going to
16 distort it, and I'm not going to be able to get that.

17 **Q** And what's the difference between you can leave a
18 fingerprint -- what's, say, an identifiable
19 fingerprint versus a smudge?

20 **A** Basically, all your fingerprints are built up of what
21 we call minutia, these little ridges that kind of run
22 through your line, like the whorls, the loops, the
23 arches; that's what makes your fingerprints unique.
24 For me to make an identification, if I have a print,
25 say, like my index finger, I can tell you it's got an

1 arch on it. When I lift it and I look at it, I have
2 to be able to look at the pattern of it, pick out all
3 the little points that are in it, what we call
4 minutia, like dots, the bifurcations and things like
5 that. If the print is you smudged, I can't look at
6 all those little unique points to say that this came
7 from this person. There is no magic number on how
8 many you have to have, but I have to have at least
9 enough to look at two to say yes or no to that.

10 Q And you're familiar with the probability of getting a
11 fingerprint, say, in a high traffic area such as the
12 front door of a convenience store and/or the driver's
13 seat in a car?

14 A There could be several or hundreds of hundreds over
15 on top, on top, on top, on top.

16 Q And, in fact, if one superimposes, superimposes, and
17 the next one is a smudge and superimposes, are you
18 able to get anything from that?

19 A Usually not, no.

20 Q In this case, however, Sergeant Scott was able to
21 lift some fingerprints from which area of the car?

22 A According to his report, it says exterior of the
23 driver's front broken door glass.

24 Q The exterior of the driver's front broken door glass?

25 A That's how he has it written in his report.

1 Q And, therefore, was he able to get any prints from,
2 say, the steering wheel inside the car or anything
3 like that?

4 A Per his report, it does not say that. You can always
5 dust those areas for prints. Never say that you can
6 never get a fingerprint from anything because you can
7 get one almost on any type of surface. But primarily
8 the smoother the surface the better your chances are.
9 So a steering wheel, you probably would not get a
10 good print off that.

11 Q And again, we're talking about you have to have an
12 identifiable print --

13 A Identifiable. That's the key word.

14 Q -- with different points of identification?

15 A It has to be identifiable.

16 Q And if it's not an identifiable print, you wouldn't
17 do anything with it?

18 A No.

19 Q Or you can't do anything with it?

20 A No.

21 Q Did he also search that automobile for any weapons?

22 A In this report it says that he did, and it says that
23 no weapons were found. And that was the vehicle.

24 Q So the only fingerprints he was able to find were on
25 the exterior front door --

1 **A** Mm-hmm (affirmative).

2 **Q** -- driver's door --

3 **A** Yes.

4 **Q** -- that were usable?

5 **A** Yes.

6 **Q** And those matched the victim?

7 **A** Yes, they did.

8 **Q** Did he then proceed to a second location on Cushman
9 Drive?

10 **A** Yes. And his report says he went to the 2100 block
11 of Cushman Road. And once he got to that location it
12 states that he photographed and processed the
13 following vehicle, which was a 1996 Lincoln Town Car,
14 bronze in color.

15 **Q** And he took a number of photographs of that vehicle
16 as well?

17 **A** Yes, he would have.

18 **Q** I show you State's Exhibit 21 which is one of the --
19 just one of these photographs. Would that have been
20 taken by Sergeant Scott of that vehicle?

21 **A** Yes, it would have been.

22 **Q** Did he also process this car in an attempt to find
23 any identifiable prints?

24 **A** It says that he did and that he found no identifiable
25 prints on the listed vehicle.

1 Q Is that unusual?

2 A No, it's not.

3 Q Explain that to the jury one more time?

4 A The same thing. It just depends on the way that you
5 personally handle the car, whether if your hands were
6 covered, did you wipe it, you know, when you were
7 closing that door. That could have been it.

8 Q Did it indicate whether or not he collected any
9 evidence from that car?

10 MR. O'NEIL: Objection, Your Honor. Could we
11 approach?

12 THE COURT: Yes, sir.

13 (Whereupon, a bench conference is had)

14 Q Okay. I want to move beyond that.

15 A Okay.

16 Q Once he dusted the car for fingerprints, did he also
17 put out any what are known as those yellow markers?

18 A Yes.

19 Q Did he note any things that were significant to him?

20 A Yes.

21 Q And starting with number 2, did he mark a street
22 warning sign?

23 A Yes. According to number 2, it says marker number 2
24 was a street warning sign.

25 Q Number 3?

1 **A** Number 3 would be a yellow in color guide wire cover
2 from pole number C-5774.

3 **Q** And that would be the pole the car was resting
4 against?

5 **A** Yes.

6 **Q** Okay. Number 4?

7 **A** And number 4 would be the curb damage to the 2100
8 block of Cushman Road going westbound.

9 **Q** And number 5?

10 **A** And then number 5 would be damage to an electric
11 pole, number C-5774.

12 **Q** And just for the record, those would be -- some of
13 those are noted here in State's Exhibits 21, 25 and
14 26?

15 **A** Mm-hmm (affirmative).

16 **Q** And that would merely be evidence that he thought
17 might be significant later on down the road?

18 **A** Yes.

19 **Q** And whenever you go to a crime scene or process a car
20 such as this, you always note things; you never know
21 exactly what may be significant and what may not?

22 **A** No, you don't.

23 **Q** And again, he was not able to get any identifiable
24 prints from that?

25 **A** No.

1 Q In his report does he indicate that he then proceeded
2 to the intersection of Booth Street and Clive Street?

3 A Yes, it does.

4 Q And does he indicate what he did there?

5 A At Booth and Clive Street, it states that he
6 photographed a Blue Ribbon Taxi cab and that he was
7 unable to process the cab because it was in an area
8 that was being secured by the Richland County
9 Sheriff's Office.

10 Q I show you what's been marked as State's Exhibit No.
11 38.

12 A Yes.

13 Q Does that show the Blue Ribbon?

14 A Yes, it does.

15 Q And that's the photograph he would have taken that
16 day?

17 A Yes, it is.

18 Q And, in fact, in this photograph can you see actual
19 personnel from the Richland County Sheriff's
20 Department in the photograph?

21 A Yes, you can.

22 Q Just for a little history, you're aware then that the
23 Blue Ribbon had to pretty much remain at the scene
24 until the hostage situation was resolved?

25 A Yes.

1 Q And later that evening was the Blue Ribbon cab
2 actually towed for you to process the next day?

3 A Yes. The Blue Ribbon cab was towed to No. 1 Justice
4 Square which is the Columbia Police Department, and
5 it was placed in the back lot.

6 Q And that would be because the actual carjacking of
7 that Blue Ribbon cab started in the city
8 jurisdiction. So you would have processed that?

9 A That's correct.

10 Q Then the next day when you processed the Blue Ribbon
11 cab, did you initially photograph the cab?

12 A Yes, I did.

13 Q And I believe there are two photographs of the Blue
14 Ribbon cab. Where were you processing this cab?

15 A This right here, at the Columbia Police Department,
16 it's kind of downstairs in the back lot. It's a
17 secure lot that's got barbed wire fence and you have
18 to have secure access to get back there.

19 Q And this is State's Exhibits 82 and 83?

20 A Yes, ma'am.

21 Q And those are actual photographs you took of the cab
22 after it had been towed to the headquarters?

23 A Yes.

24 Q And then you photographed it initially and you took a
25 lot more photographs. But then it was towed. I'm

1 sorry. You also dusted it for prints?

2 **A** Yes, I did.

3 **Q** And what areas did you dust for prints?

4 **A** Well, initially after I photographed, I first did a
5 swab of the steering wheel. That's just in an
6 attempt to see if there is any DNA evidence that
7 might have been left behind. And once that stuff is
8 collected, then I would go back and I dusted the
9 inside and the outside of the driver's side door and
10 the window and the rearview mirror area.

11 **Q** And were you able to recover any identifiable prints?

12 **A** It says that I did lift partial prints from the
13 exterior of the driver's door, but they were found to
14 be of poor quality, and poor quality meaning that I
15 did lift a print but when I went back to look at it I
16 was unable to make an identification off of that
17 print.

18 **Q** Because of the quality of the print?

19 **A** That's correct.

20 **Q** And when you say a partial print, we're talking about
21 smudges, you can also leave a little pit of a finger
22 or something but it may not be enough to make an
23 identification?

24 **A** That's correct.

25 **Q** And the findings in these cases, as far as processing

1 for fingerprints, is that unusual?

2 A No.

3 Q Thank you. Please answer any questions from defense
4 counsel.

5 CROSS EXAMINATION

6 BY MR. O'NEIL

7 Q It's Agent Williams now?

8 A Yes.

9 Q Just so we're clear, Sergeant Scott actually
10 processed I guess three out of four of these vehicles
11 and you processed the cab?

12 A I only processed the cab.

13 Q But you're familiar with Sergeant Scott's work?

14 A Yes.

15 Q Basically he processed first I think this vehicle,
16 the Oldsmobile?

17 A I believe that's what's in his report. Yes.

18 Q No prints of Mr. Ashford anywhere on this Oldsmobile?

19 A No, sir. Just Barry Taylor's.

20 Q No DNA of Mr. Ashford in this automobile?

21 A Not listed in this report; no, sir.

22 Q And none of Mr. Ashford's belongings in that
23 automobile?

24 A No, sir. He didn't say that.

25 Q And then he processed the Town Car?

1 A Yes, sir.

2 Q No prints of Mr. Ashford on the Town Car?

3 A No identifiable prints at all.

4 Q No -- and this Town Car got -- the driver of this
5 Town Car obviously wrecked it?

6 A Yeah.

7 Q And there is no blood of Mr. Ashford's in this Town
8 Car, correct?

9 A It's not indicated in the report. No, sir.

10 Q No DNA?

11 A Not listed in the report.

12 Q And then he also processed a Tahoe as well, a
13 separate Tahoe?

14 A It says he photographed and processed a 2000
15 Chevrolet Tahoe.

16 Q Okay. And no prints of DNA from Mr. Ashford in that
17 Tahoe either?

18 A No, sir; not listed in this report.

19 Q And then you processed --

20 A Just the --

21 Q -- the cab?

22 A Just the cab.

23 Q And no usable prints anywhere in this cab?

24 A That's correct, sir.

25 Q Especially no prints of Mr. Ashford?

1 **A** No, sir.

2 **Q** No blood?

3 **A** No, sir.

4 **Q** No DNA?

5 **A** No, sir.

6 **Q** And you said that fingerprints aren't always left at
7 a scene I think?

8 **A** That's correct.

9 **Q** Especially I think you said in high traffic places
10 it's hard to get fingerprints?

11 **A** Usable prints.

12 **Q** Now, you don't know whether or not either this car,
13 the Oldsmobile, or this car, the Town Car, you don't
14 know whether these were considered high traffic
15 vehicles, do you?

16 **A** Like I said, I was never there, part of that scene.
17 So I can't really say any more than just what's
18 listed in this report.

19 **Q** So you wouldn't know whether or not either one of
20 those were high traffic cars?

21 **A** I don't know what area specifically because he didn't
22 list that in his report.

23 **MR. O'NEIL:** Beg the Court's indulgence. No
24 further questions.

25 **MS. CAMPBELL:** Just a couple.

REDIRECT EXAMINATION

BY MS. CAMPBELL

Q Just a couple. And I skipped one part. In his report he also processed a white Tahoe. Is that correct?

A Yes.

Q And again, the results on that were, was he able to lift any identifiable prints?

A It says no identifiable prints were listed, were found in the listed vehicle.

Q And I show you what's been marked as State's Exhibit No. 30.

A Okay.

Q And again, is that unusual not to be able to find any identifiable prints?

A That's not unusual.

Q And that means when you can't find any identifiable prints you can't find any prints belonging to the victim who obviously has been in the car?

A That's correct.

Q Or the six children that were in that car?

A That's correct.

Q Or anyone that's been in that car?

A That's correct.

Q He asked you specifically about high traffic areas

1 such as the front door of a convenience store?

2 **A** Yes.

3 **Q** We're talking about high traffic being somewhere
4 where people are in and out a lot?

5 **A** That's correct.

6 **Q** In order to operate a vehicle, isn't it true that a
7 person has to drive it so they're in and out of the
8 driver's side perhaps more --

9 **A** Yes.

10 **Q** -- than the other areas of the vehicle?

11 **A** Yes.

12 **Q** Thank you.

13 **THE COURT:** Anything further?

14 **MR. O'NEIL:** No further questions.

15 **THE COURT:** All right. Thank you very much.
16 You may come down, ma'am.

17 **THE WITNESS:** Thank you.

18 **MS. CAMPBELL:** Your Honor, may she be excused?

19 **MR. O'NEIL:** No objection, Your Honor.

20 **THE COURT:** Without objection, the witness may
21 be excused. Next witness.

22 **MS. CAMPBELL:** The State would call Marcus
23 Brown.

24 MARCUS BROWN, after being duly sworn, testifies
25 as follows:

1 **THE CLERK:** Please have a seat there, sir.

2 State your full name for the record.

3 **THE WITNESS:** Marcus Brown, B-R-O-W-N.

4 DIRECT EXAMINATION

5 **BY MS. CAMPBELL**

6 **Q** Investigator brown, where are you employed?

7 **A** At the Richland County Sheriff's Department.

8 **Q** What do you do there, sir?

9 **A** Right now I'm a senior narcotics investigator
10 assigned to the DEA Task Force.

11 **Q** To the DEA Task Force?

12 **A** Yes, ma'am.

13 **Q** And what are your duties as a senior narcotics
14 investigator with the DEA Task Force? What do your
15 duties include?

16 **A** My duties include investigating high level drug
17 traffickers in Richland County and throughout the
18 state.

19 **Q** And you all actually have a cooperative movement with
20 the DEA?

21 **A** Yes, ma'am.

22 **Q** And that's a federal agency. Is that correct?

23 **A** Correct.

24 **Q** And you're kind of a liaison to your department?

25 **A** Yes, ma'am.

1 Q In addition to that, over the last two years, have
2 you also been involved in what's known as the SRT
3 Team?

4 A Yes, ma'am. I've been on STR for about nine years
5 now.

6 Q Okay. What does SRT mean?

7 A Special Response Team.

8 Q And what are your -- typically, when is the SRT team
9 called in?

10 A Usually the SRT is called in in barricaded
11 situations, hostage situations. We serve high risk
12 warrants, search warrants for felonies or escapees
13 from prison or a county jail.

14 Q And do you have any specialized training that you
15 have to have before you can become a member of the
16 SRT Team?

17 A Yes. In order to become an SRT member we're required
18 that you have some military experience, but it's not
19 required. And you also go through a 40-hour basic
20 SRT training or building entry training. And we also
21 set up a month long training that we contract out
22 with another organization that trains us.

23 Q And the types of things that you are trained to
24 become familiar with is hostage situations?

25 A Yes, ma'am.

1 Q And making entry with things? I don't know the names
2 of them. What are those things? Flash something?

3 A Flash bangs. Yes, ma'am.

4 Q What's a flash bang?

5 A Basically it's a grenade type device. We pull the
6 pin, throw it, and it emits a large, loud bang and a
7 bright light. And it enables (sic) the person for up
8 to 30 seconds.

9 Q Do you also become experienced at using things such
10 as different forms of tear gas?

11 A Yes, ma'am.

12 Q What's the purpose of deploying tear gas in a hostage
13 situation?

14 A In a hostage situation we deploy the tear gas in
15 order to flush or enable us to coax the person out.
16 The tear gas makes your nose and your eyes water.
17 Your nose and mucous come out of your nose. It's a
18 skin irritant also. So then the whole process of the
19 gas, we deploy more and more gas to the point where
20 he can't take it any more and decides to give up.

21 Q But the tear gas is never deployed in any -- it
22 wouldn't hurt anybody permanently?

23 A No. No, ma'am.

24 Q And, in fact, during the course of your training, do
25 you actually experience the effects of tear gas

1 yourself?

2 **A** Yes, ma'am.

3 **Q** And you're also trained to use the flash bangs?

4 **A** Correct.

5 **Q** And what does the flash bang enable you to do if
6 you're effecting an entry into a hostage situation?

7 **A** We throw the flash bang to distract the subject. And
8 what it enables us to do, it causes his hearing to
9 go, and a bright light messes with his sight. So it
10 disables him for a few seconds enabling us to gain
11 entry or advance forward onto him and take him into
12 custody.

13 **Q** And again, when that is done, does it cause any
14 injury to, say, a person holding someone hostage or
15 the hostage themselves?

16 **A** No, it doesn't.

17 **Q** But it more like messes with their senses?

18 **A** Yes, ma'am.

19 **Q** I want to turn your attention back to February the
20 24th of 2007. Were you called into a situation on
21 Booth Street?

22 **A** Yes, I was.

23 **Q** And was the entire SRT team called in?

24 **A** Yes. At that time we had two teams and both teams
25 were called out to the scene.

1 Q And how many members are on each team? Do you know?

2 A Eight members in each team.

3 Q When you got to the scene that day on Booth Street,
4 were other law enforcement personnel already out
5 there?

6 A As we -- as I arrived there was some city officers or
7 command staff, city officers by the command post and
8 the Sheriff's Department was there actually
9 transferring the perimeter when I arrived.

10 Q And you're familiar with Deputy White and Deputy
11 Unger. Were they actually trying to secure the
12 perimeter?

13 A Yes.

14 Q And that was being done when you arrived that day?

15 A Yes.

16 Q And do you remember approximately what time of day
17 that was?

18 A Not the exact time. I just know that it was a little
19 after lunch or the lunchtime after. So around 2 or
20 3, something like that timeframe.

21 Q Were you there actually when shots were fired?

22 A No, I wasn't.

23 Q When you got there -- or would your team be called
24 in, say, if shots had been fired?

25 A Yes.

1 Q And, in fact, in this case that's what was done?

2 A Yes, ma'am.

3 Q Once you got there, what did your -- you said you
4 have two teams. What did your team do?

5 A My team staged up behind the armored vehicle. The
6 second team, we placed the line officers, which was
7 Deputy Unger and the rest. The second team, we
8 placed them on the front perimeter while my team got
9 ready to make entry into the residence.

10 Q Was the Sheriff actually out there himself that day?

11 A Yes, he was.

12 Q And was he basically making the calls on the
13 assessment of the situation?

14 A Yes, ma'am.

15 Q You mentioned that you were in the armored car?

16 A We were staged behind the armored vehicle.

17 Q Where is the armored vehicle?

18 A The armored vehicle was parked up the hill. And
19 basically we were just checking our gear to make sure
20 that we had everything. It was basically a point of
21 cover for us at that time.

22 Q Whenever you all have a hostage situation involved,
23 is there also what's known as a command post?

24 A Yes, ma'am.

25 Q And was that done in this case?

- 1 **A** Yes, ma'am.
- 2 **Q** Where was the demanded post locate?
- 3 **A** The command post was further up the hill on a side
- 4 street.
- 5 **Q** So this was -- I guess you were within sight of the
- 6 Booth Street thing, but you were a good ways more
- 7 away? Could you actually see it from where you were?
- 8 **A** Yes. We could actually see the trailer from where we
- 9 were.
- 10 **Q** But it was on a different street?
- 11 **A** Where we were staging up was actually on the roadway
- 12 of Booth Street.
- 13 **Q** Were there hostage -- were there people there that
- 14 were trying to negotiate?
- 15 **A** Yes.
- 16 **Q** With the Defendant?
- 17 **A** Yes.
- 18 **Q** And did Sheriff Lott actually participate in that,
- 19 too?
- 20 **A** Not to my knowledge.
- 21 **Q** You weren't participating in it?
- 22 **A** No.
- 23 **Q** And you don't know who was -- you didn't have
- 24 anything to do with the negotiating?
- 25 **A** No, ma'am.

1 Q But is that common in a situation such as this where
2 there is a hostage for there to be attempts to get
3 the person to surrender themselves?

4 A Yes, it is.

5 Q Were those successful in this case?

6 A At some point during the hostage negotiation he
7 stated that he would surrender. We was ordered to
8 stand down. And then when they tried to make other
9 attempts, I was notified to ramp up again because he
10 said he wasn't going to turn himself in. And
11 eventually he never did.

12 Q He never did?

13 A No.

14 Q At some point did you all try to kind of impede his
15 abilities by turning off the power?

16 A Yes, ma'am.

17 Q And how was that done?

18 A Deputy Becker pulled the meter off the pole that was
19 close to the trailer.

20 Q As the afternoon wore on, was the Sheriff still there
21 monitoring the situation?

22 A Yes, he was.

23 Q And you all were standing by to make entry?

24 A Yes, ma'am.

25 Q And typically in a situation where you all -- is it

1 kind of a last resort for all to make entry?

2 A Yes, ma'am.

3 Q And the ideal situation is for someone to surrender
4 peacefully?

5 A Yes.

6 Q However, do you have specialized training in trying
7 to effect entry and trying to minimize damage to
8 anyone involved, including the Defendant?

9 A Yes.

10 Q That day right around 6:40, 6:45, was the decision
11 made to go in?

12 A Yes, it was.

13 Q And at that point was it dark outside?

14 A It was getting dark.

15 Q And who actually made the decision to go in at that
16 point?

17 A Sheriff Lott.

18 Q And he of course had been monitoring the entire
19 situation?

20 A Yes.

21 Q And you were on standby to go in?

22 A Yes, ma'am.

23 Q That day how did you all plan to make your entry?

24 A We devised a plan for a distraction device to be
25 thrown into one of the windows at the front of the

1 trailer. While the team moved up to the front door
2 of the trailer, they used a tool called a ram which
3 is nothing but basically a steel tube used to force
4 open a door, a locked door. And myself and
5 Investigator Abraham had took flash bangs and also
6 deployed one going down to the right side of the
7 hallway, and he was going to deploy his going back
8 toward the master broom.

9 Q I'm sorry. Who did you say was with you with the
10 flash bang?

11 A Investigator Abraham.

12 Q And did you all have some knowledge of the basic
13 layout of the trailer itself at that point?

14 A Yes.

15 Q You'd made contact with the family members of the
16 victim?

17 A Correct.

18 Q And how did you all make entry that day?

19 A We were approaching the stack, which is merely one
20 person behind each other, approached the front door.
21 Sergeant Major Okinaga went to the side to throw the
22 first flash bang. It didn't go into the window. It
23 bounced off the trailer and deployed in the yard way.
24 The rest of the team went up to the door, hit the
25 front door. There's a couch in front of the door,

1 barricaded to the front of the door. So the door
2 came open a little bit, then we had to push our way
3 through the front door.

4 At that time I threw my flash bang down the
5 small hallway to the right, and Investigator Abraham
6 threw his definitely in front of us which is a
7 hallway going towards or through the kitchen that
8 went to a small hallway towards the master bedroom.

9 Q So his was thrown into the kitchen area and yours was
10 thrown down the small hallway to the right as you
11 entered?

12 A Correct.

13 Q I want to show you what's been marked as State's
14 Exhibit No. 42 and 54. Do you recognize those?

15 A Yes.

16 Q And do those show the entryway where you all made
17 entry that day?

18 A Yes, it does.

19 Q And this is flat in the middle of that trailer, isn't
20 it, on the front?

21 A Yes, ma'am.

22 **MS. CAMPBELL:** Your Honor, at this time we'd
23 offer State's Exhibit 42 into evidence.

24 **MR. O'NEIL:** No objection, Your Honor.

25

1 (WHEREUPON, State's Exhibit No. 42 is admitted
2 into evidence.)

3 Q And state's Exhibit No. 42, that just generally shows
4 the front of the trailer?

5 A Yes, ma'am.

6 Q But you mentioned in State's Exhibit 54 that when you
7 made entry or attempted to make entry that -- what
8 was up against the door?

9 A The couch.

10 Q The couch. And is that shown here in State's Exhibit
11 No. 54?

12 A Yes, it is.

13 Q And when you all made entry that day, was it pushed
14 back into its place like it is in this picture?

15 A No. It was actually up against the door and we
16 actually pushed it forward so we can continue on into
17 the residence.

18 Q So how it is in this picture is because of where you
19 all pushed it that day?

20 A Correct.

21 Q Once you made entrance I believe you mentioned that
22 you threw a flash bang into the right hallway?

23 A Right.

24 Q And then one was thrown to the left into the kitchen
25 area?

1 **A** Yes, ma'am.

2 **Q** And, in fact, ultimately that flash bang ultimately

3 did damage to that kitchen floor, did it not?

4 **A** Yes, ma'am, it did.

5 **Q** And there is a hole, if I can ever find the picture,

6 in State's Exhibit No. 65?

7 **A** Yes, ma'am.

8 **Q** And is that actually damaged? I point to there. Is

9 that where I'm supposed to be pointing?

10 **A** Yes, ma'am.

11 **Q** Is that actually damage that was done by you -- or

12 actually Investigator Abraham did it -- when he threw

13 the flash bang in that day?

14 **A** Yes, ma'am.

15 **Q** So that was actual damage you all did?

16 **A** Yes, ma'am.

17 **Q** So you pushed back the couch and you threw this and

18 this caused this damage in the floor of the kitchen?

19 **A** Correct.

20 **Q** Once you made entry, tell this jury what you did?

21 **A** As we made entry, I was behind Investigator Abraham

22 going down the hallway. He had long security. I had

23 short. As we were going down the hallway,

24 Investigator Abraham stopped prior to I think it's

25 the back door. And there was another door to the --

1 or like a little cubbyhole which we later found out
2 was where the laundry room would be, the washer and
3 dryer. He stopped shy of there and we both trained
4 our weapons on that door and began barking orders to
5 the Defendant to show us his hands, drop the gun and
6 come out. We kept repeating those orders over and
7 over again.

8 Q And as you did that, at that point did you think
9 someone was back there?

10 A Yes, we did.

11 Q Why did you think that?

12 A Investigator Abraham as we were coming in saw the
13 Defendant run back to the back area. And as he was
14 coming down the hallway, he saw him jump into that
15 room.

16 Q I want to show you what's been marked as State's
17 Exhibit 67. You mentioned that you and Investigator
18 Abraham ran towards a small hole over to the left
19 beyond the kitchen?

20 A Correct.

21 Q And is that shown here in State's Exhibit 67?

22 A Yes, ma'am.

23 Q And if I put my finger right there, does that show
24 the hallway you're talking about?

25 A Yes, it does.

1 Q What's this item right here?

2 A That's a deep freezer.

3 Q And was that where it was when you all came in, or
4 was it somewhere else?

5 A I can't tell if it's in front of the door. But it
6 was in front of the door.

7 Q It was in front of the door when you all made entry,
8 right?

9 A In front of the back, rear door. Yes.

10 Q So it would have been actually in front of that door?

11 A Yes.

12 Q As in State's Exhibit No. 71, it's been moved?

13 A Yes, ma'am.

14 Q So it was moved slightly from where it was. But when
15 you all made entry, it was actually barricading that
16 back door. Is that correct?

17 A Correct.

18 Q And the hallway that you're talking about where you
19 and Investigator Abraham -- because you all were the
20 first two people in?

21 A Yes, ma'am.

22 Q You all went to the left. Abraham saw him go to the
23 -- where is that laundry room off this little
24 hallway?

25 A It would have been off to the left a few steps down

1 the hallway.

2 Q Is there another room also off to the left down
3 there, down that hallway?

4 A Not that I remember.

5 Q Do you remember where the master bedroom was?

6 A Straight ahead.

7 Q Straight ahead. So it's actually at the end?

8 A Yes.

9 Q And the laundry room is to the left?

10 A Right.

11 Q So the first area you would have come up to would
12 have been that laundry room. Is that correct?

13 A Correct.

14 Q And you mentioned that you all had your guns pulled?

15 A Yes, ma'am.

16 Q And as you approached the laundry room, based on what
17 Investigator Abraham had seen, what did you hear?

18 A Again, as we were -- at that point we had a gas mask
19 on because we did use tear gas. And we kept calling
20 out: "Show me your hands, show me your hands; drop
21 the gun, drop the gun; show me your hands, show me
22 your hands; come out." As we're doing that, I heard
23 something go ... (witness beats on witness stand once
24 with his hand to make a sound). And at that time, a
25 short time, said, "Come on out, come on out; show me

1 your hands, show me your hands." Again, "Come on
2 out." And at that time we could see him, basically
3 he just sticks his hands straight out and he was
4 taking baby steps forward.

5 At that time myself and Investigator Abraham
6 grabbed -- each one of us grabbed an arm and pulled
7 him out and threw him to the ground. And he was
8 handcuffed. And at that time I continued on to the
9 master bedroom where the victim was.

10 Q Okay. And that would have been straight down at that
11 same hall?

12 A Correct.

13 Q And I'll get back to that in a minute. I want to
14 show you what's been marked as State's Exhibits 78
15 and 79 and ask you first if you recognize those?

16 A Yes. This is the laundry room area.

17 **MS. CAMPBELL:** Your Honor, at this time we'd
18 offer them into evidence.

19 **MR. O'NEIL:** No objection, Your Honor.

20 (State's 78 previously received in evidence)

21 (WHEREUPON, State's Exhibit No. 79 is admitted
22 into evidence.)

23 Q State's Exhibit Nos. 79 and 78; in 78, was that the
24 area if you're looking in from the hallway?

25 A Yes, ma'am.

1 Q And where did you first see his hands?

2 A Probably back up in this area here.

3 Q Back up in this area?

4 A Yes, ma'am.

5 Q And once he placed his hands out, he didn't have the
6 gun any more, did he?

7 A No, he did not.

8 Q And when you went in to take him down, did you notice
9 a gun?

10 A As we got him onto the ground and handcuffed him and
11 then stood him up to walk him out, I looked down and
12 I saw the gun basically.

13 Q In this laundry room area?

14 A Yes, ma'am.

15 Q And where was the gun located? It's not in this
16 picture, but approximately where?

17 A It was in this area right here.

18 Q And are you aware these pictures were taken the next
19 day?

20 A No, I wasn't.

21 Q You may not be. Okay. And it would have been in
22 this area near where this hat is?

23 A Yes, ma'am.

24 Q And that would have been where the gun was?

25 A Yes, ma'am.

1 Q The gun that you noticed, I want to show you what's
2 been marked as State's Exhibit No. 101. If I can
3 open it. Or you can open it. I ask you to look at
4 that. Is that the gun you saw on the ground?

5 A Yes, ma'am.

6 Q And that gun was later secured by people other than
7 you?

8 A Yes, ma'am.

9 Q Once the Defendant was secured, you then mentioned
10 that you went into another room of the house. Is
11 that correct?

12 A Yes, ma'am.

13 Q And where did you go?

14 A I went to the master bedroom.

15 Q Why did you go there?

16 A Because the victim, I could hear the victim in there
17 crying and yelling.

18 Q And when you made entry into the master bedroom,
19 where was she?

20 A She was more toward the bathroom area once you get
21 into the master bedroom. Once I made contact with
22 her, I told her I was with the Sheriff's Department,
23 I said, and then advised her that I would have to
24 handcuff her and which is standard procedure when we
25 do make entry into a residence to handcuff everybody

1 who is not a police officer in the residence just for
2 our safety until we figure out exactly what is going
3 on.

4 So I handcuffed her and brought her out with
5 another deputy, Alexander. And we brought her out
6 down to the front of the trailer where she was met by
7 Sheriff Lott who then told us to uncuff her. And I
8 did. And she then began to thank the Sheriff for
9 everything he did, or for the Sheriff's Department
10 actually. And I went back into the trailer to
11 retrieve any equipment that we might have left
12 behind.

13 Q Let me ask you this. You said you handcuffed the
14 victim in the case?

15 A Yes, ma'am.

16 Q Is that by protocol?

17 A Yes, ma'am.

18 Q Why is that?

19 A Well, because a lot of times, some of the -- not
20 every time but sometimes some of the suspects try to
21 participate, hide with the victims. So it became our
22 protocol to handcuff all persons in a residence or in
23 any situation that SRT's use.

24 Q Okay. And is that a safety issue?

25 A Yes, ma'am.

1 Q Because not in this case it applies but in some cases
2 you may not be sure of whose participation is what?

3 A Yes, ma'am.

4 Q So that's your protocol every single time?

5 A Yes, ma'am.

6 Q I want to show you two photographs, No. 1 (sic) and
7 State's Exhibit No. 77. What is that?

8 A This is the end of the hallway going into the master
9 bedroom.

10 Q Okay. And is that the hallway where you're talking
11 about where the laundry room was actually located?

12 A Yes, ma'am.

13 Q And in addition, I show you State's Exhibit 74 that's
14 already in evidence. Do you recognize that area?

15 A Yes.

16 Q And then State's Exhibit 76. Is that a closer up of
17 the bathroom?

18 A Yes, ma'am.

19 MS. CAMPBELL: Your Honor, at this time we'd
20 offer State's Exhibits 77 and 76 into evidence.

21 MR. O'NEIL: No objection.

22 (WHEREUPON, State's Exhibit No. 76 is admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit No. 77 is admitted
25 into evidence.)

1 Q State's Exhibit No. 77, does that show the entrance
2 to the small hallway leading to the master bedroom?

3 A Yes.

4 Q And would the laundry room be off that to the left
5 right before you get to the master bedroom?

6 A Yes, ma'am.

7 Q So this is the hallway where the laundry room is off
8 where you found the Defendant?

9 A Yes, ma'am.

10 Q And State's Exhibit No. 74, does that show the area
11 where you found the victim in the case?

12 A Yes. Back towards the bathroom area.

13 Q Towards the bathroom area?

14 A Yes.

15 Q And what was her demeanor when you came in contact
16 with her that day?

17 A It was hysterical. She was crying, yelling, "Thank
18 God, thank God you came and got me. I'm safe." At
19 that time I told her, you know, "You're going to be
20 fine," I said, "but I have to handcuff you just for
21 our safety." She said, "Okay." I handcuffed her and
22 walked her outside.

23 Q And at that time I believe she was greeted, seen by
24 Sheriff Lott?

25 A Yes, ma'am.

1 Q And then ultimately, did EMS transport her to the
2 hospital?

3 A Correct.

4 Q Was the Defendant also treated by EMS that afternoon?

5 A Not to my knowledge.

6 Q You don't know if he was or not?

7 A No, ma'am.

8 Q Okay. You mentioned then after you had secured the
9 Defendant and the victim and turned them over to
10 other people to handle, then you went back into --
11 what did you say to make sure everything secure?

12 A Well, I went back to gather all of our equipment.
13 The police took our stuff.

14 Q What type of equipment was that?

15 A The flash bang stick. They don't actually explode.
16 They just -- the inside burns and then you collect
17 the outside. That is regulated through ATF, the
18 bodies of the flash bangs.

19 Q Was tear gas actually deployed in that residence that
20 day?

21 A Yes, it was.

22 Q You didn't do that that day but other members of the
23 team did?

24 A Yes.

25 Q And I'll get back to that. During the course when

1 you all made entry, you threw the flash bangs and
2 then you ran towards the hallway, you had pushed the
3 couch back when you came in?

4 **A** Right.

5 **Q** Other than that, was any of the furniture or anything
6 on the interior of the house moved around other than
7 the freezer, moved around or anything by your people?

8 **A** No, ma'am.

9 **Q** So when you entered that residence that day, I'll
10 just show you two pictures, State's Exhibits 55 and
11 59; is that how it was before you made entry? So
12 that wasn't something you all did?

13 **A** Correct. That's not what we did.

14 **Q** And you didn't pull the painting off the wall?

15 **A** No, ma'am.

16 **Q** You didn't turn over the coffee table?

17 **A** No, ma'am.

18 **Q** You didn't basically ransack the whole area?

19 **A** No.

20 **Q** You did move the couch, and ultimately the freezer
21 was moved?

22 **A** Yes.

23 **Q** And again in State's Exhibit No. 66, you didn't do
24 that to the kitchen, other than the hole in the
25 floor?

1 **A** No, ma'am.

2 **Q** The person that you apprehended out of the laundry
3 room that day that the gun was at his feet that you
4 took into custody; for the record, other than the
5 victim and the Defendant, was anyone else in the
6 house?

7 **A** No.

8 **Q** Was the house ultimately secured?

9 **A** Yes, it was.

10 **Q** Other -- the Defendant that you got out of the
11 laundry room and took into custody that day, do you
12 see him here in the courtroom?

13 **A** Yes, I do.

14 **Q** Can you identify him for the jury?

15 **A** He's wearing a dark colored suit, a white shirt and
16 blue and white tie.

17 **MS. CAMPBELL:** Your Honor, may the record
18 reflect --

19 **THE COURT:** The record will reflect the witness
20 identified the Defendant.

21 **MS. CAMPBELL:** Thank you, sir.

22 **THE COURT:** Cross examination.

23 **MR. O'NEIL:** Thank you, Your Honor.

24 CROSS EXAMINATION

25 **BY MR. O'NEIL**

1 Q Investigator Brown, you didn't write a report in this
2 case, did you?

3 A No, I did not.

4 Q Of course actually Lieutenant Okinaga, was he in
5 charge that day?

6 A Sergeant Major Okinaga.

7 Q Okinaga?

8 A Yes, sir.

9 Q Let me make sure I get that right. He was actually
10 in charge?

11 A Yes, he was.

12 Q But you're part of the Special Response Team?

13 A Yeah.

14 Q And you all used a couple of different devices that
15 day?

16 A Yes, sir.

17 Q Now, you already mentioned the flash bangs that you
18 used?

19 A Right.

20 Q And those are two I guess disorient someone's sight
21 and hearing, correct?

22 A Correct.

23 Q Now, you also used -- you think they're called
24 chemical munitions?

25 A Yes, sir.

- 1 Q You all use the liquid variety and the powder
- 2 variety; am I correct, with --
- 3 A I'm not familiar with the liquid.
- 4 Q What different varieties under chemical munitions did
- 5 you use?
- 6 A We just use the aerosol type. Which once it enters
- 7 the room, it turns into a smoke type of a gaseous
- 8 state.
- 9 Q Aerosol is liquid based and then it becomes airborne
- 10 essentially?
- 11 A Right.
- 12 Q And you all shot one of those into the kitchen I
- 13 think?
- 14 A Through the kitchen window.
- 15 Q Kitchen window. Yeah. And one through the master
- 16 bedroom window. Is that correct?
- 17 A Yes.
- 18 Q And I'm going to show you what's been marked as
- 19 State's Exhibit No. 81. Would that be the master
- 20 bedroom window? Or you can't tell from that picture?
- 21 A I can't tell.
- 22 Q Let me get you a different picture. Beg the Court's
- 23 indulgence.
- 24 A I think that's the window on the opposite side of the
- 25 trailer, the one you just showed me.

1 Q I show you what's been marked State's Exhibit 73. Do
2 you know what bedroom that is?

3 A That is the master bedroom.

4 Q That's -- this hole in the window would have been
5 where the --

6 A The tear gas was shot.

7 Q -- tear gas. Yeah. It would have made that hole in
8 that window?

9 A Yes.

10 Q That's correct? And do you know whether or not those
11 chemical munitions make any kind of colored kind of
12 reaction?

13 A Are you referring to the stain on the window?

14 Q Yeah.

15 A Upon breaking the window, gas is being expelled at
16 that time. So it could discolor the window.

17 Q I'm going to show you what's been marked as State's
18 Exhibit 102.

19 A Okay. Yeah.

20 Q Sort of like that?

21 A Yes, sir.

22 Q That pinkish kind of coloring of that window right
23 there?

24 A Yes, sir.

25 Q Okay. And that would have been the same kind of

1 pinkish color that's in State's Exhibit No. 81?

2 A Yes.

3 Q Okay. The pinkish coloring would have been when it
4 initially came through the window?

5 A Yes, sir.

6 Q And what effect do those chemical munitions have on
7 an individual?

8 A Like I stated before, it's an irritant. It will make
9 your skin burn, eyes water and your nose run upon
10 contact with the gas.

11 Q And coming in contact with that gas, those symptoms
12 could have lasted for more than a few minutes.

13 That's correct? That would be fair to say?

14 A Yes.

15 Q And you don't know whether or not Mr. Ashford got any
16 medical attention, do you?

17 A No. Not to my knowledge.

18 Q Not to your knowledge. And you all used I think what
19 you call an entry tool to gain entry into the house?

20 A Yes, sir.

21 Q And that would have been -- I'm going to show you
22 what's been marked as State's Exhibit No. 54. You
23 all used that tool on the front door?

24 A Yes, sir.

25 Q And that's how you all gained entry into the

1 residence?

2 A Yes, sir.

3 Q How big is this ram that you all used on the front
4 door?

5 A They come in -- we have different sizes. But about
6 that big.

7 Q And I would assume that you had to use a considerable
8 amount of force to open that front door?

9 A Yes.

10 Q Would that be fair to say? Now, you found Mr.
11 Ashford I think in the washroom?

12 A You said I fought him?

13 Q You found him in the washroom.

14 A Yes.

15 Q And essentially Ms. D.S. was down the hall in the
16 back bedroom?

17 A Correct.

18 Q And I think you said you saw this weapon in the
19 washroom or something similar to this weapon?

20 A Yes.

21 Q Now did, you actually collect that weapon?

22 A No. I did not.

23 Q Were you aware that there were still rounds in that
24 weapon?

25 A No, I did not. But I assume that it was. Yes.

1 Q Do you know who collected that weapon?

2 A No.

3 Q And you mentioned that Sergeant -- I mean Sergeant,
4 Lieutenant Abraham saw Mr. Ashford running when he
5 came into the residence?

6 A Yes. Investigator Abraham when we went into the
7 hallway.

8 Q I'm sorry. Investigator Abraham?

9 A He saw the defendant turn and run.

10 Q He what?

11 A He was at the corner of the hallway in the kitchen
12 right there. If you show me a picture, I can better
13 describe it.

14 Q I'm going to show you what's been marked as State's
15 Exhibit No. 67 here. Will you look at that?

16 A Yes. It's like right here. He went back.

17 Q Right by the freezer essentially?

18 A Well, by the -- yeah. Between the freezer and --

19 Q And you didn't see Ms. D.S. running, did you? Or
20 he didn't indicate he saw Ms. D.S. running, did
21 he?

22 A No. Not to me.

23 Q And essentially, after several orders from you Mr.
24 Ashford complied with your orders and came out
25 peacefully in this incident?

1 **A** Correct.

2 **MR. O'NEIL:** Beg the Court's indulgence. No
3 further questions, Your Honor.

4 **THE COURT:** Redirect.

5 **MS. CAMPBELL:** Just a couple of questions.

6 REDIRECT EXAMINATION

7 **BY MS. CAMPBELL**

8 **Q** For the record, Mr. Ashford never came out of that
9 residence willingly. You all went and got him?

10 **A** Correct.

11 **Q** And even after he was in the laundry room, it took
12 you all multiple directions, drop the gun or whatever
13 you all were saying. What were you saying?

14 **A** We told him, the first couple of commands was "Drop
15 the weapon, drop the weapon; come out, come out; drop
16 your weapon; let me see your hands, let me see your
17 hands." And we did that, went through that once and
18 then waited and then we went through it again. "Drop
19 the weapon; let me see your hands, let me see your
20 hands" and did that again. And then we repeated it
21 again. "Drop the weapon; let me see your hands, let
22 me see your hands; come out." And at that time,
23 that's when I heard the thump and we said, "Come on
24 out; let's see your hands." And then he eventually
25 held up his hands and was kind of inching forward.

1 Then we pulled him out of the closet and onto the
2 ground.

3 Q And that night your participation in this was to
4 secure the Defendant and the hostage without them
5 being harmed?

6 A Correct.

7 Q And that's what you all did?

8 A Yes, ma'am.

9 Q And at that point when the Defendant was escorted
10 out, you didn't question him any that night, did you?

11 A No, I did not.

12 Q And as you escorted the victim out, you didn't
13 question her any, did you?

14 A No, I did not.

15 Q And that would have been for other people to do?

16 A Yes, ma'am.

17 Q Thank you.

18 **MR. O'NEIL:** A couple of questions, Your Honor.

19 RE CROSS EXAMINATION

20 **BY MR. O'NEIL**

21 Q Investigator Brown, when you came into the residence,
22 it was around 7; it was dark almost at that point?

23 A Well, it wasn't dark. It was --

24 Q Dusk?

25 A -- kind of dusk. Yeah.

1 Q And the lights were out in the residence?

2 A Yes.

3 Q And when you would have came in contact with Mr.
4 Ashford, it would have been fair to say that he would
5 have still been under the influence of the tear gas
6 and the flash bangs?

7 A Yes.

8 MR. O'NEIL: No further questions, Your Honor.

9 THE COURT: Thank you, sir. You may come down.
10 May the witness be excused?

11 MR. O'NEIL: No objection.

12 THE COURT: Without objection. Next witness.

13 MS. CAMPBELL: The State calls Investigator
14 Abraham.

15 JAMES ABRAHAM, after being duly sworn, testifies
16 as follows:

17 THE CLERK: Please have a seat there, sir, and
18 state your full name for the record.

19 THE WITNESS: James Abraham.

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL

22 Q Investigator Abraham, where are you currently
23 employed?

24 A I'm currently employed with the Richland County
25 Sheriff's Department.

1 Q What do you do there, sir?

2 A I'm a senior narcotics agent.

3 Q What do your duties include as a senior narcotics
4 agent?

5 A Basically the same duties as Investigator Brown. We
6 both -- he is on the federal level. I work the state
7 level. We both work high quality drug dealers that
8 are within the county of Richland.

9 Q So in your normal job you work with Investigator
10 Brown?

11 A Correct.

12 Q Right now, are you deployed somewhere else?

13 A Yes, ma'am; I am.

14 Q Where are you currently deployed?

15 A Currently deployed down in Ft. Stewart.

16 Q And are you in the Army?

17 A Yes. I'm currently in the Army.

18 Q And you're doing your tour -- I don't know what you
19 call it.

20 A I have been called up to do a special mission. That
21 was one mission that they called me up for. And I
22 have 16 years in the military. I've done three tours
23 overseas.

24 Q And you're currently doing your duty down in
25 Savannah?

1 **A** Yes.

2 **Q** And when is it that you're going to be able to return
3 to your job here in Richland County?

4 **A** I return to my job this month on the 20th.

5 **Q** On the 20th?

6 **A** Yes.

7 **Q** How long have you been in Savannah?

8 **A** Almost a year.

9 **Q** Are you familiar with the SRT team?

10 **A** Yes, ma'am, I am.

11 **Q** What does that mean, sir?

12 **A** Special Response Team.

13 **Q** And how long have you been a member of the Special
14 Response Team?

15 **A** For seven years.

16 **Q** What do your duties include as a member of the
17 Special Response Team?

18 **A** Currently -- at that time -- well, my duties was to
19 assist the team leader. Basically what I do is
20 gather intel from other sources. What we do is go in
21 and get barricaded suspects, execute high risk search
22 warrants and go in and get people that have guns or
23 knives or things of that nature.

24 **Q** Do you have any special training --

25 **A** Yes, I do.

1 Q -- to be a member of that team?

2 A Yes, I do.

3 Q What kind of training have you gone through?

4 A I've gone through training through the military. The
5 main job in the military is a combat engineer, and we
6 do that close quarters combat, which means we go to
7 different locations which are small areas, little
8 small rooms, and we do live fire exercises. In case
9 we ever have to encounter someone in that situation,
10 you are comfortable with what is going to take place.

11 Q Do you also get some training in the use of tear gas?

12 A Yes.

13 Q As well as flash bangs?

14 A Yes.

15 Q And what's the purpose of using tear gas in a hostage
16 situation? Or what's the goal?

17 A Well, the goal is to actually flush the suspect out
18 of the residence without having to actually go in.

19 Q Is it always successful?

20 A No, it's not.

21 Q The effects, there's been some talk about tear gas
22 and everything. Does tear gas do any permanent
23 damage to anyone?

24 A No.

25 Q In fact, once someone is removed from the area where

1 the tear gas is, do they recover; I mean, as far as
2 just the crying and stuff?

3 **A** Yes, ma'am, they do.

4 **Q** Fairly quickly?

5 **A** Yes.

6 **Q** And what does tear gas actually do to someone?

7 Discomfort?

8 **A** It makes their eyes burn, makes their skin burn,
9 gives them an uncomfortable feeling to cause them to
10 come from the area in which they are.

11 **Q** Is it more effective in certain cases than in others?

12 **A** Yes, it is.

13 **Q** Flash bangs, what's the purpose of those?

14 **A** Flash bangs are used to give us -- when I say "us",
15 the SRT members -- an advantage over a suspect when
16 we get ready to go in. You throw it in a few seconds
17 before you go in. It gives out a loud noise and it
18 gives a very bright flash which causes you to lose
19 your sight focus or your eyesight for a short period
20 of time which gives us an advantage to come in
21 through the door.

22 **Q** When you're talking about a short period of time,
23 you're talking about seconds?

24 **A** Yes.

25 **Q** It has no permanent effect either?

1 **A** No. It has no permanent effect.

2 **Q** I want to turn your attention back to February 24th
3 of 2007 on Booth Street. Did you respond to that
4 scene that day?

5 **A** Yes, ma'am, I did.

6 **Q** In fact, was your team called in as well as the other
7 SRT team?

8 **A** Yes, ma'am.

9 **Q** And approximately what time of the day was it when
10 you got there?

11 **A** I received a call about 3:30. I was informed to go
12 to a staging area and get all the guys prepared for
13 what we were about to go into.

14 **Q** At that point were you made aware that there was
15 other law enforcement personnel already there at the
16 scene at Booth Street?

17 **A** Yes. I was advised that lieutenant -- he was a
18 Lieutenant at the time -- Captain Santiago's team was
19 already on the perimeter.

20 **Q** And your team was called in addition to that?

21 **A** Yes.

22 **Q** And other team members came in at different times?
23 It's just matter of when they got called in?

24 **A** Yes.

25 **Q** Once you got to the scene at Booth Street, what area

1 did you go to?

2 **A** I received a call and I informed my team members of a
3 pre-determined location to meet me at. Prior to
4 going in route to that location, I received another
5 call stating that we needed to come directly to the
6 location. Once we arrived at Booth Street we parked
7 our vehicles in the designated location and started
8 to get dressed for the situation at hand.

9 **Q** And that area was a little bit down the street from
10 the actual trailer itself --

11 **A** Yes.

12 **Q** -- where the hostage situation was taking place?

13 **A** Yes.

14 **Q** And during the course of the afternoon, at one point
15 did you all stand ready to enter and then stood down?

16 **A** Yes, we did.

17 **Q** And explain that to the jury?

18 **A** Basically what happened is we got dressed. We had
19 what we called an armored car up the hill to where we
20 staged that to formulate a plan. I was given intel
21 which I then provided to my team. I was given a
22 photo of the possible suspect that was in the
23 residence and his criminal history of things that had
24 happened prior to. After that we briefed on how we
25 were going to enter the residence. We were given a

1 layout of the actual trailer of possibly where the
2 rooms were located and where the suspect possibly
3 was.

4 Q And the first time you didn't make entry, you didn't
5 actually make entry. You stood down because of
6 hostage negotiations?

7 A We were about to make entry and we were informed to
8 stand down because the suspect was about to come out.
9 So stood down. We still stayed behind our cover but
10 we did not go up to make entry. Shortly thereafter
11 the suspect never came out. He said that he was but
12 he didn't.

13 Q And that afternoon, during the course of that
14 afternoon, too, you didn't actually deploy gas, but
15 was tear gas actually deployed into the residence or
16 an attempt made?

17 A Yes, it was.

18 Q And was that successful?

19 A No, it was not.

20 Q Sometime that afternoon, later in the afternoon,
21 shortly before you all made entry, was an attempt
22 made to cut off the power to the trailer itself?

23 A Yes. The attempt was made.

24 Q Why is that? Why was that done?

25 A Basically, if it's a cold environment, we try to cut

1 the power off to make them more uncomfortable in the
2 location in which they are in.

3 Q And that was actually done successfully?

4 A Yes.

5 Q Around quarter to 7 that evening, or between 6:30 and
6 quarter to 7, did your team make entry?

7 A Yes, we did.

8 Q And was yours the only team that made entry?

9 A Yes.

10 Q And who all was at the front of that team, at the
11 head of the team?

12 A I was the actual what we call the point man which is
13 the first guy in the door. I was the point man. But
14 we had a shield guy who was standing there at the
15 door so that the guy that was going to what we call
16 ram the door to force entry would have protection
17 because all he has is a tool at the time of entry.

18 Q And how is entry made in this situation?

19 A We staged or gathered our thoughts and was given the
20 go by Sheriff Lott, moved to the door. The door was
21 forced open. As the door was forced open, I myself,
22 Investigator Brown and Lieutenant Pritchard had
23 already informed that we were going to the left of
24 the trailer and the rest of the team would go to the
25 right.

1 Once the door was forced open, at that time I
2 entered, threw my flash bang. And when I entered to
3 throw the flash bang, I seen a silhouette of a person
4 standing right by the refrigerator. At that time I
5 took my flash bang and I threw it directly at that
6 individual so that it would give that full effect
7 once it hit the ground, that they would lose their
8 eyesight and their hearing at that time.

9 Q And just for the record, prior to entering, you all
10 actually had to force your way in the door?

11 A Yes.

12 Q And that would have included ramming the door with
13 some object?

14 A Yes.

15 Q And in addition to that, were you aware that there
16 was a couch pushed up against the door?

17 A Well, we were informed that the door was barricaded.
18 We had no earthly idea what was behind the door to
19 barricade it. So we used the ram and forced our way
20 in.

21 Q So anyone in the residence for those several seconds
22 before you actually made entry or were making entry
23 would have heard or could have heard you all?

24 A Yes.

25 Q And then when you saw the silhouette, it was over

1 next to the refrigerator in the kitchen area?

2 A Yes.

3 Q And I show you State's Exhibit No. 67.

4 A Yes, ma'am.

5 Q Is that the area where you saw the silhouette?

6 A Yes, ma'am; that is.

7 Q And is there a hallway right beside that refrigerator
8 going further back into that trailer?

9 A Yes, ma'am; there is.

10 Q And what rooms were located down that hallway?

11 A If I'm not mistaken, there is a laundry room down
12 that hallway and the master bedroom.

13 Q And is that the area you saw the silhouette go?

14 A Yes.

15 Q You mentioned that you threw your flash bang at or
16 close to the person, where you saw the silhouette?

17 A That's correct.

18 Q And it actually landed in the kitchen area I believe?

19 A Yes. It hit the refrigerator and came back off the
20 refrigerator.

21 Q And it actually ultimately made a hole in the floor.
22 The picture is around here. That was from the flash
23 bang?

24 A Yes.

25 Q Once you made entry and threw your flash bang, you

1 all followed in right behind that?

2 A Yes.

3 Q What prevents you all from being affected by the
4 flash bang?

5 A Nothing prevents it, but we give it a second to
6 actually go off. And once it's in the process of
7 going off, then we make entry.

8 Q So then you follow the area where you saw a
9 silhouette?

10 A Correct.

11 Q And as you went down that hallway past the
12 refrigerator, did you observe a laundry room to the
13 left?

14 A Yes, I did.

15 Q I show you State's Exhibit No. 78. Is that the
16 laundry room that was in that trailer?

17 A Yes, it is.

18 Q And as you approached laundry room, what alerted you?

19 A As I approached the laundry room, I lost sight of the
20 suspect as I had my flashlight that I have on my
21 weapon pointed down the hallway. Once I got closer
22 to that area, there was a freezer, a white freezer
23 that was up against the back door which was kind of
24 long which caused me to stop short of that actual
25 room right there.

1 Q And I'll show you State's Exhibit No. 69. Is that
2 the freezer you're referring to?

3 A Yes, ma'am, it is.

4 Q And that was actually up against that door at the
5 time?

6 A Yes, ma'am.

7 Q And you said it stopped you from going forward?

8 A Yes, ma'am.

9 Q Did you have to move it out of the way, or were you
10 able to get around it?

11 A No, ma'am. We were -- there was a small opening to
12 where we could walk along the side of it. But being
13 that I lost sight of the silhouette of the individual
14 that went down the hall, we had information that
15 there was a suspect in there with a weapon, I was not
16 going to go past what we call a threshold, that door,
17 without actually being able to see all the way down
18 that door with that side wall being right there.

19 Q So at that point were you the lead person?

20 A Yes, ma'am, I was.

21 Q And was Investigator Brown right behind you?

22 A Correct.

23 Q And it was the two of you basically going back in
24 that area?

25 A It was three of us. It was myself, Investigator

1 Brown and Lieutenant Pritchard.

2 Q And he would have been the third?

3 A Correct.

4 Q And as the point man, as you approached door to the
5 left of the laundry room; what, if anything, did you
6 say?

7 A I informed whomever was in there to come out with
8 their hands up. I said that several different times.
9 Of course it could have been muffled by the
10 protective mask. But I was saying it loud enough so
11 that they could hear me. I was basically screaming
12 it out. "Come out with your hands up, come out with
13 your hands up." And then shortly thereafter we seen
14 hands come to the doorway, and then we coached him
15 out from that point.

16 Q So your demand was to come out or whatever, and that
17 was said multiple times?

18 A Yes.

19 Q And you mentioned that "show your hands" was said?

20 A Yes.

21 Q And eventually did you see some hands coming from the
22 laundry room area?

23 A Yes, ma'am.

24 Q Or in the laundry room area?

25 A Yes, ma'am, I did.

1 Q And how did you first see those hands?

2 A As I was standing there looking at the little small
3 opening that I could see, I seen fingertips as they
4 came out.

5 Q And at that point did you know where the gun was?

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

7 Q But it wasn't in his hands at that point?

8 A No, ma'am. It was not in his hands at that point.

9 Q Once you saw his hands and he was coming forward,
10 what did you all do?

11 A At that point we, myself and Investigator Brown,
12 grabbed an arm apiece and escorted, actually pulled
13 him from that area out to where we could actually
14 handcuff him as Lieutenant Pritchard was trained on
15 the other room.

16 Q So basically Lieutenant Pritchard is covering the
17 other room and the two of you all are getting the
18 suspect, the Defendant, out?

19 A Yes. We're dealing with him.

20 Q And at that point was he handcuffed?

21 A Yes, he was.

22 Q And then was he escorted from the trailer?

23 A Yes, he was.

24 Q And who did that?

25 A I escorted him from the trailer.

1 Q So at that point Investigator Brown and Investigator
2 Pritchard would still have been inside the residence
3 to further search that area?

4 A Yes, ma'am.

5 Q And later did you become aware that Investigator
6 Brown actually escorted the victim out in handcuffs?

7 A Yes, ma'am.

8 Q And you were actually outside at that point?

9 A That is correct.

10 Q After you handcuffed him and prior to leaving the
11 residence, did you notice where the gun was located?

12 A I seen where there was something there as I came back
13 in the residence to do a security check of the area
14 to make sure that we didn't lose any of our
15 equipment.

16 Q And the gun that was located in the laundry room
17 floor, you didn't actually collect that?

18 A No, ma'am, I didn't.

19 Q Somebody else would have done that?

20 A Yes.

21 Q But that gun would have been located on the laundry
22 room floor where you apprehended --

23 A Yes.

24 Q -- Randolph Ashford?

25 A That's correct.

1 Q When you made entry that day, basically the three of
2 you all went to the left and several people went to
3 the right?

4 A Yes, ma'am.

5 Q At any point while any of you all were in there, did
6 you all -- other than moving the couch back from the
7 doors and the freezer back from the back door -- did
8 you all destroy any furniture, move anything or
9 anything at that point?

10 A No, ma'am.

11 Q And other than your flash bang and the tear gas you
12 all threw in the windows which broke some windows --

13 A Right.

14 Q -- did you all do anything to ransack or destroy
15 anything in the house?

16 A No, ma'am, we did not.

17 Q I show you State's Exhibit No. 56. Other than the
18 couch and the table, was that how it was when you
19 entered?

20 A Yes, ma'am.

21 Q I show you State's Exhibit No. 66. Is that how it
22 was when you entered?

23 A Yes, ma'am.

24 Q And again, the hole on the floor was caused by your
25 flash bangs?

1 **A** Yes, ma'am, it was.

2 **Q** You didn't have any direct contact with the victim
3 that night?

4 **A** No, ma'am, I did not.

5 **Q** And the Defendant while he was with you, you didn't
6 question him any, did you?

7 **A** No, ma'am. As soon as I escorted him out, he and I
8 walked over towards EMS and he was checked.

9 **Q** That was going to be my next question. Did he get
10 checked out by EMS that night?

11 **A** Yes, ma'am, he did.

12 **Q** And was that because of tear gas?

13 **A** Yes, ma'am.

14 **Q** And did EMS release him without any further need of
15 any treatment?

16 **A** Yes, ma'am. He was released. And I placed him in a
17 patrol car in which he was taken to the Richland
18 County Sheriff's Department.

19 **Q** Did they treat him in any way?

20 **A** No, ma'am. They checked him, checked his vitals and
21 said that he was fine and sent him on his way.

22 **Q** Later that night Investigator Brown actually went
23 back in and gathered up what equipment you all had
24 used?

25 **A** Yes, ma'am.

1 **Q** The tear -- whatever you all call that stuff. The
2 person that you as the point man and Investigator
3 Brown apprehended and found in that laundry room
4 where the gun was, do you see him here in the
5 courtroom?

6 **A** Yes, ma'am, I do.

7 **Q** Can you point him out for the jury?

8 **A** It's the gentleman sitting at the table right there
9 with the dark suit on with a dark tie with the white
10 stripes and the white shirt.

11 **MS. CAMPBELL:** Your Honor, may the record
12 reflect?

13 **THE COURT:** The record will so reflect the
14 witness identified the Defendant. Cross examination.

15 **MS. CAMPBELL:** Thank you.

16 **MS. SINGLETARY:** Thank you, Your Honor. If it
17 pleases the Court.

18 **THE COURT:** Yes, ma'am.

19 CROSS EXAMINATION

20 **BY MS. SINGLETARY**

21 **Q** Investigator Abraham, I'm going to be as brief as I
22 can because the State asked basically the same
23 questions to you that they asked to Investigator
24 Brown. Okay?

25 **A** Yes, ma'am.

1 Q And you stated that when you all made entry you had
2 on a mask, correct?

3 A Correct.

4 Q And you being in the military, was that the standard
5 MCU 2AP military gas mask that you had on?

6 A It's an M-40. Yes, ma'am.

7 Q It's an M-40 mask that you had on?

8 A Yes, ma'am.

9 Q And when you're actually wearing this mask, it's
10 actually hard. If you're a person who don't -- if
11 you're a person who doesn't have on the mask, it's
12 actually hard to hear what someone inside that mask
13 is saying?

14 A Yes, ma'am. It is. But you can understand what is
15 being said outside of that mask.

16 Q Yeah. And that's where I'm going to go to. Because
17 you wearing the mask, like you have to kind of
18 project your voice because the mask can kind of like
19 muffle it a little bit. So you have to talk a little
20 louder when you're wearing this mask?

21 A Yes, ma'am. That is correct.

22 Q And the reason why you all wear this mask is so that
23 you won't be affected by that tear gas, correct?

24 A That's correct.

25 Q But isn't it true that with tear gas, even if the

1 tear gas is -- you have actually been taken out of
2 the building where the tear gas is at; that tear gas
3 is still on your clothing, correct?

4 A Yes, ma'am, it is.

5 Q And that tear gas that's on your clothing is still
6 off gassing, correct?

7 A Yes.

8 Q And you can still be under the effect of that tear
9 gas even though you're outside of that building?

10 A That's correct.

11 Q So would it be correct to say that that tear gas
12 isn't just lasting for seconds. It could go on for a
13 while as long as you had on those same clothes that
14 you had on?

15 A Yes. You can still smell the tear gas within the
16 garments of your clothing.

17 Q Yes. And earlier you said that one of your duties
18 was to go there and get intel?

19 A Correct.

20 Q And the intel that you were referring to earlier that
21 you got, you said you got a picture of the suspect,
22 correct?

23 A Correct.

24 Q And another thing you got was information about the
25 three cars that had been taken earlier on that day,

1 correct?

2 A No, ma'am. I didn't get -- we didn't get that
3 information about any vehicles or anything like that.
4 We just got information on the suspect.

5 Q Okay.

6 A And their history.

7 Q Okay. Okay. So you got history. Okay. And you
8 said you forced the door in when you came into the
9 location?

10 A The door was forced open. Yes, ma'am.

11 Q Yeah. Well, you forced the door open. And another
12 thing is that when you made entry you said that -- I
13 guess you said you saw a silhouette close to the edge
14 in the kitchen?

15 A Yes, ma'am.

16 Q And you said that you took your flash bang and you
17 tried to throw it directly at that silhouette,
18 correct?

19 A Close to it. Yes, ma'am.

20 Q Close to it. Because you said you wanted them to
21 feel the full effect of that flash bang?

22 A That is correct.

23 Q And you said the effect of that flash bang was it
24 would impair a person's eyesight?

25 A Correct.

1 Q And it would actually impair that person's hearing?

2 A Correct.

3 Q And your team were the only people -- and I know this
4 is going to be silly question. Your team that made
5 entry into that house were the only people who had on
6 those gas masks?

7 A Yes.

8 Q To protect you from the effects of the tear gas?

9 A Correct.

10 Q Or from the flash bang?

11 A Well, the gas mask doesn't protect you from the flash
12 bang. It just protects us from the gas.

13 Q Well, when I say protect you from the flash bang, I
14 meant like your vision, so it wouldn't affect your
15 vision?

16 A It doesn't have any effect on the actual flash bang.
17 The gas mask is a regular mask and it has two lenses.
18 If I threw the flash bang and I am not used to what
19 is going to happen thereafter, then I am subsequently
20 blind as well.

21 Q Okay. But because you knew how the flash bang
22 operated, you would assume that you would close your
23 eyes so the flash bang wouldn't affect you?

24 A No, ma'am. If I close my eyes and I'm going through
25 a door, I'm setting myself up for a situation that

1 I'm not ready for. In other words, I could get shot.

2 Q But what I'm saying is initially when you throw the
3 flash bang, are you looking directly at this flash
4 bang?

5 A No, ma'am. I'm not looking directly at the flash
6 bang. When I deployed the flash bang, what I did was
7 looked in, tossed it, stuck my head back out, then I
8 went in after it went off.

9 Q And that's what I'm saying. You threw the flash bang
10 but you looked away. So you said you looked in,
11 threw the flash bang and then you ducked your head
12 back out?

13 A Yes.

14 Q So you wouldn't be affected by the flash bang?

15 A Correct.

16 MS. SINGLETARY: Okay. I have no further
17 questions, Your Honor.

18 THE COURT: Redirect.

19 MS. CAMPBELL: Just a couple.

20 REDIRECT EXAMINATION

21 BY MS. CAMPBELL

22 Q And because tear gas can effect someone, that's why
23 he had to be checked out by EMS?

24 A Yes.

25 Q They said his vitals were normal?

1 **A** They said his vitals were normal.

2 **Q** At any point did he complain of anything about the
3 gas to you?

4 **A** No, ma'am, he didn't.

5 **MS. SINGLETARY:** Objection, Your Honor. Beyond
6 the scope of cross examination.

7 **THE COURT:** I'll allow it. Go ahead.

8 **Q** Thank you. And finally, she talked about how the gas
9 mask could muffle your voice?

10 **A** Yes.

11 **Q** And you're trained to project your voice so that
12 people can hear you?

13 **A** Yes, ma'am.

14 **Q** Because you and all your training aren't going to be
15 very effective if you go in and they can't hear you?

16 **A** That is correct.

17 **Q** And did you make sure he could hear you that day?

18 **A** Yes, ma'am, I did.

19 **Q** Thank you.

20 **MS. SINGLETARY:** Your Honor, I have no further
21 questions.

22 **THE COURT:** All right. You may come down. May
23 this witness be excused?

24 **MS. SINGLETARY:** Yes, Your Honor. Without
25 objection.

1 **THE COURT:** Approach the bench, please.

2 (Whereupon, a bench conference is had)

3 **THE COURT:** All right, ladies and gentlemen.

4 Just again checking with the schedule. I'm going to
5 dismiss you now for your lunch hour. I'll ask you to
6 be back in the jury room at 2:15 at which time we'll
7 continue the trial. Don't discuss the case with
8 anyone. Have a pleasant lunch, and we'll see you at
9 2:15. Thank you.

10 (Jury out at 1:00 p.m.)

11 **THE COURT:** We'll be at ease until 2:15.

12 Actually, just for your information, there are other
13 matters that the Court has to take up at 1:30. So
14 this courtroom will be open and we'll be conducting
15 other business of the court at 1:30.

16 (Whereupon, a lunch break is taken)

17 **MS. SINGLETARY:** Your Honor, may I approach?

18 **THE COURT:** Just a minute.

19 (Pause)

20 **THE COURT:** Come to order, please. Is the State
21 ready to proceed?

22 **MS. CAMPBELL:** The State's ready.

23 **THE COURT:** The defense ready?

24 **MR. O'NEIL:** Your Honor, I would like to take
25 this opportunity to put my pre in camera --

1 **THE COURT:** Well, let me do it later. I've got
2 a courtroom. I neglected to -- I'm going to allow
3 you to do that.

4 **MR. O'NEIL:** Yes, Your Honor.

5 **THE COURT:** Let's just don't let me forget it.
6 But I've got everybody assembled now. Bring the
7 jury, please.

8 (Jury in at 2:38 p.m.)

9 **THE BAILIFF:** The jury is seated, Your Honor.

10 **THE COURT:** All right. Thank you very much,
11 ladies and gentlemen. We're now ready to continue
12 with the trial. We did have a matter that came up at
13 just about 2:00. We had to take care of it. And I
14 appreciate your patience again. All right,
15 Solicitor. Call your next witness.

16 **MS. CAMPBELL:** May it please the Court. The
17 State calls Leon lost.

18 **THE COURT:** Come around, Mr. Lott.

19 LEON LOTT, after being duly sworn, testifies as
20 follows:

21 **THE CLERK:** Please have a seat, sir. State your
22 full name for the record.

23 **THE WITNESS:** Leon Lott.

24 DIRECT EXAMINATION

25 **BY MS. CAMPBELL**

1 Q Sir, where are you employed?

2 A The Richland County Sheriff's Department.

3 Q What do you do there, sir?

4 A I am the Sheriff.

5 Q Can you tell the jury a little bit about your duties
6 as Sheriff of the Richland County Sheriff's
7 Department?

8 A Basically I oversee everything that goes on with the
9 Sheriff's Department, in charge of all
10 administrative/operative functions, head the
11 Department, set the mission, set the goals, and
12 direct the deputies who work there.

13 Q And in certain situations do you actively participate
14 in many of the investigations and/or ongoing
15 situations that arise in this county?

16 A It depends on the situation. I try to respond to the
17 most serious ones.

18 Q And the SRT team, what does it do?

19 A That's the same as the SWAT team. We call it a
20 Special Response Team, but it's essentially the same
21 as a SWAT team. They respond to special
22 circumstances: Barricades, guns, hostages. Anything
23 that we feel like is a situation that maybe a normal
24 deputy could not handle, the SWAT team or SRT team is
25 called in to handle it. They have specialized

1 training, they have specialized equipment that a
2 normal deputy would not have.

3 Q I want to turn your attention to February 24th of
4 2007. Did you respond to a situation on Booth Street
5 that day?

6 A Yes, I did.

7 Q And approximately what time of day was it when you
8 got there?

9 A Probably about 2:00. I'd gotten the call maybe
10 shortly after 1. At that time I was in Orangeburg.
11 So I was responding from Orangeburg. So it was
12 around 2:00 when I responded.

13 Q And when you got there, sir, were there other police
14 officers, both City and County police officers, there
15 at the scene?

16 A Yes. We had some deputies there, and Columbia Police
17 Department officers were there also.

18 Q Upon arriving at the scene, were you advised of the
19 situation involving a shooting involving your
20 officers?

21 A Yes, I was.

22 Q Were you also advised that there was a hostage that
23 was still being kept inside the trailer?

24 A That's correct. On a situation like this, when I get
25 to the scene, I'm on radio contact or telephone

1 contact as I am going to the scene trying to find out
2 as much as I can by those means. But once I get
3 there, then I'm fully briefed on exactly what's going
4 on. Everybody has a job, a responsibility. I guess
5 my responsibility is to see the big picture, know
6 everything that's going on, and I am the one that
7 ultimately has to make most of the decisions that
8 occur.

9 Q Once you got there did you actively participate in
10 the negotiations that you were attempting to make
11 with the person that was holding the victim inside?

12 A I was overseeing that insofar as monitoring what was
13 going on with the negotiations, monitoring what was
14 going on with the deputies around the perimeter, just
15 kind of monitoring the whole scene as it was but also
16 giving instructions to them, what I wanted to happen,
17 what I wanted certain people to do.

18 Q And that afternoon, based on your assessment of what
19 you found when you got to the scene, did you feel it
20 was necessary to call in the SRT team?

21 A Yes, I did. I made the decision to call in our
22 special team with our special equipment, our command
23 post, our armored car and our specialized officers.

24 Q And they were actually brought in and put in position
25 I believe around 4:00 that afternoon or actually

1 sometime that afternoon?

2 **A** That's correct. One of the first things I wanted to
3 do was remove the deputies that we had that had the
4 perimeter that was around the location. I wanted to
5 replace them with our SRT Team members who again had
6 specialized training, had specialized equipment. So
7 we wanted to get them away from the scene and put in
8 our specialized people.

9 **Q** And did you in fact do that?

10 **A** Yes, we did.

11 **Q** During the course of the afternoon did you actually
12 overhear or hear some of the negotiating that was
13 going on with the Defendant himself?

14 **A** Back and forth. I was hearing that as well as
15 monitoring other activities that the deputies were
16 doing. Again, I was kept up to date on everything.
17 Minute, second by second, as things were occurring, I
18 had to know about it. So I was being briefed on it.

19 **Q** And during the course of that afternoon did you hear
20 the Defendant make any specific threats?

21 **A** Yes, he did. He threatened --

22 **MR. O'NEIL:** Objection, Your Honor. Renew my
23 previous pre-trial objection.

24 **THE COURT:** Based on ...?

25 **MR. O'NEIL:** Moran.

1 **THE COURT:** Yes, sir. Overruled.

2 **MS. CAMPBELL:** Thank you.

3 **Q** Go ahead.

4 **A** I was being advised but I was also listening, trying
5 to listen in also so I could hear his tone, his
6 demeanor, how he was saying things, what he was
7 saying. That all played in the decisions that I
8 would make. I was relying on the people that I was
9 talking with, but I also wanted to hear him myself.
10 So that's part of my decision making process, is to
11 get all the facts I can. I am the only one that can
12 basically direct officers to do certain things.

13 When you have situations like this, it's where
14 sometimes we have to be the one to go in. And I am
15 the only one that can make those decisions. Where
16 I'm going to place one of my officer's lives in
17 danger or so, if necessary, if I have to take
18 someone's life, I am the one that has to make that
19 decision. So I want to have as many facts as I can.
20 So I want to hear, I want to know, I want to know
21 everything.

22 **Q** And that afternoon did you actually hear the
23 Defendant talk about a certain person he was
24 requesting to talk to?

25 **A** Yes.

1 Q And who was that person?

2 A Roberta.

3 Q And do you know the relationship between Roberta and
4 the Defendant?

5 A I think girlfriend/boyfriend.

6 Q And during the course of that afternoon did you
7 actually facilitate things so that Roberta came down
8 there to speak to the Defendant?

9 A Yes. She came, and we had her outside the command
10 post. We actually had her do some negotiations,
11 talking for us. And it just wasn't working. The
12 demands that he was making was not demands that we
13 were going to make. And one other thing that we do
14 is, I never get personally involved in the
15 negotiations. You never have the top person do it
16 because that gives the negotiators an out. If the
17 person that's holding the hostages say, I want this
18 or I want that, the negotiator can always say, well,
19 I have to check with someone. Well, I'm the top
20 person. So if they're talking to me, there's no one
21 I have to check with. So that gives negotiations the
22 ability to buy time or make excuses. So I never
23 directly get involved in negotiations myself. That's
24 kind of procedure to make sure these things go the
25 way they should.

1 Q And during that afternoon was there attempts at
2 least, constant calling in or whatever, to make
3 contact with the Defendant while he was holding the
4 hostage?

5 A Yes. There was numerous conversations that went on
6 for a period of time.

7 Q And that afternoon at some point though, were you
8 having difficulty in getting him to respond to your
9 attempts to get him on the phone?

10 A Yes. There was a period of time that he didn't
11 answer the phone; we didn't have a conversation. And
12 that concerned me, because there was constant contact
13 with him except for a certain period of time, and
14 that worried me. I didn't know what was going on,
15 and that was kind of different from what the previous
16 time we had where there was constant conversation
17 with him. So that concerned me, why he wasn't
18 talking to us. And then after a period of time, then
19 he started back talking with us. But there was that
20 period of time there was no contact with him.

21 Q At some point during that afternoon did the Defendant
22 actually agree to come out and give himself up and
23 his hostage up?

24 A He did. He would go back and forth. Yeah, I'm
25 coming back; I'll be out in five minutes. This went

1 on for a good period of time.

2 Q And as dark was approaching, did you make the
3 decision to cut off all power to the trailer itself?

4 A Yes, I did.

5 Q And why was that, sir?

6 A Put them into darkness to give us the advantage, that
7 if we did enter the location, then we would be the
8 ones controlling the lights and we would be able to
9 see. That helps us. And certain things that we do,
10 we later used a flash bang, and flash bangs are more
11 effective if it's done in the dark because it
12 disorients the person that's inside. So we wanted to
13 go ahead and cut the electricity. Also make them as
14 uncomfortable as possible, too. By removing the
15 electricity, they don't have the ability to watch TV.
16 We had media that was present. We don't want the
17 person holding -- the bad guy being able to watch
18 what's going on on the TV and being able to see what
19 we're doing. So we cut off all communications and
20 also anything that's going to make them comfortable.
21 So that's the purpose of cutting electricity off.

22 Q That afternoon there's been testimony that tear gas
23 was actually launched inside the house I guess?

24 A Right. That's correct.

25 Q For lack of a better word? What's the purpose in

1 doing that, sir?

2 **A** Well, I wanted to put tear gas in to see if we could
3 force him out, if we could make it uncomfortable with
4 the tear gas, that he would give up and come out.
5 That's been successful sometimes previously. This
6 time it was not successful. But that's --

7 **Q** It's not always successful?

8 **A** It's not always successful, no. But that's
9 something -- you almost have certain steps in
10 situations like this where you take -- you try to do
11 negotiations, you feel like negotiation is not going,
12 you start cutting power. Then you start doing tear
13 gas. Then you kind of escalate what you're going to
14 do until, you know, the last resort is actually going
15 in.

16 **Q** During the course of the afternoon while you were
17 there, you never actually heard the Defendant fire
18 any shots from his gun, did you?

19 **A** No. I was briefed that that occurred prior to me
20 getting there.

21 **Q** And I want to turn your attention to around 6:30,
22 quarter to 7 that evening. Did you make a decision
23 that you needed to send your men in?

24 **A** That's correct. Looking at the whole situation, the
25 negotiations I felt were fruitless at that point. I

1 guess, for a better term, I felt like he was jerking
2 us off, that he just was not going to come out, that
3 we had to go in and get him. I was in fear of what
4 was going to happen with the victim, the person being
5 held hostage. At that point we could not wait any
6 longer. So I felt like we had to go in.

7 So I made the decision on how we would go in,
8 what we would do as far as the negotiators having him
9 on the phone to draw his attention, at what points we
10 would enter. We would throw flash bangs in which
11 emit a loud noise and light to try to disorient him
12 and the points we'd go in. So we actually had a plan
13 that we had to coordinate between the negotiators and
14 the command post and the people on the scene.

15 Q And did your men on the SRT Team, did they actually
16 forcibly enter the trailer that night?

17 A That's correct. I left the command place and placed
18 myself there at the trailer right in front of it
19 behind the armored vehicle so I could actually be
20 close to see what was going on.

21 Q And, in fact, were they able to gain entry into the
22 trailer?

23 A Yes. They were very successful. They were able to
24 go in and they were able to rescue the hostage and
25 arrest the bad guy.

1 Q And, in fact, Investigator Abraham and Investigator
2 Brown were actually able to go in and secure the
3 Defendant and bring him out?

4 A That's correct.

5 Q And as part of your policy, isn't it policy that
6 whoever is inside is handcuffed just for safety
7 precautions as far as the protocol?

8 A That's correct.

9 Q And the victim also came out handcuffed that day?

10 A That's correct.

11 Q And when did you make contact with the victim in the
12 case?

13 A As soon as she came outside the door. I basically
14 met her right outside the front door.

15 Q And do you recall her demeanor that night when she
16 finally got out of that trailer?

17 A She was very thankful and she thanked us for what we
18 done, thanked us for saving her life, thanked us for
19 rescuing her.

20 Q And shortly thereafter did you become aware that she
21 had been raped while she was in there?

22 A That's correct.

23 Q The flash bangs, the tear gas, does that have any
24 permanent effect on anyone?

25 A Not to my knowledge. I actually went into the

1 residence also and was exposed to it and it didn't
2 bother me.

3 Q So you actually went in the residence that night
4 after they were removed?

5 A Yeah. I made the decision to bring the fire
6 department in to bring the big fans that the fire
7 department has to blow the stuff out so people can
8 actually go back in and live. So I went in to see
9 how bad it was.

10 Q And did you have a mask on when you went in?

11 A No.

12 Q And did you have any residual effects from the tear
13 gas or anything else in the trailer that night?

14 A Not that I'm aware of.

15 Q So, all in all, both the Defendant and the victim
16 were able to be extracted without any harm to their
17 lives?

18 A I guess it's a successful operation. We were able to
19 get the victim out. She was not injured, besides
20 being raped, which is an injury. But we did not know
21 that at that point. And the suspect was arrested and
22 nobody got hurt. So that is a successful operation.

23 Q Beg the Court's indulgence. The person that was
24 arrested that night, did you see him when they
25 brought him out?

1 **A** Yes, I did.

2 **Q** Do you see him here in the courtroom?

3 **A** Yes. Yes, ma'am. I see him right there in the
4 middle.

5 **Q** The middle?

6 **A** The gentleman in the middle.

7 **Q** Wearing ...?

8 **A** The gentleman in the middle wearing the striped tie,
9 gray looking, dark gray suit.

10 **MS. CAMPBELL:** Your Honor, may the record
11 reflect --

12 **THE COURT:** The record will reflect the witness
13 identified the Defendant. Cross examine.

14 **MR. O'NEIL:** Thank you, Your Honor.

15 CROSS EXAMINATION

16 **BY MR. O'NEIL**

17 **Q** Mr. Lott, you were basically in charge of the scene
18 that day, correct?

19 **A** That's correct.

20 **Q** You got there around 2?

21 **A** That's correct.

22 **Q** And you essentially were advised of what happened
23 before you got there?

24 **A** That's correct.

25 **Q** But you have no personal knowledge about what

1 happened before you got there at 2?

2 **A** No.

3 **Q** And you have no personal -- you -- during the whole
4 situation, you were on the outside of the house,
5 correct?

6 **A** That's correct.

7 **Q** Up there by the command center?

8 **A** Well, different locations. I actually would go back
9 and forth from the command center which was not even
10 half a block away to directly in front of the
11 residence. Our armored vehicle at some point was
12 placed there. So I would go down behind it in a
13 protected location, but it would be close enough
14 where I could see exactly what was going on.

15 **MR. O'NEIL:** And permission to approach, Your
16 Honor?

17 **THE COURT:** Yes, sir.

18 **Q** I'm going to show you what's been marked as State's
19 Exhibit No. 38.

20 **A** Okay.

21 **Q** Can you tell me what's going on in that picture?

22 **A** This looks like this is early on before our command
23 post and all of our SWAT people had gotten there. It
24 looks like I'm on the telephone behind the vehicle.
25 You've got the taxi cab. You have an officer that's

1 on the perimeter. You have some other officers that
2 are there.

3 Q This was actually during the standoff? This picture
4 right here was taken during the standoff?

5 A Yeah. I'd say that probably was during the early
6 stages of it.

7 Q Okay. But you have no personal knowledge of what
8 happened actually inside the trailer?

9 A No.

10 Q And you said the negotiators were talking to the
11 suspect on the inside. The negotiators were located
12 in the command post?

13 A Initially they were outside. Then they were in a
14 vehicle. And then when the command post got there,
15 they came into the command post. So we had various
16 locations.

17 Q And did you all record any of the conversations
18 between the negotiators and the individual on the
19 inside of the trailer?

20 A No. At that time we did not have ability to do that.

21 Q So there's no audio, no video of what transpired that
22 day?

23 A No.

24 Q And of course you didn't write a report about what
25 happened that day?

1. A No.

2. Q One of your subordinates would have done that, one of
3. your deputies?

4. A That's correct.

5. Q And you would have relied on your deputies' report as
6. to refresh your memory about what happened that day?

7. A Well, it's kind of very vivid in my mind what
8. happened that day. We don't have that many. I've
9. been Sheriff for 13 years, a cop 34. And, you know,
10. this is -- something like is unique and stands out in
11. my mind. So a lot of what I'm saying is directly
12. what I would remember. I didn't have to have a
13. report to remind me.

14. Q But some of it you had to refresh your memory from
15. your deputies' reports?

16. A Like a date maybe.

17. Q And this happened over two years ago?

18. A That's correct.

19. Q And you say you actually went into the trailer after
20. everything was over with?

21. A That's correct.

22. Q But when you went into the trailer, that was only
23. after I think you said the big fans came from the
24. fire department?

25. A No, no. No, no. No, no, no, no. That was prior to

1 that. That was part of my orders, was to bring the
2 big fans in. Once the scene was secure, the suspect
3 was arrested, the victim was taken away and we had
4 the scene secured, the weapons, everything had to be
5 secured, then we'll allow the fire department. So at
6 that point I said have them come in. So, no. I was
7 there long before the fire department got there.

8 **Q** Your main role there was I guess in a supervisory
9 capacity?

10 **A** That's correct.

11 **Q** Because only certain actions can be I guess ordered
12 by you?

13 **A** That's correct.

14 **MR. O'NEIL:** Beg the Court's indulgence. No
15 further questions, Your Honor.

16 **THE COURT:** Any redirect?

17 **MS. CAMPBELL:** No, sir.

18 **THE COURT:** All right. You may come down, sir.
19 Thank you very much. May this witness be excused?

20 **MR. O'NEIL:** No objection, Your Honor.

21 **MR. BRYANT:** The State calls Shana Sorrells.

22 SHANA SORRELLS, after being duly sworn,
23 testifies as follows:

24 **THE CLERK:** Please have a seat there. Speak
25 into the microphone. State your full name for the

1 record.

2 **COURT REPORTER:** I'll need you to spell your
3 name, too.

4 **THE WITNESS:** Okay. My name is Shana Sorrells.
5 First name is S-H-A-N-A. Last name is
6 S-O-R-R-E-L-L-S.

7 DIRECT EXAMINATION

8 **BY MR. BRYANT**

9 **Q** Ms. Sorrells, where do you work?

10 **A** The South Carolina Law Enforcement Division, more
11 commonly known as SLED.

12 **Q** How long have you been there?

13 **A** Three years.

14 **Q** Tell this jury about your education?

15 **A** I have my bachelor's degree from the University of
16 South Carolina in chemistry and my master's degree
17 also from the University of South Carolina in
18 analytical chemistry.

19 **Q** And what are your duties out at SLED?

20 **A** I am a forensic toxicologist.

21 **Q** What does that mean?

22 **A** A forensic toxicologist is just a forensic scientist
23 who analyzes biological specimens such as blood,
24 urine, brains, livers. We analyze those specimens
25 for alcohol, drugs and/or other poisons. And then we

1 interpret our findings in courts of law.

2 Q And how many I guess analyses have you done during
3 your career at SLED?

4 A Well over a thousand.

5 Q Have you ever testified before?

6 A Yes.

7 Q Have you ever been qualified in court before as an
8 expert?

9 A Yes, I have.

10 Q Could you tell the judge and jury in what areas I
11 guess you've been qualified?

12 A I have been qualified in chemistry, pharmacology and
13 toxicology.

14 MR. BRYANT: Your Honor, at this time I would
15 move Ms. Sorrells be qualified as an expert in
16 toxicology.

17 THE COURT: Voir dire or objection?

18 MS. SINGLETARY: No objection, Your Honor.

19 THE COURT: All right.

20 Q As part of your job, did you have occasion to come
21 into a sample that was taken from Ann
22 D.S.

23 A Yes, I did.

24 Q Could you tell the jury a little bit about how you
25 got that sample and how you received it and what you

1 did with it?

2 **A** Originally the sample, the type of case that it was,
3 was sent to our DNA department. The DNA department
4 then cuts it open, realizes that part of the kit that
5 they received from this case was supposed to be a
6 toxicology sample. So they brought it up to the
7 toxicology lab, in which case it was placed into my
8 custody.

9 **Q** And once in your custody, what did you do next?

10 **A** The type of case, our protocol is all of our CSC or
11 criminal sexual conduct cases, as this one came in,
12 is if there is no history of drugs, which in this
13 case there was none, to just run a blood alcohol on
14 the case.

15 **Q** And did you run a blood alcohol?

16 **A** Yes, I did.

17 **Q** What kind of test or machines are used to run the
18 blood alcohol?

19 **A** We use a head space gas chromatography with a flame
20 ionization detector.

21 **COURT REPORTER:** With a what? I'm sorry. I
22 haven't heard that one.

23 **A** Flame ionization detector.

24 **Q** Can you simplify that? What does that do?

25 **A** What that does is that takes the sample and heats it

1 up so that anything volatile in the blood or anything
2 that can evaporate, any chemicals that can evaporate
3 get into the air. It then samples the air above the
4 sample and separates the components in the air based
5 off of the weight of the components and how volatile
6 or how evaporative the components are. And then it
7 tells you, it gives you a spike when those chemicals
8 come off. And based off of the time of the spike and
9 the components within it, we can determine exactly
10 what chemical that is.

11 Q So it tells you if the person has been using alcohol
12 or under the influence of alcohol. Is that correct?

13 A Yes, it can.

14 Q And did you do that with the blood from D.S.
15 D.S.

16 A Yes, I did.

17 Q And when you test these things, do you get I guess
18 what is a value? Or explain that to the jury, if you
19 would?

20 A We actually get a number. The instrument prints out
21 a number. We also run controls so that we know that
22 the number falls within the range that it's supposed
23 to fall in and that the number that we get from each
24 case is accurate.

25 Q And what was the result of your testing on Ms.

1 D.S. blood?

2 A It was negative for alcohol.

3 Q Did you do a report?

4 A Yes, I did.

5 Q Do you have that report with you today?

6 A Yes, I do.

7 MS. SINGLETARY: No objection, Your Honor.

8 (WHEREUPON, State's Exhibit No. 111 is marked
9 for identification and received in evidence.)

10 Q I hand you what has now been marked State's 111.

11 That's your original report?

12 A Yes, it is.

13 Q And that shows that Ms. D.S. blood alcohol level
14 was negative?

15 A Yes, it does.

16 Q Meaning she's not under the influence?

17 A Right.

18 MR. BRYANT: Your Honor, at this time I'd move
19 State's 111 into evidence.

20 THE COURT: Without objection.

21 MS. SINGLETARY: Without objection, Your Honor.

22 Q I don't have any more questions. Please answer any
23 questions Ms. Singletary might have.

24 MS. SINGLETARY: Your Honor, the defense has no
25 questions for this witness and she may be excused.

1 **THE COURT:** Thank you very much. May come down,
2 ma'am. The witness is excused. Next witness.

3 **MS. CAMPBELL:** May it please the Court. The
4 State calls Rubin Santiago.

5 RUBIN SANTIAGO, after being duly sworn,
6 testifies as follows:

7 **THE CLERK:** Please have a seat there, sir, and
8 state your full name for the record.

9 **THE WITNESS:** Rubin Santiago.

10 DIRECT EXAMINATION

11 **BY MS. CAMPBELL**

12 **Q** Captain Santiago, where are you employed?

13 **A** The Richland County Sheriff's Department.

14 **Q** What are your current duties?

15 **A** I am currently the captain of community services
16 which has several different specializations to it.

17 **Q** Are you familiar with the term SRT?

18 **A** Yes. It's the Special Response Team.

19 **Q** And are you over it now?

20 **A** Yes. I'm currently the SRT commander.

21 **Q** And how long have you been a member of the SRT? I
22 say team, but it's really SRT.

23 **A** SRT, Special Response Team, for ten years.

24 **Q** And you've had specialized training in that field?

25 **A** Yes, ma'am. We're required to go through an advanced

1 training and special tactics and weaponry; also
2 strategies for situations, for barricaded situations
3 or hostage situations, along with special entries to
4 buildings or other enclosures that might cause us to
5 go in and reduce a threat.

6 Q I'm going to turn your attention back to February the
7 24th of 2007. Do you remember that day?

8 A Yes, ma'am.

9 Q And, in fact, were you deployed to a scene over on
10 Booth Street?

11 A Yes, ma'am. I was one of the team leaders, also the
12 assistant team commander at the time.

13 Q Who was the team commander at the time?

14 A Lieutenant David Okinaga.

15 Q Is he retired?

16 A Yes, he is.

17 Q So at the time you were kind of one of the ones in
18 charge?

19 A Right. I was actually one of the first people that
20 was contacted by Lieutenant Okinaga in preparation
21 for a possible situation where we would have to
22 deploy. And shortly after I was given the order to
23 deploy our team to that location.

24 Q And what time of day was it when you got out there
25 approximately?

1 **A** It was about 2:30, almost 3:00 in the afternoon.

2 **Q** By 4 or 4:30, were your teams -- I believe you had

3 two teams that day, right?

4 **A** Initially we had one team to assess the situation and

5 to set up containment, which is basically a tighter

6 perimeter around there, and also evaluate for officer

7 safety purposes and to also contain it.

8 **Q** And later that afternoon you called in a second team?

9 **A** Right. It was at that time that we realized it was a

10 larger situation, and we activated a second team to

11 assist.

12 **Q** And there's been some talk about this; but you all

13 have specialized training because it can be a more

14 dangerous situation than most?

15 **A** That's correct. That's correct.

16 **Q** And that day when you brought in the second team, did

17 you all decide to take certain measures in order --

18 did it become obvious you were going to have to go

19 in?

20 **A** Absolutely. We learned through the intelligence that

21 was gathered and the situation that had occurred

22 earlier that we had a barricaded subject with a

23 hostage that had a firearm and he had used that

24 firearm. And so the analysis of the area was to

25 relieve the deputies in that location so those

1 specialized units could handle that situation. Given
2 the location of the residence, we wanted to make sure
3 that no one else was hurt or injured in that
4 situation.

5 Q And who was actually heading up the team that was
6 going to -- or who was the point man on the team that
7 was going to make the entry out there that day?

8 A Lieutenant Pritchard's team was the second team
9 called in. The point man was actually the assistant
10 team leader which was Investigator James Abraham.

11 Q And Marcus Brown was also on that team?

12 A That's correct.

13 Q And, in fact, were you there that day when they were
14 able to make entry into the house?

15 A Absolutely. My job was to oversee the perimeter so I
16 had a clear visual of the operation along with
17 constant communications from the team leaders to
18 assess the situation moment by moment.

19 Q Were tear gas and flash bangs used in order to effect
20 the entry?

21 A Correct. The tear gas, the CS gas was launched from
22 a 37-millimeter launcher. Given the situation that
23 the dwelling was a mobile home and there is more
24 combustible than most homes, we used a liquid CS gas
25 which is different than the thermal gas, which if we

1 used a thermal, it might have caused the mobile home
2 to catch fire. So the liquid CS was the first
3 choice.

4 **Q** And what's the purpose of putting tear gas into a
5 hostage situation?

6 **A** The liquid tear gas into the dwelling is to cause
7 agitation to the subjects or persons inside to
8 convince them to come out. It causes a burning
9 irritation to the skin, eyes and the throat area,
10 making it difficult to breathe, also to see because
11 of the mucous glands, making it very difficult and
12 hopefully making them willing to come out on their
13 own.

14 **Q** Does this have any lasting effects?

15 **A** It dissipates. You have to take into consideration
16 the closed in area versus an open area. If there is
17 ventilation or proper ventilation, the effects can be
18 diminished.

19 **Q** And in this case when you all launched or tossed in
20 the tear gas, was it successful in getting anyone to
21 come out?

22 **A** No, it wasn't. There was three attempts or three
23 launches made into the dwelling. And each one, not
24 all at the same time, we fired one into the dwelling,
25 analyzed it, saw there was no effects, could not see

1 any results that would make somebody come out of the
2 dwelling. We fired another one into the dwelling
3 depending on the ventilation in the area the person
4 might have been in and then finished it off with a
5 third round.

6 Q So it was not successful?

7 A It was not successful at all.

8 Q And the purpose of the flash bangs when you go in?

9 A The flash bang is a diversionary device used. When
10 we make emergency entries or a dynamic entry into a
11 dwelling, it gives us the advantage over somebody who
12 might potentially be a danger or harm so that our SRT
13 members can get in there safely and eliminate or
14 reduce the threat.

15 Q And that evening around 6:45, was the SRT team able
16 to make entry?

17 A Absolutely. We were given the directive to make an
18 emergency entry, a dynamic entry. A plan was devised
19 to use several distractionary flash bang devices.
20 And the team, team two, which was the team that
21 Investigator Abraham and Marcus Brown were on, were
22 lined up directly in front and made emergency entry
23 into the front door.

24 Q And were you there actually when the Defendant was
25 brought out of the house?

1 **A** Yes.

2 **Q** And shortly thereafter the victim was also escorted
3 out?

4 **A** That's correct. I was right there in front of the
5 house when the all clear was given to assist with
6 anything that needed to happen from the outside.

7 **Q** Why do you have the policy that when you go in, no
8 matter who is in the house, you handcuff everyone in
9 the house until you can make a further determination?

10 **A** We rely heavily on intelligence, but you just never
11 know the situation on the inside. So for the
12 officers' safety and the safety of others, everyone
13 is detained and handcuffed appropriately and advised
14 of why they're being detained. And it's usually
15 because of officer safety issues. We want to make
16 sure that -- there could be a number of different
17 reasons why -- I think Investigator James Abraham
18 gave some examples of, you're just not sure who is in
19 there. So we want to make sure everyone stays safe.
20 So everyone is secured.

21 **Q** And that's your policy in every situation?

22 **A** Every situation.

23 **Q** And as soon as the victim is brought outside, she was
24 unhandcuffed?

25 **A** That's correct. It was ascertained that she was the

1 victim and no threat to the officers and was
2 immediately released.

3 Q The victim was then transported to the hospital via
4 EMS?

5 A That's correct. As soon as the all clear was there,
6 EMS showed up on the scene, rendered care and then
7 was taken to the hospital.

8 Q And the purpose of her going to the hospital is
9 because of the rape?

10 A That's correct.

11 Q And was the Defendant also afforded an opportunity,
12 was he given treatment if he needed any?

13 A Absolutely. The EMS personnel checked him out.
14 There was concerns about the exposure to the CS gas.
15 At the time, like I said, the CS gas was not very
16 effective. There was a lot of time from the last
17 launch to dissipate. And so it was -- like I said, I
18 myself walked up to there and could not feel the
19 effects of it very well. You could smell it but
20 there was no immediate effects.

21 Q So you were actually there on the scene and went up
22 to the house?

23 A Yes. That was my duty to make sure all the officers
24 were secured and all the equipment was gathered.

25 Q And it didn't have any effect on you?

1 **A** No. I mean, there is a smell to the gas, but as far
2 as the irritant itself, there was just nothing there.
3 Which led us to believe either the gas didn't
4 function the way it was designed to or the liquid
5 solution is just not as effective as the thermal.

6 **Q** After the Defendant was removed from the scene and he
7 was later transported I believe to headquarters?

8 **A** That's correct.

9 **Q** Were there attempts -- did someone go back in to
10 recover any weapons that may have been there at the
11 scene?

12 **A** That's correct. Lieutenant Okinaga was directed to
13 go in and do a last sweep and recover the actual
14 weapon that was reported by Investigator Marcus Brown
15 to be in the laundry area.

16 **Q** So he recovered the weapon in the laundry area?

17 **A** That's correct.

18 **Q** And I show you what's been marked as State's Exhibit
19 No. 101. Do we have the gun?

20 **THE CLERK:** No. Actually it's still in the
21 evidence room because I was busy in here the whole
22 time, too, and I couldn't get it out of the evidence
23 room. So I can go down and get it, or whatever you
24 want to do, Your Honor.

25 **Q** Was the gun recovered?

1 **A** It was.

2 **Q** It's Exhibit 101.

3 **A** It was a revolver and it was recovered.

4 **Q** And was any ammunition recovered, too?

5 **A** Yes, there was. There was two spent cartridges and
6 four rounds that were --

7 **Q** Two spent cartridges?

8 **A** That's correct.

9 **Q** What do you mean when you say that?

10 **A** That the bullet itself had been fired. And the
11 cartridge, since it's a revolver, does not eject.
12 But it is near there. When the chamber is open, you
13 can pull out the cartridge.

14 **Q** So there were two spent cartridges and four what I
15 call live rounds?

16 **A** Yes, ma'am.

17 **Q** That's a bullet in our terms?

18 **A** That's correct.

19 **Q** And was that gun later entered into evidence?

20 **A** That's correct.

21 **Q** And what happened to the ammunition?

22 **A** It had been deemed unsafe to house the ammunition
23 into evidence because there had been several primer
24 strikes. When you visually look at the back of a
25 bullet, the part that activates the round to eject it

1 has been struck several times. That causes a safety
2 issue, and obviously we don't want to keep that in
3 evidence, and it had to be disposed of.

4 Q And I believe Lieutenant Okinaga actually took
5 possession of that?

6 A That's correct.

7 Q I notice in some of the photographs from the trailer
8 that several of the windows are broken out?

9 A That's correct.

10 Q Specifically, I believe a window in the front bedroom
11 which is State's Exhibit No. 74?

12 A That's correct.

13 Q And what would have caused that, sir?

14 A The flash bang.

15 Q And then other windows around the front of the house?

16 A Right. The front and then the far side from where I
17 was at and the back door was used where we launched
18 the gassing.

19 Q Prior to -- and the tear gas and the flash bangs were
20 done towards the end of this hostage situation?

21 A That's correct. The flash bangs were only used to
22 effect our dynamic entry. The gas itself was
23 introduced earlier on before that to convince the
24 person to come out.

25 Q But that was towards the end of the negotiations?

1 **A** Yes.

2 **Q** Like after 4?

3 **A** Right. When the negotiation was not being effective
4 was when we introduced the CS gas.

5 **Q** And I show you some different ones as far as where
6 you all threw things in. Do you know whether or not
7 there was a bullet hole, say, in State's Exhibit No.
8 81 prior to you all throwing that in?

9 **A** No.

10 **Q** And if you had thrown something in, even if somebody
11 had shot something through the window before that,
12 you wouldn't know that?

13 **MR. O'NEIL:** Objection, Your Honor. It calls
14 for speculation.

15 **THE COURT:** Approach the bench.

16 (Whereupon, a bench conference is had)

17 **THE BAILIFF:** Your Honor, we need a break.

18 **THE COURT:** The jury need a break?

19 **THE BAILIFF:** She feels kind of sick.

20 **THE COURT:** Yes. Go ahead. Let's take a short
21 break.

22 (Jury out at 3:18 p.m.)

23 **THE COURT:** All right, counsel. We'll stand at
24 ease for about ten minutes. And, Ms. Campbell or Mr.
25 Bryant, you may want to read Rule 403 about

1 cumulative evidence. Because I may sustain his
2 objection if it's as to cumulative evidence. Thank
3 you.

4 **MS. SINGLETARY:** Yes, Your Honor.

5 **THE COURT:** Sir, you can come down. Just don't
6 discuss the case with anybody.

7 **THE WITNESS:** Absolutely.

8 (Whereupon, a break is taken)

9 **THE COURT:** The State ready to proceed?

10 **MS. CAMPBELL:** The state's ready.

11 **THE COURT:** Defense ready to proceed?

12 **MR. O'NEIL:** Yes, sir.

13 **THE COURT:** Bring the jury, please.

14 (Jury in at 3:30 p.m.)

15 **THE BAILIFF:** The jury is all present, Your
16 Honor. The jury is seated, Your Honor.

17 **THE COURT:** Ma'am, you if you feel that sudden
18 urge, if you know what I'm talking about, just get up
19 and leave.

20 **JUROR:** Thank you, sir. I apologize.

21 **THE COURT:** All right, Ms. Campbell.

22 **MS. CAMPBELL:** No further questions, Your Honor.

23 **THE COURT:** Cross examination.

24 **MR. O'NEIL:** Just briefly, Your Honor.

25 CROSS EXAMINATION

1 BY MR. O'NEIL

2 Q Investigator Santiago, you're familiar with
3 Lieutenant Okinaga's after action report?

4 A Yes, I am, sir.

5 Q And Lieutenant Okinaga was the one who actually
6 recovered the firearm in this case?

7 A Yes, sir.

8 Q And the firearm in this case was what's called a
9 revolver?

10 A That's what I knew it to be, a revolver.

11 Q And this revolver has six chambers?

12 A That's correct.

13 Q It had the capacity to hold six live rounds?

14 A Yes, sir.

15 Q And when Lieutenant Okinaga recovered this weapon, it
16 had three rounds already in it?

17 A That's what I read in his after action. Yes, sir.

18 Q And those are the three rounds that were discarded?

19 A Those were the ones that were discarded.

20 Q That had finally hit something?

21 A Yes, sir.

22 Q And you found one of those live rounds?

23 A I'm sorry. It should be four rounds.

24 Q They found three with primer strikes and one other
25 live round?

1 **A** Okay.

2 **Q** That was not chambered?

3 **A** That's what it says.

4 **Q** And they only found two shell casings?

5 **A** That's what it says. Yes, sir.

6 **Q** He didn't find any other live ammunition?

7 **A** The live ammunition was the other rounds that you

8 were talking about.

9 **Q** Besides the one, that was the only live ammunition

10 found, the one?

11 **A** Correct.

12 **Q** Didn't find any other shell casings?

13 **A** No, sir.

14 **Q** And after it was checked out, I guess expelled out of

15 the revolver, that's where the shell casings come

16 from?

17 **A** Well, the revolver doesn't expel it. I mean, the

18 chamber or the action had to be open somehow.

19 **Q** When the live rounds are expelled --

20 **A** Oh. I'm sorry. Yes, sir.

21 **Q** -- then the shell casings have to be manually removed

22 from the gun?

23 **A** That's correct.

24 **Q** There were only two shell casings?

25 **A** That's in the report, yes.

1 Q And Lieutenant Okinaga, he actually went back in
2 there also shortly after to retrieve some of the
3 casings from the munitions?

4 A You mean the staff that we threw in there?

5 Q Yeah.

6 A Yes.

7 Q The chemical munitions, he went back in to try to get
8 some of those?

9 A That's correct.

10 Q And he could only stay in there about three minutes
11 due to the chemical residues that were still in
12 there?

13 A That's what he writes. Yes, sir.

14 Q So after three minutes it was too much for him to be
15 in there; he had to come out?

16 A That's correct.

17 Q And that was due to the chemical residue from the
18 chemicals that were introduced into the environment?

19 A Right. In the enclosed area. That's correct.

20 MR. O'NEIL: No further questions, Your Honor.

21 THE COURT: Any redirect?

22 MS. CAMPBELL: No, sir.

23 THE COURT: All right. You may come down, sir.

24 Thank you very much. Next witness.

25 MS. CAMPBELL: The State would call Investigator

1 Reed-Enzor.

2 PATRICIA REED-ENZOR, after being duly sworn,
3 testifies as follows:

4 **THE CLERK:** Thank you. Have a seat in the
5 witness stand and give the court reporter your name.

6 **THE WITNESS:** Patricia Reed-Enzor.

7 DIRECT EXAMINATION

8 **BY MS. CAMPBELL**

9 **Q** Investigator Enzor, Reed-Enzor, where are you
10 employed?

11 **A** Richland County Sheriff's Department.

12 **Q** And what do you do there currently?

13 **A** I'm an investigator.

14 **Q** Back in February of 2007 did you also work at the
15 Sheriff's Department?

16 **A** I did.

17 **Q** And what were your duties back then?

18 **A** I was a crime scene investigator.

19 **Q** Can you tell this jury briefly a little bit about
20 your education in crime scene investigations?

21 **A** Yes. I took various courses in crime scene
22 reconstruction, blood pattern analysis, advanced
23 crime scene photography, blood pattern reconstruction
24 and expert witness testimony. I'm also a member of
25 the International Association for Identification and

1 South Carolina International Association of
2 Identification. I also had a very long, in-depth
3 program throughout the Sheriff's Department that
4 lasted about two years in which we also did hands on
5 training in this program as well as in crime scenes.

6 Q And you've been qualified before as an expert in
7 crime scene investigation?

8 A Yes, ma'am, I have.

9 MS. CAMPBELL: Your Honor, at this time we'd
10 offer her as an expert in crime scene investigation.

11 MR. O'NEIL: No voir dire nor objection, Your
12 Honor.

13 Q Investigator Enzor, I want to turn your attention
14 back to February the 24th of 2007. Did you respond
15 to Booth Street that afternoon?

16 A Yes, ma'am, I did.

17 Q And approximately what time of day was it when you
18 got there?

19 A Around 12:21 in the afternoon.

20 Q And why were you one of the first ones to get there?

21 A I actually was responding as a backup unit. I heard
22 the call go out for a hostage situation and then it
23 was requesting assistance.

24 Q And when you got to the scene, were there city
25 officers there?

1 **A** Yes, there was.

2 **Q** And as time passed did additional county officers
3 come there?

4 **A** Yes, ma'am.

5 **Q** And the Booth Street address is actually in the
6 Richland County jurisdiction, not the City?

7 **A** Yes, ma'am.

8 **Q** During the course of the afternoon -- and I want to
9 be brief about this -- in fact, initially did you
10 take command of the crime scene, of the actual
11 hostage taking situation?

12 **A** Yes, ma'am, I did.

13 **Q** During the course of the afternoon, later in the
14 afternoon, did you have a chance to go to the command
15 center?

16 **A** Yes, I did.

17 **Q** And what were your duties there that afternoon?

18 **A** I assisted with -- I basically was a dispatcher. I
19 assisted with the incident command truck and acted as
20 a radio taker, I guess you could say. As units were
21 to call in information, I would write down what I
22 would actually hear on the radio and act as liaison
23 between the actual incident commander and the
24 structure there at the incident command.

25 **Q** And without going into the details of everything,

1 during the course of that afternoon, did the
2 situation resolve itself shortly before 7 that
3 evening?

4 **A** Yes, it did.

5 **Q** Around I believe 6:45?

6 **A** Yes, ma'am.

7 **Q** Did you actually -- were you one actually that was
8 going in to photograph the crime scene?

9 **A** Yes, ma'am, I did.

10 **Q** And did you actually do that later that night, or did
11 you wait until the next day?

12 **A** I waited 'til the next day.

13 **Q** And the next day -- was the scene secured overnight?

14 **A** Yes, ma'am. I had the scene secured.

15 **Q** And how was that done?

16 **A** It was done by setting up the crime scene log and
17 putting a deputy on the scene so it was secured until
18 the next morning.

19 **Q** And there's been reference in this trial to a number
20 of photographs of the crime scene. Was that how it
21 appeared both the night before and the next morning
22 when you took those photographs?

23 **A** Yes, ma'am.

24 **Q** And all the photographs have been handed up. The
25 exterior of the residence, you took those

1 photographs?

2 **A** Yes, ma'am, I did.

3 **Q** As well as of the interior?

4 **A** Yes, ma'am.

5 **Q** And again, that was how it was that night?

6 **A** Yes, ma'am.

7 **Q** And again the next morning when you went back to
8 process it?

9 **A** Yes, ma'am.

10 **Q** I want to show you some additional photographs,
11 State's Exhibits 43 through 45, 46, 47, 52. Are
12 those all photographs you took?

13 **A** Yes, ma'am, they are.

14 **Q** Of the exterior of the crime scene?

15 **A** Yes, ma'am.

16 **Q** And those again were taken the next morning?

17 **A** Yes, ma'am.

18 **MS. CAMPBELL:** Your Honor, at this time we offer
19 those into evidence.

20 **MR. O'NEIL:** No objection, Your Honor.

21 (WHEREUPON, State's Exhibit No. 43 is admitted
22 into evidence.)

23 (WHEREUPON, State's Exhibit No. 45 is admitted
24 into evidence.)

25

1 (WHEREUPON, State's Exhibit No. 46 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 47 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 52 is admitted
6 into evidence.)

7 Q And those show both the front and the back?

8 A Yes, ma'am.

9 Q As well as several windows were broken out?

10 A Yes, ma'am.

11 Q In addition, I show you State's Exhibit No. 53 which
12 is actually the exterior also. 75 and 80, do you
13 recognize those?

14 A Yes, ma'am. I also took those photographs.

15 MS. CAMPBELL: Your Honor, at this time we'd
16 offer these into evidence.

17 MR. O'NEIL: No objection, Your Honor.

18 (WHEREUPON, State's Exhibit No. 53 is admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 75 is admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 80 is admitted
23 into evidence.)

24 Q Investigator Reed-Enzor, the layout of this house;
25 basically, when you walk in the front door, what area

1 are you in?

2 **A** The living room.

3 **Q** And to the right, what rooms are there?

4 **A** To the right was a bedroom.

5 **Q** Were there two bedrooms?

6 **A** Yes, ma'am.

7 **Q** Down the hall?

8 **A** Yes, ma'am.

9 **Q** And there's a small hall there?

10 **A** Yes, ma'am.

11 **Q** And I believe that hallway to the right of the door

12 is shown in State's Exhibit No. 80. Is that correct?

13 **A** Yes, ma'am.

14 **Q** And that goes down to one end of the house. And then

15 on the other end of the house next to the living room

16 area is the kitchen?

17 **A** Yes, ma'am.

18 **Q** And then another small hallway in the master bedroom?

19 **A** That's correct.

20 **Q** And a small laundry room?

21 **A** Yes, ma'am.

22 **Q** And those were all at the areas, all these

23 photographs you took?

24 **A** Yes, ma'am.

25 **Q** In addition, had you received any information about

1 looking for a bullet inside the house?

2 A I'm not sure if I received information on that or if
3 I observed it or not. I do remember observing one
4 and photographing it.

5 Q I show you what's been marked as State's Exhibits 61,
6 62, 63 and 64. What are those photographs of?

7 A Of an apparent bullet hole that I photographed.

8 Q And which piece of furniture were those in?

9 A A black chair.

10 Q And where was the black chair located?

11 A In the living room.

12 Q I show you State's Exhibits 60 and 58. Do those show
13 -- well, here. Better than that. State's 57, does
14 that show the black chair?

15 A Yes, ma'am, it does.

16 Q And I believe this is not as good a picture. And the
17 black chair was located where? Is my finger pointing
18 to it?

19 A Yes, ma'am.

20 Q And is that in the front area as you walk in?

21 A Yes, ma'am.

22 Q Near the kitchen?

23 A Yes, ma'am.

24 Q And when you examined that black leather chair, what
25 did you find?

1 **A** I found an apparent bullet hole.

2 **Q** And once you found the bullet hole, did you
3 actually -- I think I didn't offer these into
4 evidence.

5 **A** No, ma'am.

6 **MS. CAMPBELL:** I'd offer these at this time.

7 **MR. O'NEIL:** No objection.

8 **COURT REPORTER:** 61 through 64?

9 **MS. CAMPBELL:** Yes, ma'am.

10 (WHEREUPON, State's Exhibit No. 61 is admitted
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 62 is admitted
13 into evidence.)

14 (WHEREUPON, State's Exhibit No. 63 is admitted
15 into evidence.)

16 (WHEREUPON, State's Exhibit No. 64 is admitted
17 into evidence.)

18 **Q** I notice in State's Exhibit No. 61 you can see an
19 actual indentation. Is that correct?

20 **A** Yes, ma'am.

21 **Q** And once you found that indentation, did you then
22 make an attempt further to collect a projectile?

23 **A** I did.

24 **Q** And I see in State's Exhibit No. 62, is that once you
25 cut back that area?

1 **A** I did.

2 **Q** And that's an actual hole in the leather. Is that
3 correct?

4 **A** That is correct.

5 **Q** Were you able to locate that projectile in that
6 residence that day?

7 **A** No, ma'am.

8 **Q** But this would be evidence that someone shot in that
9 residence?

10 **A** Yes, ma'am.

11 **Q** Is it unusual for you not to be able to locate a
12 projectile?

13 **A** No. That's not uncommon.

14 **Q** Why is that?

15 **A** It could be located anywhere in that piece of
16 furniture, or it could have fallen through to the
17 bottom. It could be lodged in there somewhere.

18 **Q** Did you also look at different areas around the house
19 for any other shell casings and/or projectiles?

20 **A** Yes, ma'am, I did.

21 **Q** Were you able to locate any of those?

22 **A** No, ma'am.

23 **Q** Did you collect any pieces of clothing?

24 **A** No, ma'am.

25 **Q** And I notice in the end bedroom where the bay window

1 was there was a jacket on that bed. Did you
2 photograph that?

3 **A** Yes, ma'am.

4 **Q** And in the laundry room there was a hat on the floor.
5 Did you photograph that?

6 **A** Yes, ma'am.

7 **Q** Did you do any swabs for DNA in that residence?

8 **A** No, ma'am, I did not.

9 **Q** And why was that?

10 **A** I did not -- I wasn't requested to, for one. For
11 two, the suspect was known. He was in the house. So
12 there wasn't any relevancy to it.

13 **Q** It wouldn't --

14 **A** It wouldn't be probative.

15 **Q** Thank you. And in addition to that, did you dust for
16 any fingerprints?

17 **A** No, ma'am.

18 **Q** And for the same reasons?

19 **A** The same reasons. Yes, ma'am.

20 **Q** Beg the Court's indulgence. Thank you. Please
21 answer any questions the defense may have.

22 **THE COURT:** Questions.

23 **MR. O'NEIL:** Thank you, Your Honor.

24 CROSS EXAMINATION

25 **BY MR. O'NEIL**

1 Q Investigator Enzor?

2 A Yes, sir.

3 Q I guess the job of crime scene analysts is to -- part
4 of the job would be to photograph crime scenes?

5 A Yes, sir.

6 Q And try to collect physical evidence?

7 A Yes, sir.

8 Q And that's what you attempted to do in this
9 situation?

10 A Yes, sir.

11 Q You attempted to go into the residence I think that
12 night on the 24th, correct?

13 A Yes, sir. The electricity was cut off. So that made
14 it a little bit more difficult.

15 Q And, plus, I think you noted in your report two
16 reasons why you couldn't go in there and analyze the
17 scene that night, correct?

18 A Right. It was dark, for one; and it was a little
19 bit, I guess you could call smelly, and it had a
20 little bit of that smell of the, I think it's CS gas.

21 Q You said you couldn't go in because there was no
22 electricity in there and because the tear gas was in
23 the incident location?

24 A Right. The main reason would be the electricity.
25 But because we could secure it, it would be better to

- 1 come back the next day where I had more light,
- 2 especially because I was requested to look for
- 3 projectiles and shell casings and they're so small.
- 4 So it would be easier to do it with light.
- 5 Q So you came back on February 25th at 10:00?
- 6 A When my shift came on. Yes, sir.
- 7 Q And you noted in your report at that time that the
- 8 incident location was still contaminated with the
- 9 tear gas?
- 10 A Right. But I was able to work.
- 11 Q But you were able to look at it?
- 12 A Yes, sir.
- 13 Q And you found a bullet hole in the black chair?
- 14 A Yes, sir.
- 15 Q No projectile?
- 16 A No, sir.
- 17 Q You didn't find any other shell casings in the house?
- 18 A No, sir. I wasn't able to locate any.
- 19 Q No projectiles?
- 20 A No, sir.
- 21 Q No live rounds?
- 22 A No, sir.
- 23 Q No other ammunition?
- 24 A No, sir.
- 25 Q And I guess backing up to the 24th, one of your jobs

1 I guess that day was to do the command log that went
2 on that day at the command center?

3 A At the incident command truck?

4 Q Yeah.

5 A Yes, sir. I was requested to.

6 Q Okay. And you indicated at that point that there was
7 gunshots inside the home at 4:55 p.m.?

8 A Well, actually the incident command truck was
9 separate from, I guess about maybe about a block or
10 two down from the actual house. And the truck, I
11 guess it's an air conditioned truck. So couldn't
12 hear anything that was going on. The only thing I
13 was actually recording and writing down as fast as I
14 could is what deputies and other persons were
15 recording or requesting or hearing on the radio.

16 So what I'm writing down by hand is what people
17 are recording. So what they're saying is what they
18 might hear. But when you look on the log, at 16:55
19 I'm saying shots fired inside residence; if you look
20 at 16:57, it's saying gas deployed inside by SRT. So
21 it may have been actually at the same time, but I'm
22 handwriting it. So I'm not sure if they were all at
23 the same time and if deputies are hearing the gas
24 being deployed at the same time.

25 Q But you would agree that those deputies heard shots

1 fired approximately 4:55, 4:56?

2 A They were hearing loud noises, but I'm writing down
3 what they're saying. Yes, sir.

4 Q That was approximately 4:55, 4:56?

5 A Yes. But it says 16:55, 56 and 57. Yes, sir.

6 Q That's military time.

7 A I'm sorry. I'm sorry. Yes, sir. It's 4:55, 56, 57
8 in the afternoon. I apologize.

9 Q And another loud noise could have been a shot around
10 6:00? 6:04? Would that be fair to say?

11 A I need to look back to see. It said: "Reported one
12 shot, was here prior to last deployment of gas."
13 That was what was reported. Yes, sir.

14 Q Around 6:00?

15 A Yes, sir.

16 Q And you also noted that around 6:47 that EMS was
17 responding to the victim?

18 A That's what was reported on the radio. Yes, sir.

19 Q There's no report on the radio that EMS responded to
20 Mr. Ashford, to the suspect?

21 A Nothing that was requested on the radio. Yes, sir.

22 Q No report of that?

23 A On the radio; no, sir. I'm only hearing what's on
24 the radio.

25 Q And the next day you went in -- I think one of the

1 places you went to were the washroom when you were
2 photographing the trailer?

3 **A** I have to go through because you're skipping around.
4 Hold on one second, sir. You're talking about
5 photographing --

6 **Q** Yeah.

7 **A** -- or what was your question?

8 **Q** One of the areas of the trailer you photographed was
9 the washroom?

10 **A** Okay. I photographed the whole area. But hold on.
11 What was your question? I'm sorry.

12 **Q** One of those areas was the washroom, correct?

13 **A** Okay.

14 **Q** And the washroom has I think two mops in it?

15 **A** Yes, sir.

16 **Q** And didn't it have two hats in there as well as the
17 two mops?

18 **A** I'd have to look at the photographs, sir.

19 **Q** Okay. But the reason why you were interested in this
20 washroom, one of the reasons why you were interested
21 in this washroom was that there was a report that the
22 suspect had used these mops. Would that be fair to
23 say?

24 **A** I didn't interview him. I wouldn't know.

25 **Q** But you made a notation in your report that the mops

1 appeared to be dry and had not been used recently.

2 Is that correct?

3 A I think I recall a request to look at the mops and to
4 check the conditions of the mops. And at that time,
5 at -- and I remember it was towards the end of my
6 exam, so it was probably closer to noon that
7 afternoon, and by noon on the 25th it appeared that
8 the mops in the laundry room appeared to be dry and
9 hadn't been used recently. So I don't know what
10 their condition would have been the following
11 afternoon. But by noon on that day they appeared to
12 be dry.

13 Q And that's what you noted in your report?

14 A Yes, sir.

15 Q I'm going to show you what's been marked State's
16 Exhibit No. 79. That's that washroom and the mops
17 we're talking about?

18 A Yes, sir. I took that photograph.

19 Q And I think you would agree that there is two hats in
20 that picture, in that washroom?

21 A Right. There is one hanging up from one of the mops
22 and there is one on the floor.

23 Q Okay. And you took some pictures of the windows in
24 the house?

25 A Yes, sir. I would have taken all the photographs

1 completely around the house.

2 Q Now, when a firearm is fired I guess, what's called
3 gunshot residue would expel from the firearm. That's
4 correct?

5 A I'm not anything to do with firearm examination.
6 You'll have to ask a professional. I'm not a
7 specialist in that type of --

8 Q Do you know if anybody did any gunshot residue
9 analysis on any of your analysis?

10 A I did not do any and I was the crime scene person.
11 So if I did not do it, it wasn't done. No, sir.

12 Q If you didn't do it, it wouldn't have been done?

13 A No, sir.

14 Q And there was nothing on your report that was stolen
15 from this residence. Is that correct?

16 A Not that I'm aware of.

17 Q And I think Investigator Barnes had you come out and
18 photograph and examine the blight blue van on the
19 outside of the house?

20 A I wouldn't know what he did, sir.

21 Q No. He had you go photograph the van that was on the
22 outside of the house?

23 A I don't have a report of where he had me do that,
24 sir.

25 Q Did you take any pictures of a blight blue van and

1 the exterior of the house?

2 **A** I have where I did the entire photographs in general,
3 sir. When I do -- well, I guess I should back up
4 just a little bit. When I do crime scene
5 photographs, I would take general photographs which
6 are of everything when I looked completely from the
7 outside of the crime scene and then work myself in.
8 And I wouldn't think an investigator would get me
9 specifically to take a picture of a specific van
10 unless I would make note that he wanted me to take a
11 specific photograph. So that's why I'm not
12 understanding what you're asking me.

13 **Q** I could show you Investigator Barnes' investigative
14 report. Would that refresh your memory about whether
15 or not you took pictures of this light blue van in
16 State's Exhibit No. 50?

17 **A** I mean, I remember taking photographs of all of the
18 vans. I mean, I remember that van. Sure.

19 **Q** But do you remember focusing on this van
20 specifically?

21 **A** No. I don't recall specifically photographing that
22 specific van. No, sir.

23 **Q** Let me show you something and see if that refreshes
24 your memory. Okay?

25 **A** Sure.

1 **MR. O'NEIL:** May I approach, Your Honor?

2 **THE COURT:** Yes.

3 **Q** Let me let you read this last paragraph of
4 Investigator Barnes' report and see if that refreshes
5 your memory.

6 **A** Okay. Okay. I understand what you're saying here.
7 What he is discussing here is when he talked to me
8 before I cleared the crime scene. And I had already
9 done a walk through while I was looking for
10 projectiles inside and outside of the house while I
11 was processing the crime scene. And I had looked at
12 all the vehicles on the inside and outside of the
13 house, not just specifically that blue van.

14 **Q** Yeah. So you looked at all the vehicles that were
15 outside of the house?

16 **A** Right.

17 **Q** You didn't find any projectiles in this van?

18 **A** No. I did not find any projectiles in that van.

19 **Q** You didn't find any bullet holes in this van?

20 **A** No, sir, I did not.

21 **Q** Any bullet holes in this trailer?

22 **A** No, sir.

23 **Q** And I think on the night of the 24th you released the
24 scene to a Mr. Ali Harrison. That's correct?

25 **A** Yes, I did.

1 Q And he was one of the residents of that location?

2 A Yes, I did.

3 MR. O'NEIL: Beg the Court's indulgence. No
4 further questions, Your Honor.

5 THE COURT: Redirect.

6 REDIRECT EXAMINATION

7 BY MS. CAMPBELL

8 Q Just a couple of questions. He asked you about the
9 log that you wrote down about some chatter on the
10 radio?

11 A Yes.

12 Q Did you hear any gunshots that afternoon?

13 A No. Well, yes, I did hear some.

14 Q And when did you here a gunshot that afternoon?

15 A I heard a gunshot that afternoon shortly after I took
16 the scene as incident commander. And that would have
17 been approximately 1:00, between 12:45 and 1:00.

18 Q Approximately? Could it have been a little later?

19 A Probably -- I got there and I took the scene about
20 12:45. So within 30 minutes I guess of arriving
21 there. There's a guestimate.

22 Q A guestimate. And during the course of the rest of
23 that afternoon, did you hear any more gunshots out
24 there?

25 A No, I did not.

1 Q But were you aware that they were launching tear gas
2 into the --

3 A Yes, I was.

4 Q And the time periods he went over with you where he
5 talks about these gunshots, that's the same time
6 period?

7 A Yes, it is.

8 Q And, in fact, could someone maybe initially on the
9 radio say gunshots when in fact it's them launching
10 tear gas?

11 A Yes.

12 Q And you don't have any other reports from anywhere
13 else of any gunshots later that afternoon after the
14 first ones you heard?

15 A No, ma'am.

16 Q He talked to you about projectiles. You explained
17 about how you looked in the house and looked for
18 projectiles. And you weren't even able to recover
19 the one in the chair. Is that correct?

20 A That is correct.

21 Q And that's not unusual?

22 A No, ma'am.

23 Q And as far as if someone is shooting into a tree line
24 through the woods, it's whizzing past, would you
25 think there is any likelihood you'd be able to

1 recover that projectile?

2 **A** No, ma'am.

3 **MS. CAMPBELL:** I don't have anything else, Your
4 Honor.

5 **MR. O'NEIL:** Just briefly, Your Honor.

6 RECROSS EXAMINATION

7 **BY MR. O'NEIL**

8 **Q** Investigator Enzor, you say you heard a gunshot --

9 **A** Yes, sir.

10 **Q** -- about 30 minutes after getting there?

11 **A** Yes, sir.

12 **Q** And you wrote a crime scene analysis report, correct?

13 **A** That's correct.

14 **Q** You had bench notes?

15 **A** Yes, I did.

16 **Q** And you had the command log notes?

17 **A** Yes.

18 **Q** And nowhere in there did you document hearing a
19 gunshot at around 30 minutes after arriving at the
20 scene?

21 **A** No, I did not.

22 **Q** Nowhere did you document that?

23 **A** No, sir.

24 **Q** But you did document other people saying they heard
25 what appeared to be gun shots around 4:50, 4:56?

1 **A** Yes, I did.

2 **MR. O'NEIL:** No further questions.

3 **THE COURT:** You may come down, ma'am. Thank you
4 very much. May the witness be excused?

5 **MR. O'NEIL:** No objection, Your Honor.

6 **THE COURT:** Without objection. Next witness.

7 **MS. CAMPBELL:** The State calls David Collins.

8 DAVID COLLINS, after being duly sworn, testifies
9 as follows:

10 **THE CLERK:** Thank you. Have a seat in the
11 witness stand and give the court reporter your name.

12 **THE WITNESS:** David Collins.

13 DIRECT EXAMINATION

14 **BY MR. BRYANT**

15 **Q** Mr. Collins, where do you work?

16 **A** I work for the Richland County Sheriff's Department.

17 **Q** How long have you been employed?

18 **A** I've been employed at the Richland County Sheriff's
19 Department since 2002. So approximately --

20 **Q** Can you give the jury your prior employment history
21 as well as your educational background?

22 **A** I received a bachelor's degree from the Citadel in
23 1984. I went to work at the State Law Enforcement
24 Division, commonly known as SLED, in 1990, where I
25 was employed as a firearms and tool marks examiner in

1 the forensic services laboratory. Once I was
2 employed at SLED, I started employment essentially an
3 on the job training program to be a firearms and tool
4 marks examiner.

5 A firearms and tool marks examiner is what is
6 commonly referred to on television as a ballistics
7 examiner. This training program at SLED lasts for
8 approximately two and a half years, following which I
9 was certified by SLED as a firearms examiner and
10 began working cases on any own. I've received
11 continuing education and training in my field in the
12 form of armorer's schools or firearms repair courses
13 offered by various firearms manufacturers and also
14 through some training seminars provided by our
15 professional association or the Association of
16 Firearms and Tool Marks Examiners, AFTE.

17 I have also attended and successfully completed
18 shooting scene reconstruction school, and I have a
19 prior background before getting into law enforcement
20 with some gunsmithing training and firearms
21 examination.

22 Q Firearms examination I guess in the simplest terms is
23 looking at a gun and telling how it works?

24 A That is a portion of what we do, yes.

25 Q And what's the other portion?

1 **A** Our most commonly requested examination would be to
2 examine fired bullets and cartridge cases to
3 determine if they came from one gun or from multiple
4 guns if we have a gun submitted. If we don't have a
5 gun submitted, we are asked to look at those items to
6 determine what type of firearm may have fired them.

7 We are also requested, in addition to those
8 exams and the firearms function exam that you
9 referred to, to do such examinations as muzzle to
10 target distance determinations, serial number
11 restorations and any type of other examination that
12 involves either a firearm or a tool mark.

13 A tool mark is simply a unique mark left on a
14 surface by a tool or an object. A firearm is, for
15 instance, sometimes referred to as a tool but in the
16 manner that it marks bullets and cartridges that are
17 fired.

18 **Q** Have you ever testified in a court of law before?

19 **A** Yes. I have testified in the state courts or the
20 circuit courts of South Carolina as a firearms
21 identification expert or a firearms examination
22 expert in excess of 200 times. I've also qualified
23 similarly in the state courts of Georgia and North
24 Carolina, the federal court system and the military
25 court system.

1 Q And qualified I believe as an expert in I guess as a
2 firearms examiner and ballistics expert?

3 A Yes.

4 MR. BRYANT: Your Honor, at this time I would
5 offer Mr. Collins as an expert in firearms
6 examination and ballistics.

7 THE COURT: Voir dire?

8 MR. O'NEIL: No voir dire. No objection, Your
9 Honor.

10 THE COURT: Thank you.

11 Q Let me turn your attention to the present case. Did
12 you receive a firearm to examine from an incident
13 that happened February 24th of 2007?

14 A Yes, I did.

15 Q And did you conduct an examination?

16 A Yes, I did.

17 Q I show you what has already been marked as State's
18 101 I believe. Do you recognize that?

19 A Yes. This is the firearm that I examined in this
20 case. I recognize it by its make, manufacturer
21 rather, and also the fact that I've written very
22 boldly the case number, my initials and the item
23 number on the back of the firearm.

24 Q What did you do when you -- first, how did you
25 receive that weapon?

1 **A** I received this weapon sealed in a box from the
2 evidence room. And I received it on -- if I can
3 refer to my notes for just a moment. I received the
4 firearm on the 5th of September of 2008.

5 **Q** And what did you do with that firearm?

6 **A** I was asked to simply examine the firearm to
7 determine its functioning characteristics and to
8 determine essentially did it work.

9 **Q** And did it work means does it fire?

10 **A** Does it fire. Yes.

11 **Q** And did you make such an examination?

12 **A** I did.

13 **Q** Tell the jury about your examination, please, sir?

14 **A** The first thing that we do when we receive a firearm
15 in the laboratory is that we'll take notes as to its
16 condition. If there's any appropriate measurements
17 that need to be made, we'll take those measurements.
18 And then we'll attempt to test fire the firearm to
19 determine if it's functioning properly. The way we
20 test fire a gun in the laboratory is that we will
21 load it and then we have a water tank in a trailer
22 out back that we fire it into. This enables us to
23 both determine if the firearm is functioning properly
24 and to recover test fired bullets and cartridge cases
25 that we may need for further examinations.

1 Additionally in this case the firearm had what
2 appeared to be obliterated serial numbers on it, and
3 also other markings had been ground or filed off.
4 And I also made an attempt in this case to restore
5 those numbers to a legible state. The primary
6 function of the examination that I had was to
7 determine if the firearm functioned properly.

8 Q And in this case did it function properly?

9 A No. It had some -- there were some functioning
10 characteristics of this firearm that caused to it
11 misfire frequently. When you have live ammunition in
12 the firearm and you pulled the trigger, it would
13 frequently fail to fire.

14 What causes the firearm to discharge in this
15 case is when the hammer falls, it strikes a firing
16 pin which then in turn strikes the primer of the
17 cartridge. The primer is the part of the cartridge
18 that is required to discharge the cartridge. It
19 shoots a jet of flame when it's struck into the body
20 or cavity of the cartridge case to ignite the pallet.

21 In this particular case the firearms functioning
22 characteristics were such that it would not properly
23 align the cartridge with the firing pin every time
24 you pulled the trigger. And then additionally it
25 seemed to have a somewhat light firing pin strike.

1 In other words, the hammer wasn't striking the firing
2 pin with enough force to create a large enough dent
3 in the primer to reliably fire the gun. So in
4 conjunction, the combination of those two
5 characteristics created a condition when the firearm
6 actually would misfire more frequently than it would
7 fire.

8 (WHEREUPON, State's Exhibit No. 112 is marked
9 for identification.)

10 Q So if I might, when the barrel is shut, the holes in
11 the --

12 A Cylinder.

13 Q -- cylinder -- thank you -- line up with the hammer?

14 A That is correct. When you cock the hammer -- and
15 this gun can be fired one of two ways. You can
16 actually manually cock it by pulling the hammer to
17 the rear or you can just pull the trigger all the way
18 through. It's called a double action revolver. When
19 you do that, right just before the firearm fires,
20 there is a part of the mechanism that serves to lock
21 the cylinder in place. And when it locks the
22 cylinder in place, it is supposed to be locked in
23 place with the chamber; that is, the portion of the
24 cylinder that contains that cartridge properly
25 aligned with the firing pin. And this firearm

1 frequently does not properly align that cartridge.

2 The firearm is capable of holding a maximum of
3 six cartridges in the cylinder. And in my testing,
4 when I pulled the trigger to fire the gun, it would
5 rotate. And it would -- the handle would fall, but
6 it would leave a dent somewhat off center on the
7 primer and very lightly. Sometimes the cartridges
8 would fire on the first impact; sometimes it would
9 not, and many of the cartridges never fired at all,
10 and we had as many as four firing pin impacts on it.

11 Q And you I believe test fired this a number of times?

12 A I attempted to test fire it a number of times.

13 Again, if I could refer to my notes. According to my
14 notes, there were a total of 20 test firing attempts.
15 20 cartridges were placed in the gun at various
16 times. Most of them were .32 Smith and Wesson long
17 caliber cartridges which the gun is intended to fire.
18 A total of 14 of those were used in the testing, and
19 11 of them misfired and never fired at all. Three of
20 them fired independently. Excuse me. Excuse me.
21 Five of them fired independently -- I'm sorry -- and
22 nine did not fire.

23 .32 auto cartridges were also placed in the
24 cylinder of the gun and attempted. The reason I did
25 that was that .32 auto ammunition, although not.

1 designed to be used in this model of firearm, is
2 frequently used in them by people that don't know
3 they're not supposed to use it. It does fire
4 effectively most of the time in this model of
5 firearm. And none of those cartridges would fire
6 effectively.

7 Q When this gun fires, the results are it is a deadly
8 weapon?

9 A Yes. When it fires, it has all the force or the
10 energy that you would have in a normal firearm. The
11 actual firing is not diminished. It's just it either
12 fires or it doesn't fire at all.

13 Q After you were done with the testing, then what do
14 you do with the weapon?

15 A Once I've completed my testing I package it
16 appropriately; I mark it as you see on the back of
17 the firearm, and then I place it in a box, seal it
18 and return it into evidence.

19 Q Mr. Collins, thank you for your time. Please answer
20 any questions the defense might have.

21 CROSS EXAMINATION

22 **BY MR. O'NEIL**

23 Q Mr. Collins, just a couple of questions. You said
24 sometimes when you attempted to use this firearm the
25 cylinder would misalign?

1 **A** That's correct.

2 **Q** And other times the primer would strike but it struck
3 essentially too light to cause the projectile to
4 expel?

5 **A** Yes. It was a combination of those two factors that
6 would cause it to misfire.

7 **Q** So I think you test fired this firearm right here
8 about I think you said 20 times?

9 **A** Yes, sir. The first time I attempted, I went through
10 a series of tests. I used eight cartridges, and all
11 .32 Smith and Wesson long caliber. And the second
12 time I went through the testing, I did additional
13 testing later, I used 12 additional cartridges. And
14 again, that was what I used, mixed brand, mixed
15 caliber. I used .32 auto and .32 Smith and Wesson
16 long. And that's when I came to my final
17 conclusions.

18 **Q** And of those 20 times that you tried to fire this
19 weapon, only five times you were successful firing
20 it. Is that correct?

21 **A** Yes. The first time I attempted to fire it, it fired
22 two times the first time I attempted to fire it. The
23 second time, through the second series of tests with
24 a total of 12 cartridges, it fired three times.

25 **Q** So the first time was two out of eight essentially

1 and then three out of twelve?

2 **A** That is correct.

3 **Q** And I think that you said you didn't have any spent
4 projectiles to compare to this firearm, did you?

5 **A** No. That firearm was the only firearm that I
6 received that was related to firearms type evidence.

7 **Q** No shell casings either?

8 **A** No, sir.

9 **Q** This incident date was I think you said February of
10 2007?

11 **A** Yes, sir.

12 **Q** And what date was it that you did the testing on
13 this?

14 **A** We actually did the testing -- it started on the 5th
15 of September, 2008.

16 **MR. O'NEIL:** Okay. No further questions.

17 **THE COURT:** Anything further?

18 **MR. BRYANT:** Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 **BY MR. BRYANT**

21 **Q** The gun stays in evidence, secured in evidence?

22 **A** Yes, it does.

23 **Q** Does the lapse of time from when it's in evidence at
24 the Sheriff's Department to when you test it make any
25 difference?

1 **A** Properly secured; no, sir, it does not.

2 **MR. BRYANT:** Thank you, Your Honor.

3 **MR. O'NEIL:** Nothing further.

4 **THE COURT:** All right, sir. You may come down.

5 May this witness be excused?

6 **MR. O'NEIL:** No objection, Your Honor.

7 **THE COURT:** Next witness.

8 **MS. CAMPBELL:** The state calls Investigator John
9 Barron.

10 JOHN BARRON, after being duly sworn, testifies
11 as follows:

12 **THE CLERK:** Thank you. Have a seat in the
13 witness stand and give the court reporter your name.

14 **THE WITNESS:** My name is John Barron,
15 B-A-R-R-O-N.

16 DIRECT EXAMINATION

17 **BY MS. CAMPBELL**

18 **Q** Investigator Barron, where are you employed?

19 **A** Richland County Sheriff's Department.

20 **Q** What do you do there, sir?

21 **A** I am an analyst.

22 **Q** Can you tell this jury a little bit about your
23 education and your training in DNA analysis?

24 **A** I have a Bachelor of Science degree in microbiology
25 from Clemson University. I received my original

1 training in DNA analysis along with forensic serology
2 which goes along with DNA analysis at South Carolina
3 Law Enforcement Division, otherwise known as SLED. I
4 completed the training program there in forensic
5 serology and DNA analysis in 1990. In 1999. Excuse
6 me. And in 2005 I -- 2004 -- I came to the Richland
7 County Sheriff's Department to set up the -- help set
8 up the DNA laboratory there.

9 **Q** And have you been qualified before as an expert in
10 DNA analysis?

11 **A** Yes, I have.

12 **Q** And approximately how many times have you been
13 qualified as an expert in that area?

14 **A** Approximately 30 times.

15 **MS. CAMPBELL:** Your Honor, at this time we'd
16 offer him as an expert in DNA analysis.

17 **MS. SINGLETARY:** No objection, Your Honor.

18 **THE COURT:** Without objection.

19 **Q** I'm going to turn your attention to the case number
20 07-02200424 involving the suspect, Randolph Ashford,
21 and the victim, D.S. Did you receive
22 what's known as a sexual assault kit in this case?

23 **A** Yes, I did.

24 **Q** And what type of evidence was involved in this case
25 as far as when you received a sexual assault kit?

1 **A** A sexual assault kit is taken at the hospital from
2 sexual assault victims. It generally includes
3 envelopes and swabs to collect various types of
4 material. Not all the time all of them are used. In
5 this case I received blood from D.S.
6 vaginal swabs and slides, rectal swabs and slides and
7 known hair samples and pubic combings from the
8 victim.

9 **Q** In addition to that, at a later time, did you also
10 receive some clothing from the victim?

11 **A** Yes. At a later time I obtained from our evidence
12 room the assorted clothing from the victim and also a
13 known buccal swab or a mouth swab from Randolph
14 Ashford.

15 **Q** So in this case -- before you do any DNA comparison,
16 basically you have to have what's known as a known
17 sample; is that correct, from a victim and/or a
18 subject?

19 **A** You don't have to have a known to do a DNA analysis.

20 **Q** To make a comparison?

21 **A** To make a comparison.

22 **Q** Yes, sir. And to make a comparison then, you
23 actually received flood from D.S. from
24 which you could extract DNA to use to compare?

25 **A** That's correct.

1 Q And in this case you actually received a buccal swab
2 which is actually an oral swab inside the mouth?

3 A Yes. It's a swab of the gums inside the cheek of an
4 individual.

5 Q And that was from Defendant Randolph Ashford?

6 A Correct.

7 Q And then you were asked to analyze certain evidence
8 from the sexual assault kit?

9 A Yes.

10 Q As well as evidence from the victim's clothing?

11 A Correct.

12 Q And in addition to that I believe you were also
13 submitted at a later date a swab that was taken from
14 the steering wheel of the Blue Ribbon cab?

15 A Yes.

16 Q And that's the extent of the evidence that was
17 submitted for you to do any testing?

18 A That's correct.

19 Q And when you tested the sexual assault kit, tell this
20 jury what you're looking for and what you're testing
21 for?

22 A In a sexual assault kit you are looking for primarily
23 semen from a male individual; in this case it was a
24 female victim, to determine the presence of it first
25 of all and then to perform DNA analysis on it to

1 determine whose semen it is. Along that with there's
2 pubic combings. And in close, intimate contact you
3 may have hair transfer. Hair transfer can result in
4 identification through DNA analysis or an association
5 through microscopic analysis.

6 Q And you indicated that in the sexual assault kit the
7 first thing you look for is the presence of semen?

8 A Yes.

9 Q And why is that?

10 A Well, it's a primary piece of evidence in sexual
11 assault.

12 Q And in every sexual assault kit are you necessarily
13 going to be able to detect the presence of semen?

14 A No.

15 Q And why is that, sir?

16 A Well, there's several reasons for that. One reason
17 might be the use of a condom. Another reason might
18 be timeframe. Very often in a sexual assault the
19 victim may not report the crime for several days; and
20 as a result, time and cleaning up has destroyed
21 seminal fluid. And in some cases there may not be
22 ejaculation. There could be penetration without
23 ejaculation. And ejaculation then puts the semen and
24 sperm cells into the victim where it can be collected
25 and identified and analyzed.

1 Q And I know I'm getting very graphic here. But is it
2 important in order for you to do a comparison on a
3 sexual assault kit, are the sperm cells important?

4 A Yes. The sperm cell contains the DNA molecule from
5 the Defendant or the suspect in a case.

6 Q So, in other words, the sperm cells are included in
7 the semen. Is that correct?

8 A Correct. Semen is the fluid that carries the sperm
9 cell.

10 Q Okay. But it's the sperm cells themselves that have
11 the DNA in it that you need to do any comparison?

12 A That would have the male DNA.

13 Q The male DNA?

14 A Yes.

15 Q And in a sexual assault kit, one of such of this
16 nature, you're looking for male DNA?

17 A Correct.

18 Q And in this case when you examined the sexual assault
19 kit and the items that you were submitted to you,
20 were you able to detect any male DNA?

21 A I was not.

22 Q And no semen was identified?

23 A No. No semen was identified on the vaginal or the
24 rectal swabs. And I visually searched for sperm
25 cells on the slides and did not identify any there

1 either.

2 Q So without the presence of semen or sperm you were
3 not able to do any further testing?

4 A I did not do any further testing of that. I did do
5 testing on the hair from the pubic combings.

6 Q And that's where I want to go next. Did you also
7 receive a pubic hair combing?

8 A Yes.

9 Q And you mentioned earlier that sometimes in an
10 intimate situation that hair can be transferred. Is
11 that always true?

12 A It's not always true. It's a very small percentage
13 of time that we actually recover a hair from the
14 assailant, but it does happen.

15 Q But it's a small percentage of the time?

16 A That's correct.

17 Q But in this case, since you couldn't find semen or
18 sperm on the vaginal or rectal swabs, you then moved
19 to that?

20 A Yes. There were three hairs, pubic hairs recovered
21 from her pubic combings. They were similar to hers.
22 But sometimes even though they're similar, they still
23 could belong to different people. So I did do a DNA
24 analysis on those hair samples. And the DNA matched
25 the victim. So they were her hair.

1 Q And you didn't find any other DNA but hers in those
2 combings?

3 A That's correct.

4 Q And in addition to that, I believe you also at a
5 later date got her clothing. Is that correct?

6 A That's correct.

7 Q And what analysis did you perform of the clothing?

8 A The clothing, I searched for seminal fluid and blood.

9 Q What did you find?

10 A I did not find any seminal fluid on the clothing. I
11 did find blood on the shirt. I did type the DNA
12 analysis on the blood on the shirt and it was also
13 the victim's blood.

14 Q And that was the testing you did on the clothing?

15 A That's correct.

16 Q Finally, you also received a swab from the steering
17 wheel of the Blue Ribbon cab?

18 A Yes.

19 Q And did you do any testing on that?

20 A I did.

21 Q And what were the results of that testing?

22 A I did find some male DNA on the swab. It did not
23 belong to the Defendant.

24 Q It did not belong to the Defendant?

25 A No.

1 Q And in doing your testing, you can tell the
2 difference between male DNA and female DNA?

3 A Yes, I can.

4 Q And in this case you found male DNA. Did you ever
5 get a sample from Malachi James?

6 A No.

7 Q On the swab from the steering wheel, just because,
8 say, if I get into a car and I drive a car for a
9 period of time, be it minutes, hours, am I
10 necessarily going to leave DNA on that steering
11 wheel?

12 A Not necessarily.

13 Q And what factors go into that?

14 A What we're looking for on something like a steering
15 wheel swab is what we call touch DNA. In other
16 words, we're hoping that some of the skin cells come
17 off your hand and remain attached to the steering
18 wheel. As in this case, I did recover DNA from some
19 other individual, not the Defendant or the victim in
20 this case. So probably the person who drove that
21 vehicle the most is probably who left that DNA on it.

22 Q And again, you never received a swab from Malachi
23 James?

24 A No.

25 Q And just because you didn't find the Defendant's DNA

1 does not mean he did not drive that vehicle?

2 A That's correct.

3 Q On the rape kit and the clothing you were searching,
4 I believe on the rape kit for the presence of semen,
5 you found none?

6 A None.

7 Q And on the clothing semen and blood?

8 A Correct. And I was also searching for hair on the
9 clothing as well, but I did not recover any.

10 Q You didn't recover any?

11 A No.

12 Q And if a person -- are your findings consistent with
13 someone that did not ejaculate?

14 A It is consistent with that, yes.

15 Q Again, when you're doing DNA testing from crime
16 scenes, typically you're looking for things such as
17 bodily fluids left at the scene; like in a murder
18 scene, perhaps blood?

19 A Yes. We're looking for blood, semen in the case of
20 sexual assault, saliva in the case where anything you
21 touch with your mouth like a cigarette butt or a
22 drink can. And because of the sophistication and the
23 sensitivity of DNA analysis at the present time, we
24 are also able to pick up DNA from touch DNA which is
25 skin cells that you may leave somewhere.

1 Q And that's a thing you just started doing in your lab
2 in the last year or so?

3 A We've been doing that in our lab for the last five
4 years.

5 Q Okay. Thank you.

6 **THE COURT:** Cross examination.

7 **MS. SINGLETARY:** Thank you, Your Honor. If it
8 pleases the Court, very briefly.

9 CROSS EXAMINATION

10 **BY MS. SINGLETARY**

11 Q Good afternoon, Investigator Barron.

12 A Good afternoon.

13 Q And I just want to recap very briefly your direct
14 testimony. And that was that there was no semen
15 found on the clothes that you received, correct?

16 A That is correct.

17 Q There was no DNA contributed by Mr. Ashford on the
18 clothes that you found?

19 A That is correct.

20 Q There was no semen in the vaginal and rectal swabs
21 that you found, correct?

22 A That is correct.

23 Q No DNA from Randolph Ashford?

24 A No.

25 Q The pubic hair, all of the hair that was actually

1 given to you, it all belonged to the victim?

2 **A** That's correct.

3 **MS. SINGLETARY:** I have no further questions,
4 Your Honor.

5 **THE COURT:** You may come down, sir. Thank you
6 very much. Next witness.

7 **MS. CAMPBELL:** Your Honor, may we approach?

8 (Whereupon, a bench conference is had)

9 **THE BAILIFF:** She is not feeling well.

10 **THE COURT:** All right.

11 (Whereupon, a bench conference is had)

12 **THE COURT:** All right, ladies and gentlemen.

13 I'm just again checking on the schedule. Now, there
14 are just very few witnesses left that I know of. Of
15 course things change. But due to the fact that one
16 of your members of the jury is having some
17 problems -- and I don't know what they are. I hope
18 they're not serious. I hope I haven't caused them.
19 But let's go ahead and adjourn for the day. We're
20 going to finish this case up in the morning. We
21 couldn't finish it tonight anyway.

22 So in respect to her condition, whatever it may
23 be, I think we'll just go ahead and adjourn this
24 afternoon, reconvene tomorrow morning at 9:00, at
25 which time we are going to wrap this case up. So

1 have a pleasant evening. Again don't discuss the
2 case among yourselves when you return to the jury
3 room or with anyone else over the evening hours. See
4 you at 9:00 in the morning.

5 (Jury out at 4:24 p.m.)

6 **THE COURT:** All right, counsel. While we have a
7 few minutes -- and I'll take your matter up in a
8 moment -- I'm interested in whether the State or
9 defense has any requests to charge.

10 **MR. O'NEIL:** I do, Your Honor.

11 **THE COURT:** All right.

12 **MS. SINGLETARY:** Your Honor, may we approach?

13 **THE COURT:** Sure.

14 (Documents handed to the Court)

15 **MS. SINGLETARY:** Your Honor, what I just handed
16 up to you is actually the defenses' requests, the
17 charge, the jury instructions. A lot of the jury
18 instructions is that we handed up are in your actual
19 general instruction.

20 **THE COURT:** All right.

21 **MS. CAMPBELL:** I hope so.

22 **THE COURT:** I'll review these. You could have
23 just given me the book.

24 **MS. SINGLETARY:** Your Honor, my clerk brought
25 them in.

1 **THE COURT:** That's all right. Well, let me ask
2 you this. Are you requesting any lesser-included
3 charges? That's a primary concern to me.

4 **MS. SINGLETARY:** Yes, Your Honor. We are
5 actually requesting ABHAN.

6 **THE COURT:** Now, wait a minute. You're going to
7 have to tell me which indictment you're referring to.

8 **MS. SINGLETARY:** We are actually referring to
9 the CSC indictment, Your Honor. And that would be
10 the indictment ending 1940.

11 **THE COURT:** All right. Okay. Just ABHAN?

12 **MS. SINGLETARY:** Yes, Your Honor. Your Honor,
13 that would be all the lesser's that we are asking
14 for.

15 **THE COURT:** Okay. Ms. Campbell, assuming you
16 have not, nor have I, read all of these, does the
17 State have any objection to a charge of assault and
18 battery of a high and aggravated nature as a
19 lesser-included charge of criminal sexual conduct in
20 the first degree?

21 **MS. CAMPBELL:** I'd have to review the law, Your
22 Honor. But based on the testimony that's so far in
23 the record, now the statement is not in yet; but the
24 Defendant in his own statement says that they had
25 sexual relations, just that it was consensual.

1 **MR. O'NEIL:** I don't think that's quite an
2 accurate characterization of Mr. Ashford's statement.

3 **THE COURT:** Okay. Well, I haven't heard the
4 statement or seen the statement.

5 **MS. CAMPBELL:** And it may just effect your
6 decision because --

7 **THE COURT:** I'm sorry?

8 **MS. CAMPBELL:** Because he basically says that --
9 it's crude. Let me hand up the statement.

10 **THE COURT:** I think I -- did you show me the
11 statement?

12 **MR. O'NEIL:** I think Your Honor is familiar with
13 the pre-trial hearing.

14 **THE COURT:** Yeah. That's what I thought. I
15 think I'm that familiar with it. I understand. The
16 question is, based on that statement, would it
17 support a charge of assault and battery of a high and
18 aggravated nature?

19 **MS. CAMPBELL:** No, sir. The worst thing he says
20 is it only lasted about a second because I couldn't
21 get it up.

22 **THE COURT:** I understand that. I understand
23 what the statement says.

24 **MS. CAMPBELL:** But he still admits to sexual --
25 the first thing he says is she and I had sexual

1 relations on the living room floor. I just don't
2 know that there's any evidence to support an ABHAN in
3 this case. But he does say it was consensual or she
4 wanted it.

5 **THE COURT:** All right. Now, Mr. O'Neil, with
6 regard to your motion.

7 **MR. O'NEIL:** Yes, Your Honor.

8 **THE COURT:** I mean, your making the record.

9 **MR. O'NEIL:** I just want to put on the record
10 what occurred this morning, Your Honor, in camera.

11 **THE COURT:** I understand. You want counsel for
12 the State present since they were present in those in
13 camera interviews?

14 **MR. O'NEIL:** Yes, Your Honor.

15 **THE COURT:** Okay. All right. I need the
16 court -- court is adjourned for the day with the
17 exception of this matter we need to put on the
18 record. And I need to do it in camera, which means
19 we need to go ahead and clear the courtroom.
20 Everybody else can leave except the attorneys and the
21 deputies. Security stays.

22 **MR. BRYANT:** I'm sorry, sir?

23 **THE COURT:** I said we're ready to proceed. The
24 investigator will have to leave. All right, Mr.
25 O'Neil.

1 **MR. O'NEIL:** Yes, Your Honor. I think it came
2 to the State's attention on yesterday that one of
3 their deputies, a Deputy White from the Richland
4 County Sheriff's Department, may have overheard I
5 think it was what turned out to be juror number 134
6 during lunch saying something to the effect that,
7 "I've heard all I need to hear."

8 I think at that point my request of the Court
9 was to bring that juror in, or hopefully bring in
10 Deputy White first to try to identify that juror and
11 then to ask that juror first if she made that
12 statement; and if she did make that statement, in
13 what context does she make that statement in.

14 I think what the Court decided to do was to
15 bring in what turned out to be a total of five jurors
16 one-by-one in camera, I think it was juror 134, 172,
17 juror number 1, juror number 199 and juror 174; and
18 ask them in a generic form had they formed any
19 opinion about the ultimate issues of this case or
20 either expressed that opinion to anybody about the
21 ultimate issues of the case and whether or not they
22 had made up their mind, whether or not they expressed
23 to anyone they had made up their mind.

24 I think all the jurors that were questioned
25 answered in the negative about whether or not they

1 had either made their mind up or expressed the fact
2 that they had made their mind up. I just want to put
3 on the record that it was my request for the jurors
4 to be -- especially one juror in question, I think
5 juror number 134 -- to be asked specifically did she
6 make that specific statement and whether or not, if
7 she did make that statement, in what context she made
8 that statement. And, Your Honor, based on that I
9 guess I would ask for a mistrial.

10 **THE COURT:** Does the State have a position?

11 **MS. CAMPBELL:** Yes, Your Honor. As we discussed
12 in chambers, no one alleged to know what she was
13 referring to, if she was referring to this case or
14 any other thing in her life. You did bring the juror
15 in as well as other jurors to make sure, to inquire
16 whether or not they heard anything from anybody or
17 there had been any discussions. Each and every one
18 of them denied doing anything. Basically you just
19 reminded them of their duty. There is no evidence
20 that she was referring to this case.

21 In addition to that, Your Honor, all the jurors
22 seemed quite forthright and quite serious about their
23 obligations in this case. And I do believe the
24 colloquy you went through with each and every one of
25 them back in chambers would be enough to address this

1 issue.

2 **THE COURT:** All right. Well, I don't know if,
3 A, to begin with, I don't know what the -- the
4 officer wasn't clear as to exactly what he heard,
5 although it's something similar to what Mr. O'Neil
6 has placed on the record. We did our best to
7 identify who that witness might be; I mean, that
8 juror might be. I believe we covered everybody that
9 the Defendant's counsel, Mr. O'Neil, asked us to meet
10 and to voir dire in terms of their ability to be fair
11 and impartial and the fact that they had neither
12 spoken in the jury room nor outside of the courtroom
13 about having made up their mind in this case.

14 And all five of those witnesses (sic) I would
15 say categorically denied that they had made any such
16 statement outside the jury room or inside the jury
17 room, and I had no reason to go any further with it.
18 And I stopped calling jurors in for an in camera
19 conference with the consent of both parties. I must
20 respectfully deny your motion.

21 **MR. O'NEIL:** Just one further thing I want to
22 put on the record, I guess just so the record is
23 clear. Deputy White's description of the individual
24 whom he heard make that statement was a black female,
25 a younger black female I think. And there are only

1 three black females on the jury. There's juror
2 number 172 and juror number 134. You questioned both
3 134 and 172. And out of an abundance of caution, I
4 think we requested three additional jurors.

5 **THE COURT:** 9:00.

6 **MS. SINGLETARY:** Thank you, Your Honor.

7 (Whereupon, the proceedings are concluded for
8 the day, to be reconvened tomorrow morning)

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1 Friday, April 3, 2009

2 (WHEREUPON, State's Exhibit No. 113 is marked
3 for identification.)

4 **MR. BRYANT:** Your Honor, if it pleases the
5 Court?

6 **THE COURT:** Are you on the record, Jenny?

7 **COURT REPORTER:** Yes, sir.

8 **THE COURT:** Yes, sir.

9 **MR. BRYANT:** I was talking to our court reporter
10 and there was a little bit of a question mark about
11 some of the stuff that was in evidence. I believe
12 everything has been moved in. But I've talked with
13 Mr. O'Neil, and in order to err on the side of
14 caution, Exhibits 19, 20, 21 I believe -- I'm sorry.
15 Did I say that? Exhibits 19, 20, 21, 25 through 29
16 and then 90 I move again just to make it official so
17 Madam Reporter does not have a problem. 112 I
18 marked, did not enter. And I believe then Ms.
19 Campbell has 91, 92 and 100. If there is another
20 problem, let me know and I'll clear it up so that I
21 don't cause you any more confusion.

22 **COURT REPORTER:** Thank you.

23 (WHEREUPON, State's Exhibit No. 19 is admitted
24 into evidence.)
25

1 (WHEREUPON, State's Exhibit No. 20 is admitted
2 into evidence.)

3 (WHEREUPON, State's Exhibit No. 21 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 25 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 26 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 27 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 28 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 29 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 90 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 91 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 92 is admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 100 is admitted
22 into evidence.)

23 **THE COURT:** All right. The State ready to
24 proceed?

25 **MS. CAMPBELL:** The State's ready, Your Honor.

1 **THE COURT:** By the way, without objection on the
2 exhibits?

3 **MR. O'NEIL:** No objection, Your Honor.

4 **MS. SINGLETARY:** No objection, Your Honor.

5 **THE COURT:** Defense ready to proceed?

6 **MS. SINGLETARY:** Yes, Your Honor.

7 **THE COURT:** Bring the jury.

8 (Jury in at 9:15 a.m.)

9 **THE BAILIFF:** Your Honor, the jury is present.

10 **THE COURT:** Good morning, ladies and gentlemen.

11 I think somebody cut the air conditioner on.

12 **FOREPERSON:** We hanging beef in here this
13 morning, or what?

14 **THE COURT:** Unfortunately, I don't have much --
15 I've got control over a lot of things, but the air
16 conditioner, I can't touch it. But, Jackie, the
17 clerk, is going to work on it. All right. Good
18 morning, ladies and gentlemen. We're ready to
19 continue with the trial. Solicitor, call your next
20 witness.

21 **MS. CAMPBELL:** May it please the Court.

22 **THE COURT:** Yes, ma'am.

23 **MS. CAMPBELL:** The State calls Eric Barnes.

24 ERIC BARNES, after being duly sworn, testifies
25 as follows:

1 **THE CLERK:** Please have a seat. State your full
2 name for the record.

3 **THE WITNESS:** Eric Barnes.

4 DIRECT EXAMINATION

5 **BY MS. CAMPBELL**

6 **Q** Sergeant Barnes, where are you employed?

7 **A** Richland County Sheriff's Office.

8 **Q** What do you do there, sir?

9 **A** I am a sergeant in the investigative division.

10 **Q** Can you tell this jury as a sergeant in the
11 investigative division what your duties include?

12 **A** I am a sergeant over ten men, and our primary duty in
13 the division that I'm in, the burglary team, is we
14 handle all the burglaries that happen in the county.
15 I then investigate those and bring the suspects to
16 justice in regard to burglary.

17 **Q** I want to turn your attention back to February the
18 24th of 2007. Were you working that evening?

19 **A** I was.

20 **Q** Did you become aware during the course of that day of
21 a hostage situation over on Booth Street?

22 **A** I did. As a part of my other duties as an on-call
23 supervisor for investigations, we do a rotation about
24 every five to eight weeks. And we handle anything
25 that happens over the weekends or during the evening

1 shift. And my team on evening shift would have been
2 comprised of various different investigators from all
3 parts of investigations, and we would handle
4 emergency situations that would come up in the
5 county.

6 Q But you didn't actually go to the scene at Booth
7 Street. That wasn't part of your role that night.
8 Is that correct?

9 A No. My role that night was to stay at headquarters
10 where the databases were and to be in constant
11 contact with my investigators who were out on the
12 scene.

13 Q And did you become aware that they had taken into
14 custody a man named Randolph Ashford?

15 A I did.

16 Q And at some point during that evening did you also
17 have statements taken from two of the victims in the
18 case, I believe two deputies?

19 A Yes.

20 Q And who actually took those statements that
21 everything?

22 A I took one from Deputy White. And Investigator
23 McCray who was working with me that night took one
24 from Deputy Unger.

25 Q Did you also send one of your investigators that

1 evening to the hospital to interview D.S.

2 A I did. That was Investigator Croxton.

3 Q And why did he go interview her?

4 A When she came out of the -- when they made entry into
5 the residence and got her safely out of the
6 residence, she made a statement to the deputies and
7 to -- and overheard by the investigator that she had
8 been raped.

9 Q And is it the normal course of business to go follow
10 up on that?

11 A That is correct.

12 Q And that was done in this case?

13 A That is right.

14 Q And she was actually interviewed while still at the
15 hospital. Is that correct?

16 A Yes, ma'am.

17 Q That evening were you aware that Randolph Ashford had
18 been transported to headquarters?

19 A Yes, ma'am.

20 Q And that's where you were?

21 A That's where I was; yes, ma'am.

22 Q And what were your duties that night as far as Mr.
23 Ashford?

24 A I was to do some preliminary things. We had to do
25 some things in the course of an arrest. We have to

1 do these things; major case prints and some
2 background information to fill out the arrest reports
3 and that sort of thing. But my primary duty is to
4 try to talk to the suspect and see if he had any
5 comments or any statements to make as a result of
6 this incident.

7 Q And when did you come in contact with the Defendant
8 that night, and where?

9 A When they brought him to headquarters and brought him
10 by my cubicle.

11 Q And would that be sometime after 7 p.m. that night?

12 A That is correct.

13 Q And prior to questioning the Defendant, Randolph
14 Ashford, what did you do?

15 A I introduced myself to him. They brought him by my
16 cubicle and I introduced myself to him, let him know
17 who I was. He volunteered that he had messed up,
18 that he had -- you know. And we talked about the
19 Situation briefly. And then I verbally Mirandized
20 him at that point.

21 Q And he volunteered the fact, I think his words were,
22 that he had messed up?

23 A That is correct. Something along those lines.

24 Q And you mentioned that then before any further
25 detailed questioning you advised him of his rights?

1 **A** Correct.

2 **Q** And initially did you just verbally advise him of his
3 rights?

4 **A** I did.

5 **Q** And why do you advise someone of their rights before
6 questioning them if they're in custody?

7 **A** That's your Constitutional right. Okay. That's what
8 our country is founded on, individual rights not to
9 self-incriminate themselves. So we as law
10 enforcement give them Miranda rights and just remind
11 them that they don't have to talk and that anything
12 they say can be used against them. So I verbally
13 Mirandized him of that and we continued to carry on a
14 conversation.

15 **Q** And what rights did you actually go you through with
16 him that evening?

17 **A** I told him that he had the right to remain silent,
18 anything he said could be used against him in court.
19 He had the right to talk to a lawyer, to have him
20 with him during questioning. If he can't afford a
21 lawyer, one will be appointed for him before
22 questioning if he wishes and if he decided to answer
23 questions now without a lawyer present, he still have
24 had the right to stop answering at any time. He also
25 had the right to stop answering at any time until he

1 talked to a lawyer. And he said he understood these
2 things, and we continued to talk.

3 Q And, in fact, as you're -- how long have you been in
4 law enforcement, sir?

5 A I'm working on my 23rd year.

6 Q And in your opinion, was he wanting to tell you his
7 story?

8 A He was.

9 Q And at any point during your course of talking to him
10 that evening, did he invoke any of his rights?

11 A He did not.

12 Q And did he cooperate with you on a voluntary basis?

13 A He did.

14 Q After advising him of his rights, did you do anything
15 to pressure him or force him to talk to you?

16 A Absolutely not.

17 Q Did you threaten him or coerce him in any way?

18 A No, ma'am.

19 Q Did you deprive him of any creature comforts?

20 A No, ma'am.

21 Q Did he seem to be coherent and understand your
22 questions?

23 A Absolutely.

24 Q When he talked to you, was his voice slurred or was
25 it hard to understand?

1 **A** No.

2 **Q** And his demeanor and his appearance, did he appear to
3 be under any duress or any pain or agony?

4 **A** No.

5 **Q** What, if any, information did he talk to you about
6 that evening about what had gone on that day?

7 **A** He wanted to go back even further than I would even
8 have spoke to him about. He wanted to go back to
9 where this all began. And he stated that it all
10 began with an argument that he was having with
11 Roberta, his girlfriend, and over some money that he
12 had received and some mis --

13 **MS. SINGLETARY:** Objection, Your Honor.

14 **THE COURT:** Approach the bench.

15 (Whereupon, a bench conference is had)

16 **THE COURT:** State your objection.

17 **MS. SINGLETARY:** Your Honor, at this time the
18 defense would like to renew their pre-trial Jackson
19 v. Denno motion, Your Honor.

20 **THE COURT:** All right. Overruled.

21 **MS. CAMPBELL:** Thank you, Your Honor.

22 **THE COURT:** You may proceed.

23 **Q** He mentioned -- let me start back -- about the
24 incident started the right before?

25 **A** That is correct.

1 Q Did he say where it started?

2 A I'm sorry?

3 Q Did he say where it started?

4 A It started over on Muir Street, at his place.

5 Q And he mentioned Roberta?

6 A Correct.

7 Q And who is Roberta?

8 A Roberta is his girlfriend.

9 Q Did he mention any specifics about Roberta?

10 A He said it was his girlfriend, she was 65 years old,
11 she was at the trailer with him that night.

12 Q At that point did he give you any information about
13 himself that he wanted you to know?

14 A He stated that he was 41 years old himself. And
15 that's about it as I can recall.

16 Q Did he mention what had happened the night before
17 with Roberta?

18 A Yes, ma'am.

19 Q And what was that?

20 A That they had an argument. Well, he had brought
21 home -- they had brought home some lottery tickets.
22 And she was scratching some off. He told her that he
23 wanted to go to the store to get some more. He got
24 on his bicycle and went up to the store to get some
25 more lottery tickets. When he came back the door was

1 open and she wasn't there, nor was his money. And he
2 became upset. He at first thought she had been taken
3 and had even mentioned that he had called the City
4 Police Department and wanted to file a missing
5 persons report and was concerned about her. And the
6 city officer said, no, she's just over at a friend's.
7 This is what he's telling me. She's just over at a
8 friend's house, she'll be back in the morning, don't
9 worry about it, that sort of thing.

10 And then he tries to call her several times
11 during the night. And it escalates from there based
12 on his conversations with her. She keeps putting him
13 off. And it finally culminates in what happens the
14 next day. But this gradually escalates to the point
15 that he's trying to find her that evening.

16 Q Did he mention that after he made the missing persons
17 report where he said the officer told him that she
18 was fine, she was over at a friend's house, did he
19 mention that he noticed something was missing?

20 A He then mentioned that he had the \$4,000 missing.
21 And this was the \$4,000 that he got in a settlement,
22 an accident and that he felt like she had taken that.

23 Q Did he also tell you that he was trying to get in
24 touch with her that night?

25 A He did.

1 Q Was he able to talk to her during the course of the
2 night according to what he talked to you about?

3 A Well, he said he kept trying to call her all night.
4 And he called her around 1:35 a.m. And all he heard
5 were noises, like somebody was making love, something
6 along those lines, and he got upset over that.

7 Q And this is what he is telling you?

8 A That's what he's telling me.

9 Q And prior to this, had you ever had any contact with
10 Roberta or any of these people?

11 A No.

12 Q Did you have any information prior to what he's
13 telling you about Roberta?

14 A No. I had no idea of any of this.

15 Q Did he indicate whether or not he was able to get in
16 touch with her the next morning?

17 A He said he finally talked to her the next morning,
18 later on in the morning, and she was talking about
19 how she is a grown woman and that she didn't -- he
20 wasn't her parent and she could do what she wanted,
21 that sort of thing. Later on he called and then a
22 man answered the phone and said the man told him he'd
23 talk to him later. That made Mr. Randolph (sic) a
24 little more mad over the situation. In fact, when he
25 talked to the, man Randolph told me that that's when

1 he snapped. And he admitted to taking his gun and
2 walking up to the store and stealing the first car,
3 is what he told me at that point.

4 Then he only remembered it being a big car.
5 When we talked about describe this car, that sort of
6 thing, he said he only remembered it being a big car
7 and he went straight to Cushman Road. And then he
8 talked about losing control of the vehicle on Cushman
9 Road around a curve and he ran into a pole or a tree
10 or something. And then he stood in the middle of the
11 road and stopped a taxi. And he felt like the taxi
12 driver saw his gun at this time. Okay. He said he
13 did not pull it out on the first victims but the taxi
14 driver may have seen it in his pocket when he got
15 him, or on that time.

16 And then around that time is when Investigator
17 Thomas from the City showed up and could speak. And
18 that was good for me because Investigator Thomas knew
19 a little bit more about the car situations. And so
20 Investigator Thomas was able to sit in on the
21 interview at that point.

22 Q And is this Investigator Thomas?

23 A That is.

24 Q At that point did you continue -- did he continue
25 giving you information about the course of events

1 after he got the taxi cab?

2 **A** He did. Excuse me for just one second. Okay. We
3 continued on in our verbal statement. Okay. We
4 haven't -- we're feeling him out, trying to see what
5 he's going to say, see how that matches up to where
6 we are in the investigation. And he is continuing to
7 talk. Okay. He is very open with us in this regard.

8 We continue to go through Ashford's approach to
9 the trailer. He said he ordered the children out.
10 He admitted that he had found some of the children in
11 one of the bedrooms. And then he ultimately admitted
12 to actually holding the gun at the time and tapping
13 D.S. on the shoulder or on the arm and asking
14 her where Roberta was. So he's still in a search for
15 Roberta.

16 He later stated that he expected to find Roberta
17 and a man there and he doesn't really know what would
18 have happened had they been there. Ashford kept
19 saying that he was acting out of his right mind.
20 Okay. Which goes along with what he said about
21 snapping at that point. And I understood it to mean
22 that if Roberta and --

23 **MS. SINGLETARY:** Objection, Your Honor.
24 Speculation.

25 **THE COURT:** I understand. Sustained. Just what

1 he saw and what he heard.

2 **A** Sure. Yes, ma'am. Yes, sir.

3 **Q** Did he state whether or not he knew that the police
4 were coming?

5 **A** He did. He stated that he knew they were coming. I
6 think it kind of surprised him when they came so
7 quickly, but he stated he knew they were coming and
8 they were close. And then he saw the police car and
9 he knew he wasn't going to be able to go anywhere
10 else at that point.

11 He said he talked about pushing a freezer
12 against the back door and he talked about pushing the
13 couch against the front door, barricading himself in
14 the trailer. I asked him at that point why didn't he
15 let D.S. go, and he said at first she couldn't
16 move the chair and he wasn't about to move it. Then
17 he later said he needed her because time was running
18 out and he needed help from her to get Roberta or to
19 get in touch with Roberta.

20 I mentioned to him that I had heard that he was
21 wanting at some point to trade D.S. for
22 Roberta, and he remembered conversations along those
23 lines. I asked him what would have happened had he
24 gotten Roberta, and he said he just wanted her to
25 look at him in the face and tell him what she did.

1 And he felt sure at that point based on his
2 relationship with Roberta that had that happened that
3 she would have cried and apologized to him for what
4 she had done. And he talked about his love for
5 Roberta despite everything and he said he didn't mean
6 to hurt anyone.

7 And then Investigator Croxton called me from the
8 hospital, talked about what the victim had been
9 saying down at the hospital. He mentioned the rape
10 situation. We talked a little bit more about that.
11 And we talked a little bit more about what happened,
12 and then I asked Mr. Randolph (sic) why would she be
13 at the hospital, hoping to elicit something about the
14 rape situation.

15 And he said that -- and I asked him if he had
16 been intimate with her. Had he had sex? And he said
17 that the only reason -- he denied it, and the only
18 reason he thinks that she would have been hurt was
19 from the tear gas canisters that would have come
20 through the window. So he denied having sex with her
21 at that point.

22 Later on Investigator Croxton was able to
23 forward me the statement that the victim had given to
24 him. And I read over it briefly. And then I
25 approached Mr. Randolph again. And I took it from

1 another approach. I told him that technology today
2 gives us the ability to look into situations like
3 this and videotape and archive those videotapes and
4 see what's actually happening inside the trailers,
5 something along those lines. Those aren't the exact
6 words, but that's somewhere along the lines.

7 And I asked him if there would be any reason why
8 D.S. would have been naked inside the trailer.
9 At that point he said that they had had sex and that
10 it was a consensual situation. And he became graphic
11 in some respects from the consensual standpoint. He
12 also said that he was unable to perform all the way
13 in that situation.

14 And so after a time, after we kind of felt like
15 he had given us all the story to the point of the
16 arrest, we then took that and memorialized it in a
17 formal statement and then went through that statement
18 and made sure that what he was wanting to tell us had
19 actually come through on the statement itself.

20 Q Let me back up for a minute. Also that evening you
21 mentioned that you orally advised him of his rights.
22 Did you also advise him of his rights and have him
23 sign off acknowledging his rights?

24 A I did.

25 Q I want to show you what's been marked as State's

1 Exhibit No. 1 for identification at this point. Do
2 you recognize that?

3 A I do. This is our formal advice of rights where we
4 document that we've actually, you know, advised him.
5 I had advised him verbally. This is just a formal
6 piece of paperwork where we go back in and we advise
7 them again and then I go through and remind him of
8 his rights. I check off the blocks, and then I ask
9 him if he continues to waive his rights, wanted to
10 talk to us. I check off that box. And then he
11 signed it advising that he understood this and he
12 still wished to talk.

13 Q And even though it's enough to orally advise him, you
14 took an extra step and actually went through it with
15 him in a written form?

16 A I did.

17 Q So he could acknowledge it. The writing at the top,
18 whose writing is that?

19 A That is mine.

20 Q And what's the name written at the top?

21 A Randall.

22 Q And was that a mistake on your part?

23 A That was a mistake on my part. It's actually
24 Randolph.

25 Q And, in fact, he signed it Randolph. Is that

1 correct?

2 **A** That is correct.

3 **Q** And what time did you actually read him these rights
4 in a more formal setting?

5 **A** 19:50 hours would be the military time. It was 7:50,
6 ten to eight. So that's what time I gave him his
7 formal advice of rights.

8 **MS. CAMPBELL:** Your Honor, at this time we'd
9 offer State's Exhibit No. 1 into evidence.

10 **MS. SINGLETARY:** Renew the prior objection, Your
11 Honor.

12 **THE COURT:** Over the Defendant's objection, so
13 admitted.

14 (WHEREUPON, State's Exhibit No. 1 is admitted
15 into evidence.)

16 **Q** Just briefly for the jury go through the rights that
17 you actually explained to him on a more formal basis
18 that night?

19 **A** Okay. "Before we ask you any questions, you must
20 understand your rights. You have the right to remain
21 silent. Anything you say can be used against you in
22 court. You have the right to talk to a lawyer for
23 advice before we ask you any questions and to have a
24 lawyer with you during any questioning. If you
25 cannot afford a lawyer, one will be appointed for you

1 before any questioning if you wish. If you decide to
2 answer questions now without a lawyer present, you
3 still have the right to stop answering at any time.
4 You also have the right to stop answering at any time
5 until you talk to a lawyer."

6 And went through that and then we went to the
7 waiver of the rights. "I have read this statement of
8 my rights. I understand what my rights are." And
9 I'm reading this out to him as we're going through
10 it. It's not like he's reading it and then signing
11 it. We're reading it together. We're going through
12 it together.

13 "I have read this statement of my rights and
14 understand what my rights are. I am willing to talk
15 and answer questions. I understand and know what I
16 am doing. No promises have been made to me, and no
17 pressure or coercion of any kind has been used
18 against me." At that point he signs both lines.

19 Q And he signs acknowledging that he wants to talk to
20 you?

21 A Correct.

22 Q So he was advised of his rights twice that evening?

23 A At that point; yes, ma'am.

24 Q You mentioned that you went through all this verbally
25 related to what he initially told you. And initially

1 he denied any type of sexual contact with the victim?

2 A Correct.

3 Q And initially he said if she was in the hospital she
4 must have been hurt by tear gas?

5 A Correct.

6 Q And then when you asked him about possible
7 surveillance or people seeing in, that's when he
8 changed his story?

9 A Correct.

10 Q Specifically, you asked him why surveillance would
11 have shown that she was naked inside the house?

12 A Correct.

13 Q And that's when he changed his story?

14 A That's when he admitted that he had -- they did have
15 sex. And he talked about his performance and talked
16 about some of the details of that particular
17 situation.

18 Q Which were later put into the written statement?

19 A That is right.

20 Q I'm going to show you what has been marked as State's
21 Exhibit No. 2. Do you recognize this?

22 A Yes. This is the formal statement that we took in my
23 cubicle that day. As he's reading it, as he's going
24 through what happened, we're going back through it at
25 this point and we're putting it in -- I'm typing it

1 on the computer, we're writing it in. And then as we
2 review it, as we go through it, we're making changes
3 as we go. And this is the final copy, the final
4 version.

5 Q And you're actually doing the types and he is giving
6 you the information?

7 A That is correct.

8 Q And you went through everything to make sure that
9 this was his final version?

10 A That's correct.

11 Q And after he went through it, did you go back through
12 it with him to make sure he understood what you were
13 putting in it?

14 A I did.

15 Q And, in fact, did he acknowledge that was his
16 statement in some way?

17 A He did.

18 Q And how did he do that?

19 A He did with it his signature down here. At the
20 bottom it says: "I have made the foregoing statement
21 freely and voluntarily, without fear, threat, promise
22 or hope of reward of any kind." And he was signing
23 the authenticity of this statement as being his.

24 Q And I note that there is a place down here where
25 there's a signature for a notary. Is that your

1 signature?

2 **A** That is my signature.

3 **Q** And who else witnessed this statement?

4 **A** That is Investigator Thomas from the City.

5 **Q** At any time that evening did he tell you he didn't
6 want to talk any more?

7 **A** No.

8 **Q** And, in fact, did he want to give you his version of
9 what happened?

10 **A** He seemed to; yes, ma'am.

11 **MS. CAMPBELL:** Your Honor, at this time we'd
12 offer State's Exhibit No. 2.

13 **MS. SINGLETARY:** The prior objection.

14 **THE COURT:** The same objection?

15 **MS. SINGLETARY:** Yes, Your Honor.

16 **THE COURT:** Over defense objection.

17 (WHEREUPON, State's Exhibit No. 2 is admitted
18 into evidence.)

19 **Q** Sergeant, if you would, just publish the statement
20 that he signed off on as his version of the events
21 that night.

22 **A** Okay. The statement is set up in a question/answer
23 format. Every investigator has a different way of
24 doing things. I like to start out my interrogation
25 with just a, tell me what happened that day. And

1 you'll see a Q. That would be the question that I
2 would ask him. "Tell me about what happened that
3 day." And his answer, the A, would come after that.

4 "It started last night about 9:15 p.m. Roberta
5 and I were sitting around the house. We had just
6 watched *The Smackdown*. Roberta was scratching off
7 the lottery tickets. I told her that I was going to
8 run up to the store and get some more before the
9 store closed. I got on my bicycle and went up to the
10 store and came right back. When I got back the door
11 was cracked and there was no sign of Roberta. I got
12 scared and thought she had been kidnapped. I called
13 911 and had a car come out to take a missing person
14 report. The officer came over and said that Roberta
15 was all right and that she had gone over to her
16 cousin's house. He also said to give him a call if
17 she did not come back in the morning.

18 "At some point after the officer left I realized
19 she had taken my \$4,000. She actually called me.
20 She actually called me at 1:35 a.m. and all I heard
21 was what sounded like sex noises. I called her phone
22 all night long. (803) is my home phone
23 number. Her cell number is (803) . I didn't
24 go to sleep all night. At some point she called me
25 this morning and talked a bunch of nonsense about I

1 wasn't her mama or daddy and she was a grown woman.
2 It wasn't really a conversation and it seemed like
3 she was trying to agitate me. She said she just
4 wanted me to go.

5 "I asked her about the \$4,000 but she wouldn't
6 talk about it and she hung up the phone. I hoped she
7 would call back but she didn't. I called the
8 cellphone again and he answered and said he would
9 talk to me in a minute. That pushed me over the
10 edge. And she called back and I tried to ask her
11 about that and she wouldn't talk to me.

12 "Then I walked up to the store and I had my gun
13 in my pocket. It was the Citgo on North Main. I saw
14 the big, middle-aged lady in a big car. There was a
15 man on the outside of it. He was a pretty big man.
16 I went up to the car and yelled, 'Get out of the
17 car.' He looked at me. She got out of the car and I
18 jumped in. I never pulled my gun on them. I drove
19 straight to Cushman Road because I figured she was
20 over at her cousin's house, D.S. D.S.

21 "The car got loose on the curve by the church on
22 Cushman Road and hit a telephone pole or a tree or
23 something. I got out and briefly went into the
24 church and told somebody to give me the keys to their
25 cars. Nobody gave me the keys, so I went back

1 outside.

2 "I stopped a Blue Ribbon cab in the middle of
3 the road. I stood in front of it and I told the
4 driver to get out. I believe he may have seen my gun
5 in my pocket, but I never took it out. I got in and
6 drove straight to D.S. trailer.

7 "I pulled up in the yard. I pulled out my gun
8 but I did not point it at anyone. I walked up in the
9 house and sent the children out of the house. I went
10 through the housing looking for Roberta. I actually
11 expected to find the man there. I don't know what
12 would have happened if I had seen that man because I
13 was not in my right mind. I asked D.S. to call
14 Roberta. I knew the police were coming, and then I
15 saw one police officer and then I knew I couldn't
16 leave."

17 "Q Why would you not let D.S. leave?

18 "A She was scared. She couldn't move the chair
19 that I had out up against the door and I wasn't
20 thinking about moving the chair.

21 "Q Did you shoot at the officers when they were
22 coming around the house?

23 "A No, sir. I shot in the house and I let them
24 know that I did have a gun. I shot into a black
25 chair twice. I had four bullets in the gun at first

1 and three more in my pocket. After I shot the first
2 time I loaded the gun with the rest of the bullets.

3 "Q Were there any misfires?

4 "A Yes. I tried to wipe off the bullets a little,
5 and actually some of the bullets may still be in the
6 house.

7 "Q Did you shoot outside the house at all?

8 "A No. I wasn't mad at the police. I was mad at
9 her.

10 "Q When you went into the house, who did you first
11 see?

12 "A D.S. and the children. I told the
13 children to get out. Then I tapped D.S. on the
14 arms and asked her where Roberta was at. I followed
15 her into the bedrooms and I saw the other kids. I
16 told them to get out. I knew the police were coming
17 and I didn't want them to get me before I talked to
18 Roberta. I pushed the freezer up to the back door
19 and the chair up against the front. I wasn't trying
20 to hold her hostage but I was trying to get her to
21 help me talk to Roberta. D.S. even said that
22 what Roberta did to me was wrong.

23 "Q Well, can you explain why D.S. may have
24 been naked in the house during this time?

25 "A She and I had relations, sex, on the living

1 room floor. She was saying that Roberta had
2 commented how big I was and she always wanted to
3 know. So we tried. But I couldn't get it hard
4 enough to do it. She tried to help me by trying to
5 pack it in, but it didn't happen. It only lasted
6 about a second because I couldn't get it up. She
7 tried several positions but I couldn't because my
8 mind wasn't there.

9 "Q Where was the gun while you two were on the
10 floor?

11 "A It was laying on the floor by us.

12 "Q How did all this end?

13 "A I gave up.

14 "Q Did you hit D.S. at all?

15 A No.

16 "Q Do you remember taking the first vehicle off of
17 Oakland Avenue before you took the big car that you
18 actually talked about earlier?

19 "A I don't remember" was his answer.

20 Q And was that the extent, or that was the information
21 he finally gave you that was reduced to writing. Is
22 that correct?

23 A That's right. I've got one more.

24 Q I'm sorry.

25 "Q Did you try to take a vehicle out of the church

1 parking lot off of Cushman Road or grabbing anyone
2 and forcing them outside the church?

3 "A No. I don't remember doing any of that."

4 So, yes. That was the statement that he gave
5 me.

6 Q And during this period of time as he is relating this
7 information to you, did he -- was he coherent?

8 A He was.

9 Q Did he seem to be in any kind of pain or distress or
10 have any problems?

11 A No. He was actually working -- like I said, he even
12 went back further than I expected to go back. And he
13 was putting the timeline together in his mind. And
14 this is the coherent statement that came out of that
15 conversation. And I had no indication that it was
16 anything less than a coherent, well thought out
17 statement from him.

18 Q After taking the statement, the verbal statement and
19 subsequently the written statement -- well, let me
20 back up. With the written statement, he had the
21 opportunity to go through it?

22 A He did.

23 Q And, in fact, did he sign off that that was his
24 version of the events?

25 A He did. And he was given a copy of that statement as

1 well.

2 Q After that did you also ask him to consent to give
3 you a buccal swab?

4 A I did.

5 Q And why did you want to get a buccal swab for DNA?

6 A Well, I knew that a DNA kit, a rape protocol kit was
7 being done down at the hospital, which is the normal
8 way we handle rape victims. We send them down to the
9 hospital. And the SANE nurse would work with the
10 victims and take the evidence that we needed to
11 process in a way that was conducive for the victim.
12 So I knew that there was evidence coming from the
13 hospital and that we would probably need some DNA to
14 compare that to. And that's why I asked him for the
15 DNA buccal swab.

16 Q In case there was any evidence?

17 A To put it in evidence in case there was any evidence
18 to compare it to.

19 Q That night -- he was already under arrest when you
20 made contact with him?

21 A That is correct.

22 Q Did you actually make the formal charges?

23 A I did.

24 Q And what all was charged with in your jurisdiction
25 versus Investigator Thomas's jurisdiction?

1 **A** I charged him with burglary first, which is the
2 unlawful entry into the house with a weapon. The
3 kidnapping, which he held Ms. D.S. against her
4 will. I charged him with two counts of assault with
5 intent to kill for the deputies, shooting at the
6 deputies. And we charged him with the rape
7 situation.

8 **Q** Criminal sexual conduct?

9 **A** Yes, ma'am. Criminal sexual assault at that point.

10 **Q** That next day did you make contact with Investigator
11 Reed-Enzor about looking for a bullet hole in the
12 house and I believe near a van?

13 **A** I did. It was my understanding that because of the
14 tear gas, we were holding that trailer and we were
15 going to need to process that trailer the best we
16 could. I knew Reed-Enzor was going back out there to
17 do that. I talked to her and let her know a little
18 bit about the statements that were made, hoping that
19 she would look at the crime scene and compare those
20 statements to what she actually found at the crime
21 scene, hoping to find some corroboration there in
22 some way.

23 **Q** Whenever a person is placed under arrest, do you get
24 certain personal information about them?

25 **A** I do.

1 Q And was he able to give you information about his
2 age?

3 A He was.

4 Q And how old was the Defendant --

5 A He was --

6 Q -- at that time?

7 A -- 41 at that time.

8 Q And were you also able to get information from him
9 about his height and weight?

10 A I was.

11 Q And what information did he give you?

12 A He was five-ten, 165.

13 Q Did he also indicate what his address was?

14 A Street.

15 Q I show you two diagrams, State's Exhibits 91 and 92.

16 Are you familiar with these?

17 A I'm familiar with the maps; yes, ma'am.

18 Q The maps?

19 A Yes, ma'am.

20 Q Do those show generally the Muir Street address?

21 A That is correct.

22 MS. CAMPBELL: Your Honor, at this time we'd
23 offer them into evidence.

24 MS. SINGLETARY: Without objection, Your Honor.

25 (Exhibits 91 and 92 were previously received in

1 evidence)

2 Q Where is Muir Street on that?

3 A Muir Street is right here running between Colonial
4 Drive and Koon Road. This is North Main Street right
5 here.

6 Q That was going to be my next question. Does this
7 actually show where the Wash World is? Do you see
8 the corner of Prescott and North Main?

9 A Prescott and North Main is right here. The wash
10 World is -- it's in the city, so I'm not quite sure
11 where exactly the Wash World is, but it's --

12 Q On that corner?

13 A This is the corner right here.

14 Q And finally, the address on Muir Street, this is a
15 closeup of Street?

16 A Right.

17 Q What are these? It looks like buildings.

18 A These are trailers in this particular area right
19 here.

20 Q And the address he gave you is one of those trailers?

21 A Yes, ma'am.

22 Q Did he also indicate who else lived there?

23 A Roberta.

24 Q That evening did you also have a photograph taken of
25 the Defendant and how he appeared when you were

1 talking to him?

2 A I did.

3 Q And I want to show you State's Exhibit No. 113. Is
4 that the photograph that was taken that evening?

5 A That is how I remember it, yes.

6 MS. CAMPBELL: Your Honor, at this time we'd
7 offer State's Exhibit 113.

8 MR. O'NEIL: Objection, Your Honor. May we
9 approach?

10 THE COURT: Yes, sir.

11 (Whereupon, a bench conference is had)

12 Q That night when you made contact with the Defendant,
13 do you remember what he was wearing when you made
14 contact with him?

15 A I remember him wearing a shirt. I don't remember the
16 specific shirt. That would be -- you know, he's got
17 a shirt on. That would be similar to what I remember
18 seeing. As far as a coat, hat, glasses, I don't
19 remember anything like that. I do remember him
20 wearing a shirt, and that was it.

21 Q And State's Exhibit No. 113, does that reflect the
22 shirt you're referring to?

23 A Yeah. That's how I recall it.

24 Q And as far as his appearance and demeanor, did he
25 appear to be crying or having mucous coming from his

1 nose?

2 **A** I don't recall any of that. And I'm not saying that
3 there wasn't any of that. I just don't recall
4 anything that would tell me that I needed to look for
5 more medical help or something like that. He was
6 very coherent, very willing to talk and seemed within
7 his capabilities at that point.

8 **Q** And this photograph, that would have been taken --

9 **A** A couple hours later.

10 **Q** -- after you talked to him?

11 **A** After I talked to him.

12 **Q** So this is how he appeared that night?

13 **A** Yes, ma'am.

14 **MS. CAMPBELL:** Your Honor, at this time we offer
15 State's Exhibit No. 113.

16 **THE COURT:** The objection is overruled.

17 (WHEREUPON, State's Exhibit No. 113 is admitted
18 into evidence.)

19 **Q** At any time in the course of time when you were
20 talking to the Defendant, did he tell you he didn't
21 want to talk to you any more?

22 **A** No, ma'am.

23 **Q** And at any time did he invoke of any of his rights?

24 **A** No, ma'am.

25 **Q** In fact, did he sign off on that last version as the

1 final version of his story?

2 **A** Yes, ma'am.

3 **Q** The person that you interviewed that night -- let me
4 ask you this, too. Where did the interview take
5 place?

6 **A** In my cubicle within CID which is within the
7 investigative division at the Sheriff's Office which
8 is on the second floor. My cubicle is like any
9 cubicle. It doesn't have a wall that goes all the
10 way up. It fairly open to everyone else in there.

11 **Q** And present for the parts of that interview and the
12 final version was Investigator Thomas from the City?

13 **A** That is correct.

14 **Q** Thank you, sir.

15 **THE COURT:** Is that it?

16 **MS. CAMPBELL:** Yes, sir.

17 **THE COURT:** Cross examination.

18 **MS. SINGLETARY:** Thank you, Your Honor. If it
19 pleases the Court.

20 CROSS EXAMINATION

21 **BY MS. SINGLETARY**

22 **Q** Good morning, Investigator Barnes.

23 **A** Good morning.

24 **Q** Now, you stated that the interrogation of Mr. Ashford
25 occurred in your cubicle?

1 **A** I wouldn't say it was an interrogation. But, yes,
2 the interview happened in my cubicle at the Sheriff's
3 Office.

4 **Q** Well, the reason why I said interrogation was because
5 you said before you read the statement, you said
6 typically when I interrogate someone I start off by
7 saying, "Tell me what happened." So that's why I
8 said it.

9 **A** Okay. I understand.

10 **Q** Okay. And you stated that initially it was just you
11 and Mr. Ashford, correct?

12 **A** Initially. Yes, ma'am.

13 **Q** And at that time Mr. Ashford gave you some
14 information about himself, correct?

15 **A** Yes, ma'am.

16 **Q** Like his age? Now, were you aware of the fact that
17 Mr. Ashford only made it to the eighth grade?

18 **A** No, ma'am.

19 **Q** Were you aware of the fact that Mr. Ashford had
20 previously suffered from some --

21 **MS. CAMPBELL:** Objection, Your Honor. May we
22 approach?

23 **THE COURT:** Yes, ma'am.

24 (Whereupon, a bench conference is had)

25 **THE COURT:** You withdraw the objection?

1 **MS. CAMPBELL:** Yes, sir. I just needed to
2 clarify a point. Thank you.

3 **Q** Were you aware of the fact that Mr. Ashford actually
4 suffers from some mental health issues at the time
5 you interviewed him?

6 **A** I wasn't aware of any mental health issues that Mr.
7 Ashford was complaining of or, you know, had in his
8 experience.

9 **Q** But you will agree that at least two times he told
10 you that he was acting out of his right mind?

11 **A** When he was talking about that specific incident,
12 when he was talking about the end of that phone call
13 or during that phone call and then later on, yes, he
14 did talk about that. And I -- you know, that was not
15 unusual in my experience.

16 **Q** And you notated that in your actual report that you
17 wrote?

18 **A** Yeah. I wasn't trying to hide anything.

19 **Q** Yeah. And actually, to come back to that point of
20 whether or not you were trying to hide anything,
21 would you agree with me -- and I believe you have a
22 copy of your report up there and a copy of Mr.
23 Ashford's statement?

24 **A** Yes, ma'am.

25 **Q** Would you agree with me that your report, if you

1 would look at your report and then look at Mr.
2 Ashford's statement, there are some differences in
3 what you said in your report and what was actually in
4 Mr. Ashford's statement?

5 **A** Of course.

6 **Q** And Mr. Ashford isn't actually writing this report,
7 is he?

8 **A** No, ma'am. He is not writing it.

9 **Q** You're the one who's writing it?

10 **A** Right.

11 **Q** And you're actually paraphrasing what Mr. Ashford
12 told you?

13 **A** That is correct.

14 **Q** Because you didn't have a tape recorder?

15 **A** Talking about my follow-up, yes. I'm paraphrasing,
16 yes.

17 **Q** You didn't have a tape recorder in there with you,
18 did you?

19 **A** No, ma'am.

20 **Q** That's not your policy?

21 **A** That's not my policy or our policy at the Sheriff's
22 Office.

23 **Q** The Sheriff's Office policy. Now, was Mr. Ashford
24 handcuffed at the time?

25 **A** You know, I don't recall him being handcuffed.

1 Because our conversation was such a give and take, I
2 recall him coming into my cubicle and we hitting it
3 off. Whether it be our age or whatever, we hit it
4 off. And I don't recall him being handcuffed. And,
5 in fact, he would not have been able to be handcuffed
6 when he signed a report, signed a statement.

7 Q You said you guys hit it off. So basically Mr.
8 Ashford, he wanted to get his side of the story out?

9 A I think so.

10 Q He wanted to tell you?

11 A I think so.

12 Q Because you said he was cooperative with you?

13 A Yes, ma'am.

14 Q And again, you didn't go to the scene?

15 A No.

16 Q You didn't go to Booth Street. While the incident
17 was occurring on Booth Street, you were actually back
18 at headquarters?

19 A Yes, ma'am.

20 Q And you were actually trying to come up or write the
21 warrant worksheets and get the warrants squared away?

22 A Right. We were interviewing Deputy Unger and Deputy
23 White and trying to piece together exactly which
24 jurisdiction had what, how this thing worked out and
25 what the possible charges, if this ended in a good

1 way, what the possible charges would be.

2 Q And you also testified previously that Mr. Ashford
3 volunteered to you that he had messed up?

4 A Yes, ma'am.

5 Q That this all starts because of Roberta the night
6 before?

7 A Yes, ma'am.

8 Q And I want to go back to some of the last questions
9 that Ms. Campbell asked you. She asked you about Mr.
10 Ashford's appearance. Because you weren't at the
11 scene, there is no way for you to have personal
12 knowledge as to whether or not Mr. Ashford was
13 treated by EMS?

14 A Yes, ma'am. I don't know that. I know I can speak
15 to our protocol. I can speak to my experience in
16 investigations when they're turned over to me those
17 types of situations where they're treated by EMS.
18 All those had already occurred. And if there were
19 complaints in my presence, then I would be obligated
20 to calls EMS. But there were no complaints.

21 Q And you stated that when you talked to Mr. Ashford,
22 he admitted walking to a Citgo, to a store?

23 A He talked about taking his bicycle up there to get
24 lottery tickets. Let's see. And then he went up to
25 the store. It may help if you point me to the right

1 place on my report.

2 Q Okay. I going to tell you I'm not talking about the
3 lottery tick incident the day before. I'm actually
4 talking about when you said that Mr. Ashford admitted
5 to walking to the store and taking a car.

6 A That's right. That's right. Right after she
7 wouldn't talk to him, he decided to walk to the
8 store. He had the gun in his pocket at the Citgo on
9 North Main.

10 Q And he stated that he couldn't describe the car that
11 he said he took but he knew it was a big car?

12 A That is correct.

13 Q Okay. And he told you that there was a woman that
14 was inside of the car?

15 A Yes, ma'am.

16 Q And there was a man that was on the outside of the
17 car?

18 A Yes, ma'am.

19 Q But Mr. Ashford didn't remember anything about taking
20 Barry Taylor's car, did he?

21 A That's the car that was supposedly taken right before
22 then?

23 Q Yes.

24 A You know, if that's -- Investigator Thomas can
25 probably talk a little bit better about that. We

1 were talking to him about that, tried to shore that
2 up. You know, we asked him later on did he remember
3 taking the first vehicle off of Glenn Avenue and he
4 said he didn't remember. And when he said that, it
5 was not a denial, it wasn't an admission; he just
6 said he couldn't remember.

7 Q Yeah. And that's not exactly what I'm asking you.
8 What I was asking was the response that he gave. And
9 the response was he didn't remember?

10 A Right.

11 Q So when he first tells you anything about taking or
12 being at the Wash World or the location where a car
13 was taken, the first thing he remembers is taking
14 that car from that man and that woman?

15 A Right.

16 Q And then at that point he says he goes to Cushman
17 Road or Cushman Street, according to the statement.
18 Correct?

19 A That's correct.

20 Q And at that point you testified that he said that the
21 actual car lost control?

22 A That's what he said. Yes, ma'am.

23 Q And then at that point he remembers being at that
24 location and trying to get some keys, trying to get
25 someone to help him to get some keys?

- 1 A Well, I'm not sure.
- 2 Q According to the statement?
- 3 A I'm not sure that the helping part is in there. But
- 4 let me go back here. "I got out and briefly went
- 5 into the church and told somebody to give me the keys
- 6 to their cars. Nobody gave me the keys, so I went
- 7 back outside." So it wasn't he was looking for help.
- 8 He was telling them to give them the keys.
- 9 Q But he was looking for keys?
- 10 A Oh, yeah. He was looking for keys.
- 11 Q And the next thing he remembers is going in the
- 12 middle of the road and stopping the taxi cab?
- 13 A Correct.
- 14 Q And then getting in that taxi cab and according to
- 15 the statement going to D.S. house?
- 16 A That was what he told me.
- 17 Q And then, according to the statement, he told you
- 18 that he didn't want to hurt anyone?
- 19 A I believe that's right, but I don't see it in the
- 20 statement. Hold on for just one second.
- 21 Q Okay.
- 22 A I don't see that in here now. Perhaps you can help
- 23 me.
- 24 Q Okay. It's actually in your investigative report.
- 25 A Okay. This is the one prior to the formal statement?

1 Q Uh-huh (affirmative). But you would just agree that
2 he told you that he didn't want to hurt anyone.
3 Because you testified to that during direct, that
4 that's what Mr. Ashford told you?

5 A And I'll be more than happy to say that if you can
6 point me to the place in the report where I had made
7 notation of that.

8 Q Okay. Beg the Court's indulgence, Your Honor.

9 A He said that he recalled that he was still in love
10 with Roberta and was still in love with her despite
11 all of what happened. He said he didn't mean to hurt
12 anyone.

13 Q And when he told you that, according to the
14 statement, he goes into the trailer, the first people
15 he says he sees is D.S. and the children?

16 A Correct.

17 Q And at that point he immediately, according to his
18 statement, you orders the children to get out?

19 A Right.

20 Q And then after that he goes through the actual
21 trailer and he sees that there are some children in
22 the back bedroom?

23 A Right. That's what he explained.

24 Q And as soon as he sees those kids, he orders them out
25 also?

1 A Sure.

2 Q Okay. And he actually told you that when he actually
3 came inside this trailer that he tapped D.S. on
4 the shoulder asking her did she know where Roberta
5 was, correct?

6 A That is my understanding. Yes, ma'am.

7 Q And in his statement you actually asked Mr. Ashford:
8 "Did you hit D.S. at all?" And his response
9 was, "No"?

10 A Correct.

11 Q And let's talk about the charge of CSC. And Mr.
12 Ashford -- and you read this out. Mr. Ashford at no
13 time in his statement says that he has a gun held up
14 against Ms. D.S. head, does he?

15 A No, he doesn't say that. He says he has the gun
16 laying by her head.

17 Q He actually says he has it laying by her head?

18 A I'm sorry. I may have misspoke on that. "It was
19 laying on the floor by us."

20 Q Okay. And he says that it only lasted about a
21 second?

22 A Yes.

23 Q He also says that we tried but I couldn't get hard
24 enough to do it?

25 A Right.

1 Q He also says that I couldn't get it up?

2 A Right.

3 Q And then the next statement he makes is that she
4 tried several positions but I couldn't because my
5 mind wasn't there?

6 A Correct. That's what he says.

7 Q Yeah. That's what he says. And after you actually
8 got that statement and you typed it up and Mr.
9 Ashford signed it, you asked him for his DNA?

10 A Correct.

11 Q He freely gave his DNA?

12 A He did.

13 Q No hesitation?

14 A No hesitation.

15 MS. SINGLETARY: Beg the Court's indulgence,
16 Your Honor.

17 THE COURT: Yes, ma'am.

18 MS. SINGLETARY: Your Honor, I have no further
19 questions.

20 THE COURT: Redirect.

21 MS. CAMPBELL: Yes, sir. Just a few questions.

22 REDIRECT EXAMINATION

23 BY MS. CAMPBELL

24 Q Let me back up. She asked you about what he told you
25 about the rape. When you first asked him about

1 D.S. being in the hospital and he denied --

2 A Correct.

3 Q -- having any type of sexual relation with her?

4 A Correct.

5 Q And, in fact, what did he say about the only reason
6 she'd be in the hospital?

7 A Because of the tear gas canisters that came through
8 the window.

9 Q And it wasn't until later when you gave him
10 additional information that he changed that story?

11 A That is correct.

12 Q So when initially confronted about a possible rape,
13 what did he say?

14 A He denied it.

15 Q And he only tried to explain her being naked when you
16 confronted him with that fact?

17 A Correct.

18 Q And, in fact, even in his statement, even though he
19 says -- he did say he had sex with her for at least a
20 second?

21 A Correct.

22 Q She asked you about how his written statement is
23 different from some of the information he gave you
24 initially?

25 A Yes.

1 Q Is that unusual?

2 A No.

3 Q Why?

4 A When we worked through the statement with him, a lot
5 of times the suspect is trying to get things straight
6 in his mind. And a lot of times he even wants to
7 turn the statement to his benefit. That's not
8 unusual. We all have a tendency to do that. My kid
9 has a tendency to do that. But those statements
10 change. And when we get into the formal statement,
11 we want to make sure that's exactly what they want to
12 say.

13 Q What he wants reduced to writing?

14 A Right.

15 Q And, in fact, you mentioned on your direct
16 examination that as you went through it some changes
17 were made --

18 A Right.

19 Q -- during the course of doing it?

20 A That is correct.

21 Q So that was his final version of the events?

22 A That's correct.

23 Q After having been confronted with whatever evidence
24 you told him about, such as people maybe seeing her
25 naked?

1 A That is correct.

2 Q But initially he denied any kind of sex acts with
3 her?

4 A That's correct.

5 Q And, in fact, as far as, what does he say about how
6 she was in the trailer, why he didn't let her go?

7 A Well, at one time he says that she was scared, she
8 couldn't move the chair and he wasn't about to do it.
9 Another time he says that he needed her to get to
10 Roberta, to make contact with Roberta.

11 Q At any point when you were talking to him that night,
12 did you have any concern over his ability to
13 understand you?

14 A No.

15 Q Did you have any concern over his mental state?

16 A No.

17 Q Did he indicate to you he had any mental issues that
18 needed to be addressed?

19 A No.

20 Q Did he indicate to you that he was too intoxicated or
21 any other way to talk to you?

22 A No, ma'am.

23 Q In your observation, in your 23 years of experience,
24 did he appear to be coherent and able to talk to you?

25 A Yes, ma'am.

1 Q And, in fact, didn't he want to get his version out
2 there?

3 A He did.

4 Q To explain what had happened that day?

5 A Yes, ma'am.

6 Q And who does he blame for what happened that day?

7 MS. SINGLETARY: Objection, Your Honor.

8 THE COURT: If there's a factual basis.

9 A Roberta.

10 THE COURT: If that's what he told the officer,
11 then it's admissible. Overruled.

12 Q The person that you interviewed, do you see him here
13 in the courtroom?

14 A I do.

15 Q Could you point him out for the jury?

16 A He is sitting between defense counsel in a black
17 shirt and a black and white tie.

18 Q Thank you, sir. I don't have any other questions.

19 THE COURT: The record will reflect the witness
20 identified the Defendant. Anything further?

21 MS. CAMPBELL: No, sir.

22 MS. SINGLETARY: Briefly.

23 MS. CAMPBELL: Oh, I'm sorry.

24 THE COURT: Yes, ma'am. Go ahead.

25 MS. SINGLETARY: Briefly, Your Honor. May it

1 please the Court.

2 **THE COURT:** Just one minute.

3 **FOREPERSON:** That will work.

4 **THE COURT:** Go ahead.

5 **MS. SINGLETARY:** Thank you, Your Honor.

6 RE CROSS EXAMINATION

7 **BY MS. SINGLETARY**

8 **Q** Let's go back to this, Investigator Barnes, this
9 advanced technology. When you told Mr. Ashford that
10 what if you told him that there was some advanced
11 technology that would show, or if someone said that
12 Ms. D.S. was nude, was that a lie?

13 **A** Yeah. We don't have that. The federal government I
14 think does, but we don't.

15 **Q** Okay. And Mr. Ashford denied actually penetrating
16 Ms. D.S. because he said that his penis could not
17 get hard. Is that correct?

18 **A** I don't know that he put his -- that was his --
19 that's what he said. He said that he couldn't get it
20 up.

21 **MS. SINGLETARY:** I have no further questions,
22 Your Honor.

23 **THE COURT:** Thank you very much. You may come
24 down. The jury would like to take a break?

25 **FOREPERSON:** Briefly.

1 **THE COURT:** All right. All right, ladies and
2 gentlemen. Let's take a ten-minute break. Just
3 again, don't discuss the case among yourselves while
4 you're in the jury room.

5 (Jury out at 10:18 a.m.)

6 **THE COURT:** We'll stand at ease for ten minutes.

7 (Whereupon, a break is taken)

8 **THE COURT:** What's the schedule, Ms. Campbell?

9 What's the schedule?

10 **MS. CAMPBELL:** I'm calling one more witness.

11 **THE COURT:** Okay.

12 **MS. CAMPBELL:** At this point possibly two, but
13 it looks like one, but maybe two. But that's the
14 most.

15 **THE COURT:** You ready for the jury?

16 **MS. CAMPBELL:** I'm ready.

17 **MS. SINGLETARY:** Yes, Your Honor.

18 **THE COURT:** Bring the jury.

19 (Jury in at 10:35)

20 **THE BAILIFF:** Your Honor, the jury is present.

21 **THE COURT:** All right. Thank you very much.

22 All right, Solicitor. Call your next witness.

23 **MS. CAMPBELL:** May it please the Court. The
24 State calls Investigator Thomas.

25 ARTHUR L. THOMAS, after being duly sworn,

1 testifies as follows:

2 **THE CLERK:** Please have a seat. State your full
3 name for the record.

4 DIRECT EXAMINATION

5 **BY MS. CAMPBELL**

6 **Q** Investigator Thomas, where are you employed?

7 **A** City of Columbia Police Department.

8 **Q** What do you do there, sir?

9 **A** I'm a homicide and violent crime investigator for the
10 City.

11 **Q** Can you tell this jury a little bit about your duties
12 as a city investigator?

13 **A** We respond to major crimes, carjackings, assaults,
14 homicides that occur in the area. We're on 24/7
15 call. So even on my off day, if something serious
16 occurs, I may be called out in spite of another
17 investigator working.

18 **Q** I want to turn your attention back to February the
19 24th of 2007. Were you actually working, or were you
20 called in that day?

21 **A** I was actually called in.

22 **Q** And when you got in, did you become aware that there
23 had been a series of carjackings and kidnappings in
24 the city?

25 **A** I was.

1 Q That ultimately culminated on Booth Street which is
2 actually the county jurisdiction. Is that correct?

3 A That is correct.

4 Q And all these areas are in Richland County. Correct?

5 A That is correct.

6 Q Did you actually go out to the scene on Oakland
7 Avenue, North Main or Cushman that day?

8 A I did not have the opportunity to go on any of the
9 scenes. Again, Investigator Williams had initially
10 taken statements. She is a burglary investigator,
11 but she was the day shift investigator that day. So
12 she had already initiated the statements. But I did
13 not make it to the scene, any of the scenes.

14 Q And in addition, I believe some police officers,
15 Allmann and Walsh and others, had responded out that
16 day?

17 A That is correct.

18 Q Gotten information?

19 A That is correct.

20 Q Once that information typically is gathered, then is
21 that forwarded to you?

22 A That's correct.

23 Q During the course of that evening on the 24th, did
24 you go down to the Sheriff's Department on Two Notch
25 Road?

1 **A** I did.

2 **Q** Why were you going there that evening, sir?

3 **A** I was briefed by Sergeant Horry of the situation when
4 he called me in. They had had a barricaded suspect
5 that had hostages and that they were going to make
6 entry. Entry was gained and he was taken into
7 custody and transported to the Sheriff's Department
8 where he was going to be interviewed. And so I went
9 over to the Sheriff's Department and met with
10 Investigator Barnes.

11 **Q** And when you got there, did you make contact with
12 Investigator -- I mean Sergeant Barnes?

13 **A** I did.

14 **Q** And did you actually join in the interview at that
15 point?

16 **A** I did. He had already advised the individual,
17 Mr. Randolph (sic) of his rights. And they were
18 already in discussion of some of the situations, the
19 scenarios that had transpired up until his arrest.

20 **Q** And you confirmed when you got there he had already
21 been advised of his rights?

22 **A** Yes, I did.

23 **Q** And that's important that he get his advice of
24 rights?

25 **A** That is.

1 Q And when you made contact with the Defendant, what
2 was his demeanor like?

3 A Very calm and relaxed and seemed very willing to try
4 to get his side of the story out; quite coherent,
5 quite articulate actually.

6 Q I want to show you a photograph, State's Exhibit No.
7 113. Do you recognize that?

8 A Yes.

9 Q And is that how the Defendant appeared when you
10 talked to him that night?

11 A Yes. That's how I remember him, yes.

12 Q And you mentioned also that he appeared to be
13 coherent and fairly articulate. Is that correct?

14 A Yes.

15 Q And you've been in law enforcement how long, sir?

16 A Nineteen years.

17 Q And in your opinion as an investigator, was he
18 cooperating voluntarily?

19 A Oh, yes. Completely.

20 Q At the point when you made contact or joined in the
21 interview, it wasn't being reduced to writing yet?

22 A No. We had not reduced it to writing. He was just
23 giving his first verbiage of what had transpired. I
24 came in probably just after some of the first few
25 things that he'd done, and he continued to tell

1 things up until the Booth Street incident.

2 Q And, in fact, he told you information about what
3 happened at the church?

4 A Correct.

5 Q His first version, and then on into the Booth Street?

6 A That is correct.

7 Q And were you there when information came in and he
8 was initially confronted about the rape?

9 A Yes, I was.

10 Q And tell this jury what information was given to him
11 and what he said?

12 A Hold one moment. Give me a moment to refer to the
13 statement.

14 MS. SINGLETARY: Objection, Your Honor.

15 THE COURT: What is the objection?

16 MS. SINGLETARY: Cumulative in nature.

17 THE COURT: Go ahead. Overruled.

18 MS. CAMPBELL: Thank you.

19 THE COURT: What was the question?

20 MS. CAMPBELL: Was he just there when he was
21 initially confronted about the rape.

22 A I'm trying to refer to the statement here. All
23 right. Yes. The question was asked: "Can you
24 explain why D.S. may have been naked in the
25 house during this time?" And then he responded:

1 "She and I had sex, had relations, sex on the living
2 room floor."

3 Q And that was when he gave his formal statement,
4 right?

5 A Right.

6 Q Were you there initially when he was confronted about
7 D.S. being in the hospital?

8 A Yes.

9 Q And at that point did he deny any kind of sexual
10 relations?

11 A On the initial questioning, he did deny it.

12 Q I'm sorry.

13 A I apologize. He did deny having any relations with
14 the victim.

15 Q And at a later time was he then confronted with
16 information I believe that there may be surveillance
17 of her being naked in the house?

18 A That is correct. Investigator Barnes --

19 Q And, in fact, did you know whether or not there was
20 any surveillance?

21 A Not at that time. I didn't know.

22 Q Is it unusual to, say, give information like that to
23 a defendant to see what the response will be?

24 A No. It's similar to saying that your co-defendant is
25 giving up the whole story and what's your story type

1 scenario.

2 Q So is there anything inappropriate about doing that?

3 A No, there's not.

4 Q And once confronted with that information, did he
5 give you the information that's in his written
6 statement?

7 A Yes, he did.

8 Q In his written statement, too, he indicates that the
9 first carjacking that he admits to that he remembers
10 was one that he refers to it as being at the Citgo?

11 A Yes. He mentioned the Citgo.

12 Q And, in fact, were you able to correlate that to an
13 actual carjacking that he did that day?

14 A Yeah. It's actually the carjacking that happened at
15 the Wash World. Citgo is across the street adjacent
16 to the Wash World.

17 Q So the Citgo is right next to it?

18 A Yes.

19 Q And the final version that was reduced to writing is
20 a little bit different from the initial set of facts
21 that he gave you?

22 A Correct.

23 Q Is that unusual?

24 A No, it's not.

25 Q And, in fact, I want you to review the statement that

1 he actually gave which is State's Exhibit No. 2.

2 Were you there when that was reduced to writing?

3 A Yes, I was.

4 Q And during the course of that, were there some
5 changes made as he wanted made?

6 A Yes.

7 Q And that was at his request?

8 A That was his request.

9 Q So that it could have been his final version?

10 A Exactly.

11 Q And does State's Exhibit 2 reflect the information he
12 wanted you all to reduce to writing?

13 A That is correct.

14 Q During the course of interviewing him, did you have
15 any concerns about his mental state?

16 A None at all.

17 Q Did he make any complaints about his mental state?

18 A No, he did not.

19 Q Did he make any complaints about his ability to
20 understand?

21 A No, he did not.

22 Q And in your 19 years of experience, did he seem to
23 understand what was going on and want to talk to
24 y'all?

25 A Yes, he did.

1 Q And, in fact, after y'all reduced his statement to
2 writing, you then asked for a DNA sample?

3 A Yes, we did.

4 Q And did he have any problem giving you that?

5 A He was absolutely cooperative.

6 Q He wanted his version of events?

7 A That's correct.

8 Q Is that unusual when interviewing a Defendant?

9 A No, it's not.

10 Q Why?

11 A A lot of people want to justify certain actions. And
12 so they want to ensure that their version is told and
13 told in their way. So it's not uncommon to get that.
14 The version may vary from the facts, but it's still
15 their version.

16 MS. SINGLETARY: Objection, Your Honor.

17 THE COURT: What's the objection?

18 MS. SINGLETARY: Speculation, Your Honor.

19 THE COURT: Overruled. Go ahead.

20 Q I'm sorry. Did you get to finish that statement?

21 A Yes.

22 Q The version, you were saying --

23 A I said it may vary from the facts that have occurred,
24 but it's their version and they feel comfortable with
25 providing that.

1 Q He mentioned in that statement that he had expressed
2 concern and actually thought that his girlfriend,
3 Roberta, had been kidnapped?

4 A Yes.

5 Q And he mentioned that he actually filed a missing
6 person's report?

7 A Yes.

8 Q And that the officer said she was okay, she was at
9 somebody else's house?

10 A Yeah. He said at the cousin's house or something of
11 that nature and that she was fine.

12 Q Did you check to see if anything like that happened?

13 A There was no report taken as far as a missing person.
14 I had my secretary check to see if there was any
15 report filed, and there was no missing person report
16 filed the day prior.

17 Q And would a police officer necessarily know if there
18 was where a missing person was?

19 A It's not common that an officer responding to that
20 location would know the location of a missing person
21 in that regard.

22 Q During the period of time that you were with him and
23 he was talking to you --

24 A Yes.

25 Q -- and to Investigator Barnes, --

1 **A** Yes.

2 **Q** -- at any point did he tell you he didn't want to
3 talk any more?

4 **A** No, he didn't.

5 **Q** At any point was he anything but cooperative?

6 **A** Absolutely cooperative.

7 **Q** And did he give you that statement voluntarily
8 because he wanted his version of events out there?

9 **A** Yes, he did.

10 **Q** When a person is arrested, do you get certain
11 information?

12 **A** Yes.

13 **Q** For your booking report and everything?

14 **A** Yes, I do.

15 **Q** And did he give you information?

16 **A** The information that was provided to me was that he
17 was 41, about six foot tall, 175 pounds.

18 **Q** And that varies slightly from one to another?

19 **A** Right.

20 **Q** A slight difference is not unusual?

21 **A** No, it's not uncommon.

22 **Q** That evening did you go ahead and charge him with
23 certain crimes?

24 **A** Yes, I did.

25 **Q** And were the charges you brought the three counts of

1 the carjacking?

2 **A** That is correct.

3 **Q** And the kidnapping of Ms. Worthy?

4 **A** That is correct.

5 **Q** And was that based on the evidence and the
6 information you had available?

7 **A** That's correct.

8 **Q** The person that you interviewed that evening and that
9 gave you and Investigator Barnes first orally and
10 then subsequently reduced in State's Exhibit 2, do
11 you see him here in the courtroom?

12 **A** Yes, I do.

13 **Q** Can you point him out for the jury?

14 **A** The gentleman in the black shirt and the black and
15 white tie sitting between counsel.

16 **MS. CAMPBELL:** Your Honor, may the record
17 reflect?

18 **THE COURT:** The record will so reflect the
19 witness identified the Defendant.

20 **Q** Are you familiar with the area around Oakland and
21 North Main Street, Wash World?

22 **A** Yes, I am.

23 **Q** And I want to show you State's Exhibit No. 100. It's
24 upside down 100. Do you recognize this?

25 **A** Yes, I do.

1 Q And other than it's not to scale, does this kind of
2 accurately show this whole area where these events
3 occurred?

4 A Yes, it does.

5 MS. CAMPBELL: Your Honor, at this time we'd
6 offer State's Exhibit No. 100.

7 MS. SINGLETARY: Without objection, Your Honor.

8 THE COURT: Without objection.

9 (Exhibit 100 previously entered into evidence)

10 MS. CAMPBELL: Your Honor, may the witness step
11 down?

12 THE COURT: Yes, ma'am.

13 Q You may come on this side. Just speak up so the
14 court reporter can hear you.

15 A Okay.

16 Q Were you made aware of the Defendant's residence on
17 Muir Street?

18 A Yes, I was.

19 Q And who actually -- who else's residence was that
20 that you knew of?

21 A That was Roberta's as well.

22 Q Roberta's?

23 A Roberta's.

24 Q And is that shown generally the area where Muir
25 Street is, where that trailer would be located?

- 1 **A** That's correct. , right here.
- 2 **Q** Right where this dot is right here?
- 3 **A** That's correct.
- 4 **Q** And the information from Mr. Taylor was that he was
- 5 carjacked right there around the corner of Oakland
- 6 and Randall?
- 7 **A** Yes.
- 8 **Q** Is that shown here?
- 9 **A** Yes.
- 10 **Q** And is that within walking distance of Muir Street?
- 11 **A** Yes, it is.
- 12 **Q** Or biking distance?
- 13 **A** Yes.
- 14 **Q** And the Wash World location, is that -- this is the
- 15 corner of Oakland and Randall. Where is it located
- 16 on this map?
- 17 **A** Just a few blocks up on Main Street. If I take
- 18 Oakland to Main, then you can go up to about the 5800
- 19 block of Main and Wash World.
- 20 **Q** Would you consider Main Street a major road?
- 21 **A** It's a major thoroughfare.
- 22 **Q** And Prescott Road, is it also a major thoroughfare?
- 23 **A** That's correct.
- 24 **Q** And here at the corner of Wash World, you then go
- 25 down to the church. Is that correct?

1 A That's correct.

2 Q And where is the church located on Cushman in
3 relation to Wash World?

4 A Well, you take Prescott down. You can get onto
5 Cushman crossing Ames, and it will take you directly
6 to the church.

7 Q Directly to the church?

8 A Yes. On Cushman Drive. There is a railroad track
9 just before you get to the intersection or the stop
10 sign. Then you have a church here.

11 Q And, in fact, if you were to take the major
12 thoroughfares, that would be the most direct route?

13 A That's correct.

14 Q And you go down here. You mentioned that there are
15 some railroad tracks right around here right before
16 you get to that?

17 A Yes.

18 Q Is that significant to you?

19 A Well, yes. I believe that's where he may have lost
20 control of the car. He come across the tracks too
21 hard, losing control of the steering wheel. I
22 believe that's why the vehicle was wrecked.

23 Q And the vehicle was wrecked right here at the corner.
24 This is 277?

25 A Correct.

1 Q And it was right there at that corner of that church?

2 A That's correct.

3 Q Then if you continue to Booth Street, what would be
4 the most direct route?

5 A You take here.

6 Q In here?

7 A Yeah. Come down.

8 Q Wait a minute.

9 A Yeah. You use a little road here but then you get
10 the direct route to Booth.

11 Q And that would be the most direct route?

12 A Right. Coming off of Cushman and taking this direct
13 route.

14 Q And Booth Street would be right here?

15 A That's correct.

16 Q Thank you. And again, in his statement, when you
17 asked him about the carjacking on Oakland street,
18 what was his response?

19 A He advised that he didn't remember.

20 Q Did he ever deny it?

21 A No, he didn't deny it. He just didn't remember.

22 Q The next day did you make contact with some of the
23 witnesses in the case?

24 A Yes, I did.

25 Q And you didn't call in every witness, did you?

1 **A** No, I did not. I called witnesses that I believed
2 may have seen the facial features and give a very
3 positive identification of the suspect.

4 **Q** So you followed up on that even though you had
5 already spoken to him the night before?

6 **A** That's correct.

7 **Q** And he pretty much admitted to what you had?

8 **A** That's correct.

9 **Q** I want to show you -- did you meet with Mr. and Ms.
10 Kelly the next day?

11 **A** Yes, I did.

12 **Q** And at that point had statements already been taken?

13 **A** Yes. Felicia Williams had already got the statements
14 from many of the witnesses at that time.

15 **Q** But you felt it was appropriate to follow up to see
16 if the people that actually got a good look at his
17 face could see him?

18 **A** Correct.

19 **Q** And I'm going to show you what's been marked as
20 State's Exhibit No. 4 which is already into evidence.
21 Do you recognize that?

22 **A** Yes.

23 **Q** What was your purpose of showing Mr. Kelly a photo
24 line-up that next day?

25 **A** Again, looking at the statements and the incidents

1 that had occurred, I figured Mr. Kelly should be able
2 to give a good positive identification of the
3 perpetrator. So I wanted to provide him an
4 opportunity to look at a photo line-up.

5 Q And other witnesses, such as Ms. Worthy, she
6 indicated she didn't get a look at his face at all?

7 A Right. Ms. Worthy was very traumatized and said she
8 never really saw the individual. So I didn't call
9 her up.

10 Q And when you made contact with the Kellys the next
11 day, did you actually show Mr. Kelly a photo line-up?

12 A Yes, I did.

13 Q And was he with his wife or separated from her at
14 that point?

15 A I separated the two parties into separate interview
16 rooms.

17 Q Why do you do that?

18 A Well, to ensure that there is no conversation or any
19 kind of corroboration between the two to try to
20 figure out who the individual is. I want their own
21 perspective on who they believe to be the suspect.

22 Q And when you first show them the line-up, that
23 affidavit is not attached, is it?

24 A No, it's not.

25 Q But the pictures underneath, you showed them to them?

1 A Yes.

2 Q And when you show him that line-up; what, if
3 anything, do you say to him?

4 A Normally, my normal spiel is, I have a photo line-up
5 here of six individuals. The individual in question
6 may not be in this line-up. If you see the
7 individual that perpetrated this crime against you,
8 try to identify them, if you will. And I pretty much
9 just handed them the line-up. And they look at the
10 photo. And Mr. Kelly was able to identify number 2
11 which I placed in there, which is the suspect, Mr.
12 Ashford.

13 Q And the way that those are numbered, is that random?

14 A Yes. It's random.

15 Q And you basically mix up the numbers?

16 A Correct.

17 Q So that in case of any contact between witnesses.
18 That didn't happen in this case.

19 A Correct. I don't want them to be able to sometimes
20 communicate I picked number 2 when he walks out and
21 so forth. So I mix the numbers up.

22 Q But for the record in this case, there was no contact
23 between the witnesses when they were shown the
24 line-ups?

25 A No. They were already separated.

1 Q And he identified what is number 2 in this line-up?

2 A That's correct.

3 Q And who is that?

4 A Mr. Ashford.

5 Q Randolph Ashford?

6 A Yes.

7 Q Did you also make contact that day with Gregory
8 Fleming and Kimberly Gilliard?

9 A I did.

10 Q And again, what, if anything, happened when they came
11 down to the police department?

12 A The same as the Kellys. I separated the two parties
13 into separate interview rooms and also provided them
14 with a line-up, giving them the same statement. The
15 individual may or may not be in this line-up, take
16 your time, take a look at it and let me know if you
17 see the subject who perpetrated the crime.

18 Q And I'm showing you what's been marked as State's
19 Exhibit No. 5. When you showed them these photos --
20 and these are in black and white versus color.

21 A Yes, ma'am.

22 Q Is there any significance this?

23 A I try to change up a few things. And sometime I'll
24 do that with the copy machine. I may run low on my
25 color copies and burn off a few black and white

1 copies. But that's all it is.

2 Q And when you showed Mr. Fleming that photo line-up;
3 what, if anything, did you say to him?

4 A The same thing. I have six photos. The individual
5 may or may not be in this particular photo line-up,
6 take your time, take a look at it and let me know if
7 you see the individual. He was able to also pick out
8 Mr. Randolph Ashford. In this one he was labeled
9 number 4.

10 Q And in that one, did he also circle and initial
11 indicating that's who he recognized?

12 A Yes, he did.

13 Q And did he have any doubt that that was the person?

14 A No. He positively identified him.

15 Q As did Mr. Kelly?

16 A As did Mr. Kelly.

17 Q And at that point you then filled out the affidavit
18 and he then signed off on it?

19 A That's correct.

20 Q Again, did anyone influence him in any way or tell
21 him who to pick, any of that stuff?

22 A No. Not in any way.

23 Q I want to show you what's been marked as State's
24 Exhibit No. 6. Do you recognize that?

25 A Yes.

1 Q And is that the photo line-up and the affidavit, the
2 photo line-up which was originally shown to Kimberly
3 Gilliard?

4 A Yes, it is.

5 Q And, again, at the point when you showed her that,
6 she and Mr. Fleming had been separated?

7 A Yeah. They were in separate rooms.

8 Q And when you went in and showed her the line-up;
9 again, did you say the same thing to her?

10 A Exactly the same.

11 Q And did she look at the photographic line-up?

12 A She did.

13 Q And did she indicate she recognized anybody?

14 A Yes. She also picked out Randolph Ashford. In this
15 one he was labeled number 1. She also placed her
16 initials by it, and she positively identified him.

17 Q And again, you didn't tell her who to pick?

18 A No, I did not.

19 Q Influence her in any way?

20 A Not in any way.

21 Q Finally, did you also meet with the McQueens that day
22 on the 25th?

23 A Yes.

24 Q K.M. and her sister, K.M.

25 A That's correct.

1 Q And did you actually show K.M. the
2 photographic line-up?

3 A I did.

4 Q And did she -- again, was she separated?

5 A Yes, she was.

6 Q So none of these individuals had any interaction with
7 each other?

8 A No. No conversation, no interaction. No.

9 Q And when she looked at the photo line-up, did she
10 indicate whether or not she recognized anyone?

11 A Yes. She also positively identified Mr. Randolph
12 Ashford as the perpetrator. He was number 3 in this
13 particular line-up.

14 Q And did she then initial and circle it, as did the
15 others?

16 A Yes.

17 Q And that was at your direction?

18 A That's correct.

19 Q And then she signed off on the affidavit?

20 A That's correct.

21 Q Just for the record, and I'm not going to go through
22 everything he told you. Sergeant Barnes has already
23 testified. But he gave you information first
24 verbally and you were there for that?

25 A Yes.

1 Q And then he reduced it into the written statement and
2 those were his words and his information?

3 A Yes.

4 Q Had you ever had any contact with these people
5 before?

6 A I never had contact with either party.

7 Q So the information, he talked about Roberta and all
8 that, you know, the relationships and everything,
9 that was information that was new to you?

10 A Right. It was by him.

11 Q And then you allowed him to change whatever he wanted
12 in his final written version?

13 A Yeah. He made a few changes.

14 Q During the course of this time, was he coherent?

15 A Very.

16 Q Did you ever threaten him?

17 A No, he was not. No.

18 Q Did you promise him anything to make him talk?

19 A No. We didn't promise anything.

20 Q Did you try to coerce him into talking?

21 A No, we did not.

22 Q At any time did he tell you he didn't want to talk
23 any more?

24 A Not at any time.

25 Q Or asked to talk to anybody?

1 **A** No, he did not.

2 **Q** And in your opinion, was he giving this statement
3 voluntarily?

4 **A** Yes.

5 **Q** And did he want his version of the facts out there?

6 **A** He wanted his version out there.

7 **Q** Beg the Court's indulgence. Just one point of
8 clarification.

9 **A** Mm-hmm (affirmative).

10 **Q** On his statement, State's Exhibit No. 2, did I hand
11 that up to you, or did I take it back?

12 **A** You took it back. Yes.

13 **Q** And, in fact, when you all went over this
14 statement -- oh, let me ask you this. Did you all go
15 over the statement at the end?

16 **A** Yes, we did.

17 **Q** And the advice of rights, is that actually at the top
18 of the statement?

19 **A** Yes, it is.

20 **Q** And that would have been gone over with him, too?

21 **A** Yes.

22 **Q** And once you went over that written statement which
23 would have been reduced to typewritten by Sergeant
24 Barnes --

25 **A** Correct.

1 Q -- did he then sign off on it?

2 A Yes, he did.

3 Q And he acknowledged that was his statement?

4 A Yes, he did.

5 Q Thank you, sir. I don't have anything further.

6 **THE COURT:** Cross examination.

7 **MS. SINGLETARY:** Thank you, Your Honor.

8 CROSS EXAMINATION

9 **BY MS. SINGLETARY**

10 Q Investigator Thomas.

11 A Yes.

12 Q Now, you stated during direct testimony that you did
13 not go to any incident scenes, correct?

14 A That is correct.

15 Q That you did not take any statements?

16 A That is correct.

17 Q That it was actually another officer or investigator
18 that took statements?

19 A Yeah. Investigator Felicia Williams, the burglary
20 division, initiated the statements. And again, once
21 the hostage situation was finished, then that's when
22 major crimes would be called out.

23 Q And as an investigator, these type of things happen a
24 lot; like you don't necessarily go to the scene,
25 correct?

1 **A** That's correct.

2 **Q** And you don't necessarily take the statement,
3 correct?

4 **A** That is correct.

5 **Q** It's forwarded on to you, correct?

6 **A** That is correct.

7 **Q** And that's because you're kind of like a lead
8 investigator, correct?

9 **A** That is correct.

10 **Q** And you have to rely on the accuracy of other
11 officers who are writing these statements, correct?

12 **A** That's correct.

13 **Q** And when all of this information is forwarded to you,
14 you look over all this information?

15 **A** Yes.

16 **Q** And it helps you in determining what course of action
17 you should take?

18 **A** That's correct.

19 **Q** And it helps you -- and, Your Honor, may I approach
20 the witness?

21 **THE COURT:** Yes, ma'am.

22 **Q** -- in such areas as in coming up with a photo
23 line-up?

24 **A** Correct.

25 **Q** Correct? And do you have the actual statements that

1 were made by Mr. Kelly and the McQueens up there with
2 you?

3 **A** No, I do not.

4 **Q** Okay. Beg the Court's indulgence, Your Honor. Let
5 me get a copy of those for you. And, Your Honor,
6 just let the record reflect that I am handing up to
7 Investigator Thomas the statements that were given by
8 Gregory Fleming, Olin Kelly and K.M. And,
9 Investigator, I want you to pay close attention on
10 those statements to the descriptions that were given
11 by those individuals. Some of them, they are like
12 one page and maybe on the first page, Gregory Kelly
13 (sic), just reference part of the second page.

14 **A** All right.

15 **Q** Do you see where I'm referring to? I don't want to
16 actually start until you know where I'm at.

17 **A** You say the description of the individual, correct?

18 **Q** Yes.

19 **A** Yeah. Okay. I've got --

20 **Q** And let's go ahead and start with Gregory Fleming.

21 **A** Okay.

22 **Q** Now, what is the description of the individual that
23 Gregory Fleming gave Ms. Williams?

24 **A** Let's see. About five-nine, 175 to 180 pounds. He
25 was wearing a hat. A black man, skinny, had on a

1 brown leather coat, blue jeans or slacks. Is that
2 right? Is that the one?

3 Q Yes. Thank you.

4 A Okay.

5 Q Investigator. Now, let me turn your attention to
6 K.M.

7 A All right.

8 Q And in Ms. McQueen's statement, would you agree with
9 me that the only description that she gave was a
10 male?

11 A Give me a moment. Did she have one or two pages?
12 Was it just one page?

13 Q Just one page. And take your time, Investigator.

14 A All right. I'm just trying to see what she's got.

15 Q And I will tell you that there is no detailed
16 section. It's just throughout the statement.

17 A Okay.

18 Q She just says male?

19 A She says male or he.

20 Q He. Yeah.

21 A All right.

22 Q And no other description?

23 A Yeah. There's another description.

24 Q I'm not trying to confuse you.

25 A She says he and she says male.

1 Q Yes. And if you would bring your attention to
2 Mr. Olin Kelly.

3 A Mm-hmm (affirmative).

4 Q Could you read for me the description that was given
5 by him?

6 A Description: He had on a green jacket, gray pants,
7 light brown, with a mustache. That's it.

8 Q Thank you, Investigator. Your Honor, may I approach
9 the witness?

10 THE COURT: Yes, ma'am.

11 Q You were previously shown State's Exhibit No. 13?

12 A 13, yes.

13 Q And you identified this Exhibit, correct?

14 A Yes, I did.

15 Q And you stated that on that -- on February the 24th
16 of 2007, this is the way Mr. Ashford appeared to you
17 on that day, correct?

18 A That is correct.

19 Q Beg the Court's indulgence, Your Honor. Your Honor,
20 I have no further questions.

21 THE COURT: Redirect?

22 MS. CAMPBELL: Yes, sir.

23 REDIRECT EXAMINATION

24 BY MS. CAMPBELL

25 Q There were other descriptions; such as Barry Taylor

1 gave a description?

2 **A** Yes.

3 **Q** And the height ranges went anywhere from five-nine?

4 **A** Yeah. Five-nine.

5 **Q** To six feet?

6 **A** To six feet tall.

7 **Q** And, in fact, that was the additional information you
8 got, the difference between you and Sergeant Barnes's
9 booking information?

10 **A** Yeah. He had five-ten. I had six foot.

11 **Q** Is it unusual, or would you expect, that different
12 witnesses, depending on their perception, are going
13 to have a little bit of height difference?

14 **A** Oh, that's often the case.

15 **Q** Maybe assess weight a little different?

16 **A** Often the case.

17 **Q** Say, a dark jacket versus a greenish tan jacket
18 versus a brown jacket?

19 **A** Very often the case.

20 **Q** And, in fact, if every single witness came forward to
21 you and gave the exact same description, would you be
22 suspicious?

23 **A** I'd probably pass out.

24 (Laughter)

25 **Q** And it depends on perception, how close they got?

1 **A** It really does. It does.

2 **Q** And of course when there is a gun involved, too,
3 people tend to focus on the gun as well?

4 **A** Right. The gun takes -- you get tunnel vision and
5 everything else is blurred.

6 **Q** So as far as what the material on the jacket may be,
7 they may be general. One may say it's dark green.
8 Like I may say you have on a gray suit. Someone else
9 may say it's a black suit?

10 **A** Correct.

11 **Q** Someone else may say it's charcoal?

12 **A** Correct. That commonly happens.

13 **Q** And, in fact, that makes it credible?

14 **A** It actually does.

15 **Q** And again, in each of these cases where you showed
16 the photo line-ups they were able to pick out the
17 Defendant, those were people that you knew got a good
18 look at him?

19 **A** Right. From the information I received and so forth,
20 I knew that these individuals should be able to
21 identify the perpetrator.

22 **Q** And, in fact, indicated to you they could identify
23 him?

24 **A** That's correct.

25 **Q** And, in fact, with Mr. Fleming, he actually had seen

1 him before?

2 **A** Correct.

3 **Q** Did anyone you showed line-ups to identify anyone
4 other than the Defendant, Randolph Ashford?

5 **MS. SINGLETARY:** Objection, Your Honor.

6 **THE COURT:** Sustained.

7 **Q** The four photo line-ups that I showed you, in each of
8 these line-ups, the person that they identified, who
9 was it?

10 **A** Randolph Ashford.

11 **MS. CAMPBELL:** Thank you, Your Honor. I don't
12 have anything further.

13 **THE COURT:** Anything further?

14 **MS. SINGLETARY:** Beg the Court's indulgence,
15 Your Honor.

16 **THE COURT:** Yes, ma'am.

17 **MS. SINGLETARY:** No further questions, Your
18 Honor, of this witness.

19 **THE COURT:** You may come down. Thank you very
20 much.

21 **THE WITNESS:** Thank you, Your Honor.

22 **THE COURT:** Next witness.

23 **MS. CAMPBELL:** Your Honor, the State would rest.

24 **THE COURT:** All right, ladies and gentlemen.

25 The State has rested. In other words, they've

1 concluded their case. There will be no more evidence
2 from the State presented in this trial. As I advised
3 you when we began, the defense has the opportunity to
4 present a defense at this time. However, before that
5 takes place there are some legal matters I need to
6 take up with the attorneys. So I'm going to ask you
7 to retire to the jury room for a few minutes while I
8 take those matters up with the attorneys. Just
9 relax. We'll call when we're ready to proceed with
10 the trial. And those of you who absolutely have to
11 have a smoke, even though I disapprove for health
12 reasons, you're allowed to do so. Mr. Bailiff, make
13 sure they have that opportunity.

14 (Jury out at 11:10 a.m.)

15 **THE COURT:** Any motions?

16 **MR. O'NEIL:** Yes, Your Honor. At this time I
17 would have a directed verdict motion on four of the
18 indictments here, Your Honor. Should I take them one
19 at a time here? And I say four, but two, one each on
20 two AWIKS.

21 I would move for a directed verdict of not
22 guilty on two indictments dealing with assault with
23 intent to kill as it relates to Deputy Unger and
24 Deputy White. As Your Honor is aware, at this stage
25 of the proceedings what the Court is concerned about

1 is whether or not there's any direct evidence or,
2 according to State v. Arnold at 361 SE 386, if the
3 case is based on circumstantial evidence, there must
4 be substantial circumstantial evidence for the case
5 to go forward to the jury. I feel as though there is
6 not any substantial circumstantial evidence that Mr.
7 Ashford was guilty of the two assault with intent to
8 kills as relates to Deputy White and Deputy Unger
9 because of this reason, Your Honor.

10 Basically Mr. Ashford and Ms. D.S. are the
11 only people in the trailer. There is allegations
12 that there was a shooting from the trailer towards
13 Deputy Unger and Deputy White on the outside right
14 and rear of the trailer. The only testimony about
15 gunshots coming from inside the trailer, one from
16 stated that she saw Mr. Ashford shoot
17 once in the floor and once out the front window.

18 I think we established through one of the
19 State's pictures that the front window would be
20 facing away from where both Deputy Unger and where
21 Deputy White was located at. I think I asked both
22 Deputy White and both Deputy Unger the fact that they
23 were not in front of the house, they were positioned
24 on the side going towards the rear of the house. And
25 it would have been unable for somebody to shoot out

1 from in front of the house and strike them on the
2 rear or the side.

3 Mr. Ashford's statement is in evidence. His
4 only statement, he categorically denies shooting at
5 any deputies and only says he shot once in the floor
6 and once into a chair. And that's corroborated by
7 actual pictures and actual evidence that he shot in
8 the chair, Your Honor.

9 Both Deputy Unger and both Deputy White took the
10 stand and neither one of them said they saw anybody
11 shoot at them. Deputy White testified that he didn't
12 hear any glass breaking or any windows opening. And
13 I think Deputy Unger testified he was, his words, not
14 exactly sure where the gunshot he heard was coming
15 from, but he indicated that he thought it was coming
16 from the trailer but he wasn't exactly sure.

17 There have been no projectiles recovered. There
18 has been no forensic match between the gun and any
19 projectile, but there were no projectile recovered as
20 well, Your Honor.

21 There were several other people, I think I asked
22 Deputy Unger, that had guns out there besides Mr.
23 Ashford, several members of law enforcement. And,
24 furthermore, I think there has been no proof of if
25 someone would have shot from inside of the trailer

1 that had any actual knowledge somebody else would
2 have been outside the trailer. I think the deputies
3 testified that they were in the wood line behind the
4 trailer. Your Honor, based on that all that, I think
5 there is not substantial circumstantial evidence for
6 the two charges of assault with intent to kill to go
7 back to the jury, Your Honor.

8 **THE COURT:** Do you want to address those now?

9 **MR. O'NEIL:** Yes, Your Honor.

10 **THE COURT:** You say you have other motions?

11 **MR. O'NEIL:** Yes, Your Honor.

12 **THE COURT:** What's the State's position?

13 **MS. CAMPBELL:** Your Honor, the testimony from
14 both deputies is that gunfire came from the trailer
15 towards them. They were unequivocal about that. At
16 least one shot, maybe two. And then they yelled
17 "shots fired" because they thought they were shot at.

18 **THE COURT:** Well, there were two deputies that
19 testified that a shot went through, by them. Neither
20 testified there were two shots each.

21 **MS. CAMPBELL:** They testified that the shot went
22 by them.

23 **THE COURT:** Yes. So two of perhaps the same
24 shot.

25 **MS. CAMPBELL:** Perhaps.

1 **THE COURT:** But I didn't hear anybody say there
2 were two shots.

3 **MS. CAMPBELL:** Your Honor, it would be an
4 assault with intent to kill no matter which one it
5 hit. I don't think we have to elect which one was
6 being shot at more. Basically the shot was in their
7 direction. It's like if someone opens fire into a
8 crowd, potentially everybody -- or into a house -- we
9 typically charge assault with intent to kill if
10 there's one or two bullets and there's several people
11 in the house because anyone can be a potential
12 witness; it can kill any one of them. So I don't
13 know that the fact that there is one shot would
14 preclude two counts of assault with intent to kill in
15 the light most favorable to the State.

16 **THE COURT:** Where do you get malice?

17 **MS. CAMPBELL:** Where do I get malice? The use
18 of a deadly weapon, period. The fact that he's in a
19 hostage situation shooting out at the police as
20 they're moving into barricade him in, that would be
21 malice, Your Honor.

22 **MR. O'NEIL:** Your Honor, my only argument is
23 there's no evidence -- nobody saw a gun. Malice can
24 be inferred by the use of a deadly weapon. There
25 wasn't nobody saw anybody use a deadly weapon. The

1 only testimony is that they heard a whiz around.
2 There's no testimony even in the record about how
3 close that whiz around came to them. It could have
4 been, for all the jury knows, 20 or 30 feet above
5 their head. There's been no testimony about how
6 close that whiz around came to them.

7 **THE COURT:** Does it have to be close?

8 **MR. O'NEIL:** It has to be a present ability to
9 accomplish any kind of assault. If the assault -- if
10 the bullet -- if there was a gunshot and it would
11 have been 50 feet above their head, there's no way
12 the person could complete that act, Your Honor, if
13 they're not shooting at them.

14 **MS. CAMPBELL:** Your Honor, he just said it's a
15 jury issue. I mean, --

16 **THE COURT:** Right.

17 **MS. CAMPBELL:** -- it's whether or not --

18 **THE COURT:** It's my decision whether it's a jury
19 decision.

20 **MS. CAMPBELL:** -- they were being shot at and
21 what the jury determines from that. Obviously they
22 thought they were being shot at, as they testified
23 to. And both of them yelled "shots fired", got down.
24 They thought they were being shot at. That was the
25 testimony, Your Honor.

1 **MR. O'NEIL:** My only last reason is that I don't
2 think there's any -- there's no direct evidence of
3 any shot. There's only circumstantial evidence of
4 shots. If you take that into effect that at 4:55 and
5 4:56 and 6:00 there were indications from the
6 deputies of shots fired, and I think Investigator
7 Enzor said that could have been the flash bangs;
8 therefore, the mere fact that the deputies say they
9 were shot at is not even conclusive that they were
10 actually shots, because the deputy, there is evidence
11 in the record that the flash bangs and those things
12 were confusing or may have been confused with what
13 could have been gunshots.

14 **THE COURT:** All right. Well, I certainly think
15 you've got a good jury argument there, particularly
16 on the grounds of the burden of proof. But I think
17 that at least there is enough evidence to send it to
18 the jury. I respectfully deny your motion.

19 **MR. O'NEIL:** Yes, Your Honor.

20 **THE COURT:** Yes, sir.

21 **MR. O'NEIL:** My next motion for a directed
22 verdict, Your Honor, would be for the carjacking of
23 Barry Taylor, Your Honor. If you take that
24 indictment in isolation, the only evidence that
25 relates to that carjacking is that --

1 **THE COURT:** Is Barry Taylor.

2 **MR. O'NEIL:** -- Mr. Barry Taylor. He says that
3 the person who came, the only description that he
4 gave was a person, a black male, six foot to
5 six-foot-one inch, brown skinned, a sweater and a
6 coat. There was no photo ID of Mr. Ashford by
7 Mr. Taylor. Mr. Taylor did not identify Mr. Ashford
8 in any way. I don't think he gave a description of
9 him. There are no fingerprints of Mr. Ashford on
10 that car. There is no DNA evidence on that car.

11 And, Your Honor, the Kellys testified that that
12 car was at the Wash World when they got to the Wash
13 World, that that car pulled up to the Wash World
14 after they were already at the Wash World. But there
15 has been no temporal connection between what time Mr.
16 Taylor was alleged to be carjacked until when that
17 car pulled up to the Wash World.

18 As far as the jury is concerned as it relates to
19 particularly that charge, there is no -- it could
20 have been a ten-hour period between when Mr. Taylor
21 was carjacked and this individual came out of what
22 has been later identified as Mr. Taylor's car while
23 they were at the Wash World. Based on that, Your
24 Honor, there is no direct evidence that Mr. Ashford
25 carjacked that car and there is not substantial

1 circumstantial evidence Mr. Ashford carjacked that
2 car. And based on that standard, I guess again,
3 State v. Arnold, I think there's not substantial
4 circumstantial evidence to send that case to the jury
5 either.

6 **THE COURT:** State's position?

7 **MS. CAMPBELL:** Your Honor, clearly there's
8 circumstantial evidence. Mr. Kelly has identified
9 him as the person that gets out of the one car and
10 takes his car at gunpoint. The description of the
11 two are the same. In addition to that, before the
12 police can even respond to the first one, they're
13 responding to the second one. That was the
14 testimony. And the officers also testified these are
15 all interconnected. It's a series of events that
16 happened in a short period of time. The two officers
17 who responded to the scene testified that basically
18 they were rushing to the next scene from one scene
19 and --

20 **THE COURT:** But there's no identification of
21 this Defendant as to the first carjacking.

22 **MS. CAMPBELL:** He's identified as the person
23 getting out of the car that had just been carjacked
24 by Mr. Kelly. There is no doubt. Mr. Kelly says the
25 man who got out of that car and carjacked me is this

1 person. In addition to that, Your Honor, when
2 confronted about it, he says he just doesn't
3 remember.

4 **THE COURT:** Slow down. Slow down.

5 **MS. CAMPBELL:** I'm sorry.

6 **MR. O'NEIL:** Well, I think it's key that there
7 is no temporal connection in the record. There may
8 be temporal connections in discovery and matters that
9 have not been presented to the jury. But for the
10 record, what the jury has been presented with, there
11 has been no temporal connection from the time Mr.
12 Taylor was carjacked until when Mr. Kelly saw
13 somebody getting out of what's been later identified
14 as Mr. Taylor's car. That has not been established
15 in front of the jury. The time period between those
16 two events has not been established. And for all the
17 jury knows, Mr. Taylor was carjacked by someone who
18 was six-foot-one and later on at some unestablished
19 time, Mr. Ashford, a suspect that fit the description
20 of Mr. Ashford came out of that car.

21 **THE COURT:** All right.

22 **MS. CAMPBELL:** If I may finish?

23 **THE COURT:** Yes, ma'am.

24 **MS. CAMPBELL:** The 132 also, Your Honor, Mr.
25 Taylor identified it. It was put into evidence

1 through him, which they admitted.

2 **THE COURT:** What?

3 **MS. CAMPBELL:** The .32 caliber gun that was
4 used. In addition to that, basically he says he
5 was --

6 **THE COURT:** What's that got to do with --

7 **MS. CAMPBELL:** It's the same gun that we recover
8 off the Defendant.

9 **THE COURT:** I know that.

10 **MS. CAMPBELL:** Your Honor, clearly it's
11 probative. In addition to that, and I would
12 submit --

13 **THE COURT:** Probative is one thing.

14 **MS. CAMPBELL:** Your Honor, I would submit that
15 even if it happened hours later that he's in the car,
16 that is circumstantial evidence that he carjacked
17 that car, especially when --

18 **THE COURT:** That's about the best description of
19 it, that it's circumstantial. But it's hours later.

20 **MS. CAMPBELL:** What? Ours isn't hours later.
21 The cops reported they responded. As they're
22 responding to the first call, they respond to the
23 second one. This is a series of events.

24 **THE COURT:** I know that. What evidence is there
25 that would take Barry Taylor's carjacking case to

1 this jury?

2 **MS. CAMPBELL:** The evidence is Mr. Taylor gave a
3 description of the Defendant. He stood up in court
4 and said that he matches the physical description.
5 He just didn't get to see his face very well. He
6 also identified, and the actual gun was put into
7 evidence, as the gun that was used to rob him, and
8 that's the gun that was recovered at the hostage
9 taking several hours later after the hostage taking
10 which we can put with Mr. Ashford through the course
11 of the afternoon.

12 **THE COURT:** So you think you can get to the jury
13 by way of the gun? Is that your theory?

14 **MS. CAMPBELL:** In addition to Mr. Kelly. Mr.
15 Kelly said the man that got out of Mr. --

16 **THE COURT:** I know what Kelly said. He got out
17 of Taylor's car.

18 **MS. CAMPBELL:** Yes, sir.

19 **THE COURT:** Right.

20 **MS. CAMPBELL:** Right there at the Wash World
21 down the street.

22 **THE COURT:** I know that.

23 **MS. CAMPBELL:** The police officers put the time
24 period together. All those things, Your Honor, more
25 than -- are more than enough to put it to the jury.

1 **THE COURT:** Well, that's your opinion.

2 **MS. CAMPBELL:** That's my opinion.

3 **MR. O'NEIL:** Your Honor, there's one thing. I
4 think Mr. Taylor never -- he used the word
5 "consistent". I don't think he ever used the word
6 "matched" as it relates to either the gun or Mr.
7 Ashford. He said the gun looked like the same gun.
8 He said Mr. Ashford it appears is consistent with the
9 description he gave in that regard, Your Honor.

10 **MS. CAMPBELL:** And then Mr. Kelly says that that
11 man got out of Mr. Taylor's car and carjacked him in
12 the same way he was carjacked.

13 **THE COURT:** Well, he didn't know he was taking
14 his car.

15 **MS. CAMPBELL:** But the car is identified in the
16 parking lot by Mr. Taylor as that's his car. If Mr.
17 --

18 **THE COURT:** Taylor never said that -- I mean,
19 Kelly never said that was Mr. Barry Taylor's car.

20 **MS. CAMPBELL:** Correct, Your Honor. He did say,
21 however, that this was the car which Mr. Taylor
22 identified as his car that pulled up beside him in
23 the parking lot. And we showed him photographs of
24 that, and he said that's the car he got out of.
25 Which we then linked back because Mr. Taylor said

1 that was his car.

2 **THE COURT:** It's all circumstantial. It's all
3 circumstantial evidence. You don't disagree with
4 that.

5 **MS. CAMPBELL:** I say that there is a direct link
6 with Mr. Kelly. Yes.

7 **THE COURT:** You've got all kind of things --

8 **MS. CAMPBELL:** He identified --

9 **THE COURT:** We're talking about the burden of
10 proof.

11 **MS. CAMPBELL:** The burden of proof, Your Honor,
12 it's the same thing. We have burglary cases such as
13 the recent murder and burglary involving the women in
14 the Northeast, of Monticello Road. He is seen
15 pawning their material later in the afternoon. She
16 is murdered that morning.

17 **THE COURT:** This is this case. We're not trying
18 some other case.

19 **MS. CAMPBELL:** I understand. I'm just trying to
20 give examples where it's circumstantial. Assuming
21 even if Mr. --

22 **THE COURT:** Well, at best your instruction is
23 going to be that there is a higher burden of
24 circumstantial evidence or that you have to prove
25 your circumstantial evidence beyond a reasonable

1 doubt.

2 **MS. CAMPBELL:** Yes, sir.

3 **MR. O'NEIL:** Your Honor, I just want to make
4 sure --

5 **MS. CAMPBELL:** And that's a jury issue.

6 **MR. O'NEIL:** -- we're clear. What's not a jury
7 issue is the standard for circumstantial cases to be
8 submitted to the jury whenever --

9 **THE COURT:** Only on circumstantial evidence.

10 **MR. O'NEIL:** Your Honor, the case, which Mr.
11 Taylor is carjacking is clearly circumstantial.
12 State v. Arnold says there must be substantial
13 circumstantial evidence.

14 **THE COURT:** I understand that.

15 **MR. O'NEIL:** Not just any circumstantial
16 evidence.

17 **MS. CAMPBELL:** State vs. Grippon says it can be
18 all circumstantial.

19 **MR. O'NEIL:** As long as it's --

20 **THE COURT:** Well, there is no question it can be
21 all circumstantial.

22 **MR. O'NEIL:** As long as it's substantial.

23 **THE COURT:** But if it's just circumstantial,
24 there's a higher burden.

25 **MS. CAMPBELL:** No, sir.

1 **THE COURT:** Yes, sir. Ma'am, I disagree with
2 you, and that's my ruling. I'm going to deny his
3 motion. But the instruction will be that if the
4 State relies only on circumstantial evidence, they're
5 going to have to have a higher burden of proof.

6 **MS. CAMPBELL:** But you will charge Grippon which
7 you always charge.

8 **THE COURT:** I'll charge -- but the Grippon talks
9 about when there's both.

10 **MS. CAMPBELL:** Grippon talks about the
11 circumstantial evidence doesn't have to be to any
12 higher level of proof than -- I'm just asking for the
13 Grippon charge.

14 **MR. O'NEIL:** And actually, Your Honor, I would
15 ask for a directed verdict as it relates to the
16 kidnapping of Ms. Evelyn Worthy, Your Honor. I think
17 according to State v. Barry, the kidnapping involves
18 the control of a human being by force. And
19 essentially what we're dealing with is whether or not
20 Mr. Ashford in any way curtailed Ms. Worthy's
21 freedom.

22 I think the only testimony in the record about
23 what happened at that church was that Ms. Worthy said
24 an individual reached over her shoulder and hung up
25 the phone and she saw a firearm at that point. There

1 has been no indication that anybody restricted Ms.
2 Worthy's freedom or hold her to go anywhere or told
3 her not to go anywhere. When she said she then
4 walked out of the church, there's been no testimony
5 from Ms. Worthy that anybody had any physical contact
6 with her after walking out the church. She testified
7 she didn't remember anybody holding a gun to her
8 head. And she said the only thing she remembers is
9 she got out onto the street, didn't see anybody else,
10 and decided to run back into the church, Your Honor.

11 I think there has been no testimony of any overt
12 act on Mr. Ashford's part to curtail or force Ms.
13 Worthy to go anywhere or to restrict her freedom in
14 any way, Your Honor. I think the mens re I think for
15 kidnapping I think is knowledge and that Mr. Ashford
16 would have had to have knowledge that his actions
17 would have caused curtailing Ms. Worthy's freedom. I
18 think that has not been established. There is no
19 indication he did anything to Ms. Worthy that would
20 have given her reason to believe that she was not
21 free to go and that she had to stay in one particular
22 part of the church, Your Honor.

23 **THE COURT:** Denied. Respectfully deny the
24 motion. All right. Anything further?

25 **MR. O'NEIL:** Beg the Court's indulgence, Your

1 Honor.

2 **THE COURT:** Sure.

3 **MR. O'NEIL:** Nothing further, Your Honor, at
4 this time.

5 **THE COURT:** All right. I need to advise your
6 client of his right to testify and whether he is
7 going to take the stand. Mr. Ashford, at this time
8 I'm going to explain to you some of your -- certain
9 of your rights. Do you understand?

10 **MR. ASHFORD:** Yes, sir.

11 **THE COURT:** If you do not understand anything I
12 say, please let me know. If you want me to explain
13 anything in more detail, please let know. Do you
14 understand?

15 **MR. ASHFORD:** Yes, sir.

16 **THE COURT:** We have now reached the stage of
17 this trial where you may now present your defense.
18 You have the right to claim the protections given to
19 you by Fifth Amendment to the Constitution of the
20 United States. This Amendment states in part: "No
21 person shall be compelled in any criminal case to be
22 a witness against himself."

23 This means you cannot be required to testify in
24 this case. You have the right to testify on your own
25 behalf if you wish to do so. However, no one can

1 make you testify. This is a personal right, and no
2 one can waive this right except you. If you decide
3 to testify, you will be subject to the same rules
4 that govern other witnesses and you may be examined
5 and cross examined on any relevant issue in this
6 case.

7 In addition, if you have any convictions
8 involving dishonesty or false statement or for crimes
9 punishable by imprisonment for more than one year and
10 this Court determines that the probative value of
11 admitting this evidence outweighs its prejudicial
12 effect to you, the solicitor will be able to
13 introduce your record to attack your credibility.

14 If you decide to testify, this decision on your
15 part must be freely, voluntarily and intelligently
16 made with knowledge of the protections given to you
17 by the Fifth Amendment to the Constitution and the
18 consequences of your decision to testify.

19 If you decide not to testify I will instruct the
20 jury that they cannot give the fact that you did not
21 testify any consideration whatsoever and that there
22 is absolutely to be no prejudice to you because you
23 did not testify.

24 It is left entirely up to you whether or not you
25 testify. You may talk with your attorney or family

1 and friends or anyone else, but the final decision
2 will be left entirely up to you. Do you understand
3 what I have explained to you?

4 **MR. ASHFORD:** Yes, sir.

5 **THE COURT:** Do you have any questions about what
6 I have explained to you?

7 **MR. ASHFORD:** No, sir.

8 **THE COURT:** Have you discussed with your lawyers
9 whether you should testify or not testify?

10 **MR. ASHFORD:** Yes, sir.

11 **THE COURT:** Do you wish to talk to your lawyers
12 any more about this subject?

13 **MR. ASHFORD:** No, sir.

14 **THE COURT:** Do you wish to testify?

15 **MR. ASHFORD:** Yes, sir.

16 **THE COURT:** All right. Thank you very much.

17 **MS. CAMPBELL:** Do we need to clarify his record?

18 **THE COURT:** Yes, you should.

19 **MS. CAMPBELL:** The only thing I see, he's got a
20 lot of criminal domestic violence charges and things,
21 but the only thing that I see that would be
22 admissible --

23 **THE COURT:** Convictions.

24 **MS. CAMPBELL:** Those aren't admissible. Even if
25 they were admissible, I think the only one would be

1 assault and battery of a high and aggravated nature.
2 And that would be the extent of what's admissible at
3 this time.

4 **MR. O'NEIL:** I agree.

5 **THE COURT:** All right. Approach the bench,
6 please.

7 (Whereupon, a bench conference is had)

8 **THE COURT:** All right. Take a five-minute break
9 this time.

10 (Whereupon, a break is taken)

11 **THE COURT:** Mr. Broome, the deputy is going to
12 sit there.

13 **THE BAILIFF:** All right.

14 (Pause)

15 **THE COURT:** The State ready to proceed?

16 **MS. CAMPBELL:** The State's ready.

17 **THE COURT:** Defense ready to proceed?

18 **MS. SINGLETARY:** Yes, Your Honor.

19 **THE COURT:** All right. Bring the jury, please.

20 (Jury in at 11:43 a.m.)

21 **THE BAILIFF:** Your Honor, the jury is present.

22 **THE COURT:** Thank you very much. Mr. O'Neil,
23 you may proceed.

24 **MR. O'NEIL:** Your Honor, at this time the
25 defense calls Randolph Ashford.

1 RANDOLPH ASHFORD, after being duly sworn,
2 testifies as follows:

3 **THE CLERK:** Please have a seat. State your full
4 name for the record.

5 **THE WITNESS:** My name is Randolph Ashford.

6 DIRECT EXAMINATION

7 **BY MR. O'NEIL**

8 **Q** Randolph, you're going to have to speak into the
9 microphone so the lady can understand what you're
10 saying. Okay?

11 **A** Okay.

12 **Q** Now, Randolph, how old are you?

13 **A** Forty-three.

14 **Q** And just tell us a little bit about yourself. Where
15 are you from?

16 **A** Okay. I'm from Richland County, living in South
17 Carolina all my life. I'm a high school dropout.
18 And I work construction. And I've done various other
19 jobs; like lay bricks, carpenter work and mechanic
20 work.

21 **Q** Now, you got any family here in Columbia?

22 **A** Yes, I do.

23 **Q** Who is that?

24 **A** I have two sisters, Ms. Dorothy Nelson and Katherine
25 Hollins.

1 Q And that's Ms. Dorothy and Ms. Katherine right there?

2 A That's correct.

3 Q Those are your two sisters?

4 A Yes, sir.

5 Q Do you have any brothers?

6 A Yes, sir.

7 Q How many brothers you got?

8 A One.

9 Q What's his name?

10 A Eldred Ashford.

11 Q And, Randolph, are you married?

12 A No, sir.

13 Q Do you have any kids?

14 A Common law married.

15 Q Common law married. Who is that?

16 A Roberta Neil.

17 Q And is she here today as well?

18 A Yes, sir.

19 Q Where is she at?

20 A Sitting over there between my two sisters.

21 Q And do you have any kids, Randolph?

22 A No, sir.

23 Q Now, what schools did you go to here in Columbia?

24 A I went to Denny Terrace, Heyward Gibbes, and they
25 passed me to Eau Clair. And that's when I dropped

1 out.

2 Q And how long did you stay at Eau Clair? Do you
3 remember?

4 A About two months.

5 Q And that's it?

6 A That's it.

7 Q And you say you started work after you dropped out of
8 school?

9 A Yes, sir.

10 Q And what kind of work did you do?

11 A I started out doing construction work, building
12 houses and stuff like that.

13 Q And you say you're 44 at this point?

14 A Correct.

15 Q And how old were you when you dropped out of school?

16 A I can't remember.

17 Q Under 20?

18 A Yes, sir.

19 Q So you've been working in construction for about 20
20 years, give or take?

21 A Yes, sir.

22 Q And at any point in time did you ever get hurt at
23 work?

24 A Yes, sir.

25 Q And when would that have been?

1 **A** This happened in 2006. I got injured one Saturday
2 morning.

3 **Q** Tell us what kind of work you were doing?

4 **A** Well, me and the boss man was moving cars. And we
5 was using bobcat machinery to lift the cars and put
6 them on trailers and haul them out from around
7 people's houses and stuff. And I accidentally -- well,
8 I stuck my hand down between the bobcat while it was
9 open. They let a chain down to it to clamp the chain
10 to pull the cars. And when he opened it up, the
11 chain was too long, so I had to shorten it up. But
12 by him having the bobcat piled up real high, and if
13 you touch any of the levers on it, it will make a
14 certain move real fast, vicious like.

15 And so his cellphone rang while I was reaching
16 down in there to pull the chain. And he attempted to
17 answer his cellphone, and he must have accidentally
18 tapped a button. And it shut up on my arm. It
19 crushed my right arm.

20 **Q** And did you get any kind of medical treatment for
21 that?

22 **A** Yes, I did.

23 **Q** What did they give you for that?

24 **A** I was immediately taken to Richland Memorial
25 Hospital, which they transported me to North

1 Carolina, Carolina Medical Center, where they worked
2 on my arm from that point.

3 Q This was 2006?

4 A Yes, sir.

5 Q And did you have to continue to take medication for
6 that?

7 A Yes, sir.

8 Q Now, sometime in 1999 you'd been convicted of a
9 crime?

10 A In '98.

11 Q What was that? What was that conviction for?

12 A ABHAN. Assault and battery of a high and aggravated
13 nature.

14 Q And when did you meet Ms. Roberta?

15 A I met Roberta -- I'm not really -- well, I think in
16 2005, somewhere along in there.

17 Q And how did you all meet?

18 A I went over by Roberta's house, me and some guys one
19 day, and she had asked me to -- did I know anything
20 about putting a starter on a car. And I told her
21 yeah. So she had a car. So I put a starter on her
22 car.

23 Q And how did that interaction actually transition to a
24 romantic relationship?

25 A Well, I went back to check on the car to see whether

1 the starter was working all right and stuff like
2 that, and so we started talking. And so I would go
3 by and pay her a visit from time to time after that.

4 Q At any point in time did you move in with
5 Ms. Roberta?

6 A Yes, sir. About I'd say two months after, after I
7 visited her off and on.

8 Q And where was that location at?

9 A Street.

10 Q And y'all were living together in the house?

11 A Well, not at first. But, yes, it came -- it got --
12 we started -- I started living with her.

13 Q Now, did you know Ms.

14 A No, sir. I didn't know Ms. at first. I
15 met D.S. through Roberta.

16 Q And do you remember when about that would have been?

17 A Well, we had -- me and Roberta had been together
18 about I'd say four months and that's when I met
19 Ms. D.S.

20 Q And what was her relation to Roberta?

21 A I think she said was cousins, something of that sort.
22 Cousin.

23 Q And what was the interaction between you and
24 Ms.

25 A Well, there was none, because I hadn't actually saw

1 her at that time. But later on me and Roberta went
2 over to D.S. house and I met her personally
3 then. And a short time after that I helped her
4 husband put a transmission in a van. And from that
5 point, that was mainly our knowing each other.

6 Q Did you all have any occasion to speak on the
7 telephone?

8 A Yes, sir. Pretty much --

9 Q Tell us about that?

10 A Pretty much every day. Whenever she called Roberta
11 she would say, "Hello, Roberta. Where is Randy?"
12 All the time. And I didn't speak to her every time,
13 but she would always ask every time she would call.
14 She would say, "Hello, Roberta. Where is Randy?"
15 Because me and Roberta, we used to -- I used to tell
16 Roberta, I'd say, "I bet you she ain't going to do
17 nothing but say, 'Hello, Roberta, and where is
18 Randy', you know, like that.

19 And so we used to laugh about it, because that's
20 what she would do. So I said it seemed like she used
21 to call to speak to me. I used to tell Roberta that.
22 It seemed like she called to talk to me. Every time
23 she called she, you know, immediately asked about me.
24 And so we laughed about it and stuff like that.

25 Q Now, let's fast forward to 2007. Okay? February of

1 2007 in particular. Now, did you go to the hospital
2 the week of February the 20th, 2007?

3 **A** Yes, sir, I did.

4 **Q** And why was that?

5 **A** I went to the hospital that Wednesday because I -- I
6 had been woke for like a week. I hadn't slept at
7 night for a whole week, day or night.

8 **Q** Was that unusual for you?

9 **A** Yes, it was. And I was beginning to have chest
10 pains. And so I went to the hospital and they gave
11 me a shot. And it put me to sleep about 4:00 that
12 evening. And I woke up in the hospital about 11:00
13 that night. And we went home.

14 **Q** When you say "we", who are you referring to?

15 **A** Me and Roberta. And I went back to sleep that night.
16 And the next morning I got up a little before 10
17 because I had to be in therapy.

18 **Q** Now, this would have been Thursday?

19 **A** That's right.

20 **Q** That would be February 22nd, 2007?

21 **A** That's right. That's right. And I had to be at
22 therapy at 11. So I went to therapy and we came back
23 home.

24 **Q** And let's talk about, did they have you on any kind
25 of medication during that week? Did you take any

1 kind of medication?

2 **A** Yes, sir. I was taking medication from the doctor
3 concerning my arm still because I was having a lot of
4 pain and stuff like that. And I don't remember the
5 name of the medication, you know, but ...

6 **Q** What kind of effect did this medication have on you?

7 **A** Well, it would make you drowsy pretty much. And
8 that's all. That's all I can describe as to the
9 effect of it.

10 **Q** Now, let's talk about Friday, February 23rd, 2007.
11 What was going on that afternoon? What were you
12 doing?

13 **A** That afternoon what was going on? We were -- me and
14 Roberta, we were trying to finish up our last-minute
15 details on our normal activity of a day, like cooking
16 and the cleaning. And me and Roberta, we had a
17 disagreement about something. I can't remember
18 exactly what it was. A verbal disagreement. And
19 that was pretty much that.

20 But during the time of the verbal disagreement,
21 that afternoon D.S. called. And Roberta
22 answered the phone but she was still talking to me.
23 She picked the phone up but she was still talking to
24 me. So I guess asked her what was going
25 on and she said that we was arguing. And they didn't

1 say very much. I don't know if -- I remember hearing
2 Roberta say, "Yeah", and she hung the phone up.

3 So we continued to argue a little bit. The next
4 thing we knew, the cops showed up. The police showed
5 up. So we both went outside and we talked to the
6 City Police Department. The guy knew us from seeing
7 us all the time. And he told me -- Roberta telling
8 me -- telling him that she wanted to go over to her
9 cousin's house. And I didn't have no problem with
10 it. So he told me to give her the money to go with.
11 So I gave her \$30.

12 And I think the officer called a -- I think he
13 called a cab. And Roberta had called a cab but a cab
14 never did show up, never did come. So the officer
15 left and we went back in the house. And so we sit
16 down. Roberta was scratching off some lottery
17 tickets that she had. And it was getting pretty late
18 then. We had missed most of the -- *The Smackdown*
19 come on at 8:00. We had pretty much missed it. So
20 it must have been about 10, because it was going off.

21 And her brother was there with us, Ernest. And
22 so I asked him to go to the store for me. He went to
23 the store. And I think about I bought about \$20 in
24 tickets, or 15, somewhere along in there. So when he
25 came back we scratched them off. And I didn't -- we

1 didn't -- me and my brother, you know, we didn't --
2 we stayed until he came back. We didn't win
3 anything. So it was getting late and he was scared
4 to go to the store, you know, because it was getting
5 late, about time for the store to close. So I told
6 Roberta, I said I was going to go to the store and
7 get some more tickets right before the store closed
8 because the store closes up at 12 on Friday night.

9 Q And what happened once you got back from the store?

10 A Okay. When I got back from the store, the door was
11 cracked. So when I walked in the house, wasn't
12 nobody in the house. So I went through the rooms
13 looking for Roberta and she wasn't there. So I went
14 outside because her brother stayed right around the
15 other trailer. And I asked him, I said, "Hey, man."
16 I said, "Berta isn't in the house." I said, "What
17 done happened? Where she at?" He said he didn't
18 know.

19 I went back in the house and I was concerned
20 about where she was, so I called 911. I didn't know
21 what was going on. I didn't have no idea that she
22 had left, you know, gone nowhere, because she was
23 there when I left. So I called 911 and came back
24 out. And I asked them to, you know, let them know,
25 make a missing person report because she wasn't there

1 and I didn't know what could have happened. And so
2 he said, "No." He said, "Don't worry about Roberta.
3 Roberta is at a girlfriend's house", said but if she
4 didn't come back by morning to give him a call.

5 **Q** Now, had Roberta left in y'all's car?

6 **A** No.

7 **Q** Y'all still had a car there at the residence?

8 **A** Yes, sir. My car was -- my car was there.

9 **Q** So after you figured out where Roberta was at, what
10 did you do that night?

11 **A** Well, I went back inside and I went -- I got some
12 papers that I had borrowed some money from a loan
13 company. And so I was going over the papers because
14 I had to pay it back. And, you know, if you don't
15 pay it back in a certain length of time, the money
16 would increase. So I went over the papers and trying
17 to figure out, you know, could I get the money to pay
18 it back within a time limit of what I could pay back
19 and stuff. And I watched movies all night, VCR and
20 all.

21 **Q** Did you go to sleep any time that night?

22 **A** No, I did not.

23 **Q** Did you receive a call from Roberta that night?

24 **A** Yes, I did. Well, I can't say it was Roberta. But I
25 did -- a call did come in about 1:35, because I

1 looked to see what time it was. And I answered the
2 phone and didn't nobody say anything. So I hung the
3 phone up. I called Roberta's cellphone number I
4 think one or two times, but I quit because she didn't
5 answer it. I knew she wasn't going to answer it.

6 Q And did you call Ms. house that night?

7 A Well, let me remember. I don't remember. I don't
8 think so.

9 Q Let's talk about what happened that Saturday morning.
10 So, did you ever get any sleep Friday night?

11 A No, I didn't.

12 Q What did you do when it gets light on Saturday
13 morning?

14 A When it gets light on Saturday morning, I got up off
15 the chair. I stopped watching the movie. I took a
16 bath.

17 Q Let me ask you, is Roberta home at this point?

18 A No, she's not. I called Roberta's cellphone number.
19 She didn't answer again. I called D.S. And I
20 asked D.S. was Roberta over there. She said,
21 no, Roberta ain't over there. She said she didn't
22 come over there that night. It was just like a two
23 to three minutes -- seconds I mean -- phone
24 conversation. So I hung up.

25 A short time later D.S. called me and

1 asked where was Roberta. And I told her Roberta --
2 she said, "Where my cousin at?" So she said -- I
3 told her, I said she wasn't there. She seemed like
4 she didn't believe me. She thought she was there and
5 wanted to speak to her. I said, "She ain't here. I
6 thought she was over there."

7 So, at the same time I asked D.S. -- no,
8 not at that time. I hung up. So some time later,
9 about 7 or 8:00, about 8:00, I think I called her
10 back and I asked where was Ali Harrison, her brother.
11 And she gave me his cellphone number. And I called
12 him and I told him about the night, that night of
13 events. And I told him to come on over, I said, and
14 talk to me. I said I wasn't doing anything, like
15 that. And he said that he was at a cousin's house
16 and that he would come over later on to talk to me,
17 be with me a little while.

18 Q Randolph, what did you have on that day? Do you
19 remember?

20 A Yes, sir. I put on that brown -- that red and white
21 shirt and the brown khakis that morning, and a brown
22 leather jacket.

23 (WHEREUPON, Defendant's Exhibit No. 1 is marked
24 for identification.)

25 Q Now, Randolph, I'm going to show you what's been

1 marked as Defense Exhibit No. 1. I want you to take
2 a look at this. Okay? Take a look at what's in the
3 bag, please.

4 **A** Yeah.

5 **Q** Are these the same clothes you had on on
6 February 24th, 2007?

7 **A** Yes, sir, it is.

8 **MR. O'NEIL:** Your Honor, at this time I'd move
9 into evidence Defense Exhibit No. 1.

10 **THE COURT:** Any objection?

11 **MS. CAMPBELL:** No, sir.

12 (WHEREUPON, Defendant's Exhibit No. 1 is
13 admitted into evidence.)

14 **Q** And you had on those clothes all day long?

15 **A** That day, yes, sir. Yes, sir. That Saturday
16 morning, I put them on that Saturday morning.

17 **Q** No green sweater?

18 **A** No green sweater.

19 **Q** No jeans?

20 **A** No jeans.

21 **Q** No jacket?

22 **A** A brown leather one.

23 **Q** A brown leather jacket?

24 **A** Yes, sir.

25 **Q** No green jacket?

1 **A** No green jacket.

2 **Q** No tannish jacket?

3 **A** No tannish jacket.

4 **Q** And do you ever remember leaving the house that
5 morning?

6 **A** No, I do not remember leaving the house. I was there
7 for some time. I pulled my car from behind the house
8 because I was going to rake the leaves up. Roberta's
9 brother, Ernest, was out in the yard and a friend of
10 mine by the name of Richard. So I pulled the car out
11 there where they was. They were sitting right out in
12 the yard. So I sit in the car and I talked to them a
13 little while. I told them what I was fixing to do.

14 And at that time, it was about -- it was 11:00.
15 I discovered I didn't have any cigarettes. So I
16 said, well, I said, "I need to go get some
17 cigarettes." My reason for not driving the car over
18 to the store is because my license got suspended and
19 I didn't have any insurance on the car. So I backed
20 the car back up in the backyard and I went back in
21 the house. And my arm had started bothering me and I
22 took two of the pain killer pills. And from that
23 point I don't remember --

24 **Q** What's the --

25 **A** -- when I left the house at all.

1 Q What's the next thing you remember?

2 A The next thing I remember, walking in the lot of the
3 Wash World.

4 Q So you take these pain killers and the next thing you
5 remember is walking through the lot of the Wash
6 World?

7 A The Wash World.

8 Q What happens after that? What do you remember?

9 A When I walked in the lot of the Wash World, I saw
10 this man bent over in his trunk. And from the angle
11 he was bent over in the trunk, I could see past him
12 to the driver's side of the car and I seen this lady
13 in the car. So I walked over to him and I told him,
14 I said, "Tell your lady to get out of the car."

15 Q Now, why would you have done that?

16 A I have no idea.

17 Q What happens after that?

18 A I told her -- I told him that. So he looked up from
19 looking in the trunk and he looked at me. So when I
20 went to go around to the passenger's side of the car,
21 the lady jumped out and took off running. So when I
22 turned around back around facing him, he had done
23 shut the trunk down, he had done backed up from the
24 car. So I went on around and got in the car and
25 drove off.

1 Q What's the next thing you remember after that?

2 A The car got loose. It got away from me and it hit a
3 bank pole or something by a church. I think it's
4 Gill Creek.

5 Q And what do you remember after the car hit the pole?

6 A I got out of the car. And cars was slowing down
7 passing my me. I was in the middle of the road. And
8 this cab pulled, came. And I was standing in the
9 middle of the road. And the cab stopped right in
10 front of me. I put my hands on the hood. I told
11 him, you know, I said, "Sir, get out the car." And
12 he didn't apparently hear me the first time. So I
13 said it again. Cars were still going by. And so he
14 stepped out of the car. So when he stepped out of
15 the car, I think it's Mr. Malachi I learned through
16 testimony, he stepped out of the car, and there was a
17 lady in the back of the car. So I went. I got in
18 the car. And then she stepped out. So then I was
19 fixing to turn around and went to D.S. house
20 which is on Booth Street.

21 Q Now, do you remember at any time going to the corner
22 of Oakland and Randall Streets?

23 A No, sir, I did not.

24 Q And what happened once you got to --

25 A I mean, when I remember, I was walking in the parking

1 lot of the washing place where you wash clothes.

2 Q And what happens once you get to Street
3 which is house?

4 A When I get to D.S. house I stopped the cab
5 and got out and proceeded to go to the door. And
6 when I got to the door, it was a glass door, a storm
7 door like. And when I got to the door, an arm
8 reached out the door. As I reached the knob, I could
9 see D.S. standing right there facing me. And I
10 heard someone say, "Run. Get up under the bed." And
11 so by that time I done opened the door, and I said,
12 "Hey, D.S. I went to step inside the house.
13 All of a sudden the door comes rushing to me.

14 So when I throwed my hands up, the door hit me
15 in my foot and it bounced back. So I stepped on in
16 the house, you know, immediately to try to get out of
17 the way of this -- the door. And so when I stepped
18 inside the house, I really -- I think it's Kenya;
19 Kenya was standing behind the door. And so I say,
20 "D.S. -- I didn't really even pay that much
21 attention what she had just did. I said, "D.S.

22 where is Roberta?" She said, "Randy, Roberta is
23 not here." So I said, "Well, let me see if she's in
24 the room there." So I walked on by.

25 Q You can stop right there. Do you remember having a

1 firearm at this time?

2 **A** That's when I -- that's when I realized I had a
3 firearm in my hand.

4 **Q** What do you do after that?

5 **A** Well, I went on -- I walked on to the bedroom. And I
6 peeped in the bedroom, and the kids was down on the
7 floor. And I told them, I said, "Y'all." I said,
8 "Y'all come on out here." I said, "y'all ain't got
9 to get up under no bed." I said, "Y'all don't
10 remember me?" I said, "I'm the ice cream man."
11 Because the kids had been over to the house about two
12 months prior to this and I had gave them ice cream.

13 And so they got -- they came -- they was just
14 sitting on the floor by the bed. So they got up and
15 they came back out. So when I walked back out there
16 where D.S. and Kenya were standing in the
17 living room, Kenya was holding a little baby. And
18 she said, "Can we leave?" So I said -- she was
19 looking at me. She says, "Can we leave?" I said,
20 "You can leave if you want to." I said, "Yeah", like
21 that. So when I said that, she run on out the door,
22 and the kids followed her, followed her outside.

23 So I said, "D.S." I said, "Roberta ain't
24 been home all night." I said, "I thought she was
25 over here." I said, "I wonder where she at." I

1 said, "Help me call her" I said, "because I've been
2 calling her and she don't too much want to talk to
3 me", like that. And so she said -- she started
4 saying, she said, "I don't know where Roberta at."

5 So at that time a city police car was pulling
6 down to the cab. So D.S. grabbed -- she was
7 standing at the door. So she shut the door. And so
8 I saw the police car, too. And I didn't say anything
9 about it. I said, "Hmm." I said to myself, I said,
10 the police right there.

11 So when she shut the door, D.S. when I
12 knew anything, she was moving the long chair, pushing
13 the long chair over toward the door. She said, "Come
14 over here and help me put this chair to the door so
15 they can't come in." So I just helped her, took my
16 leg and put it up against the chair and helped her
17 push the chair. She had done pushed it over to the
18 door. I just helped her push it up to the door.

19 And so then we -- I was trying to talk to her.
20 So she started heading back towards the back, to the
21 back. So right after then as I was talking to her,
22 the police knocked on the door. So she said -- told
23 me to do like this here, and she said, you know,
24 like, don't say nothing, don't make no noise. So the
25 officer knocked on the door a few times, and she

1 said, "Don't answer it; don't say nothing." So I
2 didn't say anything.

3 And so she was -- we was -- she was looking
4 around the corner from the washroom to see where the
5 officer was when he left the door. So he left the
6 door and went back out to the car. And I took it as
7 he was on the radio calling some people or something
8 like that. And so as we --

9 Q Now, at this point in time, who is all in the house?

10 A Nobody but me and her.

11 Q All the kids were out of the house?

12 A Yes, sir.

13 Q Just you and Ms.

14 A That's right. And at that time she said, "Come on.
15 Let's put this freezer up against the door." It was
16 a big freezer. And so she got up there at the
17 freezer and like pushing on it like, you know what
18 I'm saying. So I said, well, I'll help her push the
19 freezer. So we tried to push the freezer to the back
20 door. But my arm wouldn't let me. I couldn't do
21 much with this arm here. And I still can't. So I
22 did all I could do and couldn't get it no further. I
23 just said, well, that's what -- she give up trying to
24 push it up against the door. So I did, too.

25 And so we continued talking. And so she got on

1 the phone and trying to call Roberta. So at that
2 time, another officer, somebody else came and started
3 knocking on the door. So she told me to be quiet.
4 So I been quiet. And then when they left, we're
5 still in the back area because we could see them, you
6 know, from the washroom through the curtain.

7 So when they left D.S. went back in the
8 living room and sit down in the chair. So I followed
9 her. I went and I sat down on the edge of the chair
10 to the door because it was closer. And so we was
11 talking. I was talking to her. And D.S. had a
12 24-ounce Budweiser. She said, "Randy, you want some
13 of the beer?" I said, "Yeah." So she went back in
14 the kitchen and got a glass and poured me about a
15 glassful of it.

16 I didn't have any cigarettes. She had some
17 cigarettes. I got a cigarette from her. And I was
18 smoking. And so we started talking. And she started
19 telling me about she came up in a poor family and
20 they never had anything and stuff like that. And so
21 I told her about the events of what me and Roberta
22 was arguing about, disagreed on, which I can't
23 remember right now what it was. And she said,
24 "Yeah." She said, "Well, Roberta really, she
25 shouldn't have left you and went, stayed away all

1 night like that." She said, "Roberta was wrong for
2 that" or something. So I said, "Yeah." And so while
3 we were sitting there talking, I mean, we had talked
4 a long time. They hadn't started -- the phone hadn't
5 started ringing yet as far as the police calling.

6 **Q** Now, when the phone would ring, who would answer the
7 phone?

8 **A** I would answer it sometimes and then sometimes she
9 would answer it.

10 **Q** And what would you say when you answered the phone?

11 **A** I'd say, "Hello." And they'd tell me who they were
12 and stuff like that. But at the same time, we talked
13 a long time. And so while we were sitting there
14 talking, I had to sit on the floor by the chair
15 because I wanted to stay down from the -- she tell me
16 to stay down from the windows and stuff. And so
17 while we was talking and while we was talking, well,
18 I guess they had set up the command post or whatever
19 because the phone started ringing and they was steady
20 saying, you know, come out, asking me to come out. I
21 told them I wasn't. And they asked me why --

22 **Q** Why didn't you just come out?

23 **A** Well, I was -- I was -- I was scared. I was actually
24 scared to come out of the house, you know. I know I
25 had that gun. At that time I realized I had the gun.

1 So I told them, you know, no, I wasn't going to come
2 out. I said I actually wanted to talk to Roberta.
3 So, to let them know that I had a gun, because I had
4 discovered I had this gun, I pointed it at the floor
5 and pulled the trigger, not knowing it was going to
6 shoot or anything. And it shot one time. It shot in
7 the floor. And so, some time went by after that.
8 And as the time went by, I pulled it -- I pointed it
9 at the chair and I pulled the trigger. And it didn't
10 shoot at first, but then eventually it shot again.

11 Q So you shot once in the floor?

12 A Yes, sir.

13 Q Once in the chair?

14 A And once in the chair.

15 Q At any time did you shoot out any of the windows of
16 the trailer?

17 A No, sir. I never shot out the window.

18 Q Did you shoot at Deputy Unger?

19 A No, sir. I did not shoot at no deputy. I was
20 sitting on the floor right by D.S. I never got up
21 from her. So I was saying to myself, I said, well,
22 maybe I'll let them know I've got a gun, because
23 D.S. was saying like they was going to kill me.
24 You know, don't go out because they're going to kill
25 you and I don't want them to kill you in my house.

1 And so that was scaring me more, you know, really. I
2 didn't really want to die. You know, at that point I
3 didn't.

4 So while we're sitting there talking, something,
5 a big shot sounded like a couple of knocks out the
6 house, and it came through the front living room
7 window. And there was -- some gas was coming out.
8 It wasn't far. It hit the wall and it bounced toward
9 the kitchen and it was shooting gas. So we sit
10 there, you know, like looking at it and it was still
11 smoking, you know, smoking. We just sit there just
12 kind of like staring at it.

13 And as it just kept smoking and my face started
14 tightening up and my eyes started getting watery. So
15 I got up and went behind it and grabbed it and I
16 threw it down the hallway and it ended up in the
17 bedroom. I didn't even go after it to close the door
18 or anything. I just throwed it away from us.

19 By the time I did that, D.S. had done
20 passed me and was going to the -- she went to the
21 washroom because I heard the water running. My face
22 was burning. I'm still in the living room. So when
23 I heard the water running, I said I need some water
24 for my face. And I went in the bathroom, washroom.
25 She was in there with a towel on her face. So I

1 reached down in there. In the washing machine there
2 was some clothes down there. I got me one and I just
3 put it over my face.

4 And so when I pulled the door open as I was
5 coming back out because the thing was still smoking.
6 So we came back out and went back into the living
7 room and sit down. And we started talking about it.
8 We was talking to the police, too. And they kept
9 calling and they asked me why wouldn't I let D.S.

10 go. D.S. could hear the conversation
11 because she's got a speaker phone. Before I could
12 answer it, before I could answer the question, D.S.

13 hung the phone up, disconnected the call. So I
14 didn't even -- I just left it like that.

15 So the phone rang around again. When she hung
16 the phone up, she cut the ringer off. So the only
17 phone that was ringing was in the back bedroom part.
18 So I didn't worry about answering the phone, I mean,
19 you know. So she went on to say that the police
20 wasn't, you know, nothing and don't go out there
21 because she didn't want them to kill me; she didn't
22 want them to kill me in her house.

23 So she got up and she went and got, I think it
24 was -- I don't know if it was a caller phone or not.
25 But there was a phone on the counter of the kitchen

1 there. She got it and she dialed, I took it to be
2 911 because the way she was talking. She said, "The
3 police out here in front of my house, and all I want
4 you to do is have these polices to get out from in
5 front of my house." She did that and she hung the
6 phone up. She did that several times after that.
7 She actually called 911 and told them that. But we
8 continued our, you know, trying to call Roberta and
9 talk. And I'm sitting in the corner by her. And --

10 Q Now, at any point did y'all move from out of the
11 living room into the kitchen area?

12 A No.

13 Q So what happens after that?

14 A So I heard another bang. But they must have shot
15 gas, a gas bomb in the far room, bedroom. And so we
16 didn't bother because it was in there and it wasn't
17 bothering us. And so we stood. We talked and then
18 talked some more. And I was smoking a cigarette at
19 the time. I finished. We never did drink all the
20 beer that day. So I drank some of the beer. So I
21 was like in the corner, in the corner to keep from
22 being seen, you know. She was telling me they was
23 going to kill me.

24 And I thought about having the gun. And I said,
25 you know, they might would kill me, you know. And so

1 at that time we heard another bang, and it was
2 something in the room next to us, but that door was
3 pulled up. And so I was laying back in the corner by
4 her chair. And so I was smoking a cigarette. And I
5 was kind of trying to look through the window, front
6 window and see the police, too, because, you know,
7 trying to watch myself. I didn't want them to shoot
8 me.

9 And I wasn't really paying D.S. any
10 attention. And at that time when I know anything,
11 D.S. was kneeling down in front of me and had
12 her clothes off. So she unzipped my pants. I was in
13 shock because I couldn't believe what was going on.
14 I mean, it shocked me for a minute. She had her hand
15 down in my pants and she had done grabbed my privates
16 and she was doing like that. And she said, she said,
17 "Roberta told me how big you was. I always wanted to
18 know or wanted something", something like that.

19 And she said that -- she said -- what did she
20 say? Yeah. When she said that, I was in shock. I
21 was like, you know, looking at her. And so I was
22 trying to get up off the floor because I was -- I was
23 pushing her away. And when I got up as far as to my
24 knees part, she had done got my pants loose and my
25 pants eased down a little bit. She's still doing

1 that. So I had hopped around and was doing like
2 that, you know.

3 And by that time the thing come in the kitchen
4 window. I heard another bang. It knocked glass or
5 glass off the counter or table or something and it
6 hit the wall. So she turned me loose. So I hurried
7 and I pulled my pants and zipped my pants back up.
8 And the thing had ran her in the kitchen right there
9 in the hallway. And it looked to be small and it was
10 putting out a lot more smoke. So I run and grabbed
11 it and run and holding it off from me and run into
12 the back bedroom and threw it in the room and pulled
13 the door back closed.

14 By that time D.S. was in the washroom
15 again putting water on her face. So I went, got me
16 another rag because the other rag was in the living
17 room, and I put it on my face, too. So when she had
18 left out the little washroom and standing on the
19 corner of the thing looking out toward the window,
20 the front window watching the police.

21 So when I finished putting stuff all over my
22 face, I went to come out. She said, told me, "Hold
23 up, hold back." Then in a few seconds she said, "I'm
24 going to sit right here on the freezer and watch the
25 police", said, "You stay back there." And so I was,

1 you know, talking to her. She just hopped up on the
2 freezer right there at the back door. We didn't talk
3 very long.

4 A hole about that big appeared in the door and
5 the thing came in the door and just missed her head.
6 It hit the wall right in front of me. There was
7 another one of them gas bombs. So I reached and
8 grabbed D.S. I said, "D.S. you'd
9 better get down." I said, "You don't realize how
10 close that thing coming to you. That thing could
11 have killed you just now." I said, "You'd better get
12 down from there."

13 So when I pulled her down, we went back into the
14 bedroom area and sit down and, you know, was talking.
15 The thing was smoking right back there in the back.
16 It didn't smoke very long. It smoked a little while
17 and then it just quit. And so as we resumed our
18 talking with me and her, the phone was ringing. So
19 between us talking and she answered, turned the phone
20 back on and talking to the police, and they asked me
21 about the -- they asked me about the negotiating for
22 me to come out. I told them, I said I would come
23 out, I said, if you will let me talk to Roberta. I
24 said, "If I talk to Roberta, I will come out." And
25 they never did ask me anything about, no more about

1 was I holding Roberta hostage or anything.

2 Q Now, what happened once the police came into the
3 door?

4 A When they came in?

5 Q Yeah.

6 A Well, they hadn't came in at that point. At that
7 point they hadn't came in. So, like I say, we talked
8 to the police. She would answer the phone sometime
9 and then I would answer the phone. And they was, you
10 know, like answering it, you know, asked where I was.
11 And she said, "He's sitting right here by me and he
12 don't want to talk right now." So I said, "I don't
13 want to talk." "You don't want to talk, stuff like
14 that. So she would hang up.

15 So as we continued our talk, she said, she said,
16 she said, "Look at how these people done tore up my
17 trailer." She said, "Randy, could I sue them?" I
18 said, "Roberta" -- I said, "D.S. I said, "you
19 probably could", I said, "but in order to sue them",
20 I said, "you probably would have to make it look like
21 I was keeping you against your will and holding you
22 hostage." And I said, "You'd have to probably say
23 that I had sex or something with you and stuff like
24 that." I said, "You would have to put me at blame."
25 But I said, "That's probably how you would get some

1 money from them", just like that. And so that was
2 the end of that conversation. So, with that, I
3 didn't think no more of it. So, --

4 Q Now, at this point were the lights still on, or --

5 A Well, at that point they were. And shortly after
6 that the lights got turned off.

7 Q And what happened after the lights got turned off?

8 A It started getting dark in the house. And D.S.
9 said something like, she said, "I've got to go to the
10 bathroom." And so I was sitting on the floor in the
11 corner. So she got up and she went in the bedroom.
12 So about I'd say 15, 10 or 15 minutes later, it was
13 getting darker and darker. So I got up. I was
14 getting me some more water for my face.

15 And so when I went and walked to the laundry
16 room, D.S. was sitting on the sink. When she
17 seen me, she was looking, peeping out part of the
18 bedroom and she told me to get down. So, you know,
19 so I didn't go no farther into the room or anything
20 like that. So I went into the washroom. And when I
21 went in the washroom I got some water and put on my
22 face. So she was in the bathroom.

23 And at that point the phone rang and they
24 called, and I told them that I would -- I would --
25 you know, I would come out in about five minutes. I

1 told them to give me five minutes. And when I told
2 them that, I got up and I went to the front window
3 and I opened the curtains up so they could see me. I
4 seen all these little red lights and pointed on me
5 and stuff like that. They didn't shoot me.

6 So when I went back, I said, "D.S. ' I
7 said, "I'm going to go out. They didn't shoot me
8 just now." About the time I said that, I just heard
9 a big old bang at the front door. And so I just got
10 down on the floor when I heard that. I just got down
11 on the floor like this here.

12 So when they came in, I guess they were looking
13 for me to be up top. They was almost stepping on me
14 before they saw me. And then they saw me. I done
15 put my hands behind my back and stuff like that. So
16 by that time one of them had already grabbed me, put
17 me in handcuffs.

18 Q Now, at this point were you suffering from any
19 effects from tear gas?

20 A Yes, I were.

21 Q What was that?

22 A My eyes had swolled (sic) up. My nose was running.
23 And, to be honest with you, man, my head felt like it
24 was that big, you know. Yeah. I just felt real bad.

25 Q Now, when they took you out of the house, did they

1 send you to EMS, get any treatment?

2 A No. When they took me out of the house, right in
3 front of the door they stopped and brought D.S.
4 out. And someone told them to take the handcuffs:
5 D.S. said, "What am I being arrested for? I
6 didn't do anything." And so somebody said, "Take the
7 handcuffs off of her." So when they took the
8 handcuffs off of her, they said, "Take him on." So
9 they walked me on to the car, put me inside the car.

10 Q And where did you go from there?

11 A Then they took me straight from there to
12 headquarters. I guess that's their headquarters,
13 somewhere off Two Notch Road.

14 Q Do you remember who you talked to there?

15 A Yes, I do.

16 Q You spoke with Investigator Barnes I think?

17 A Yes. That's correct.

18 Q Now, I'm going to show you what's been marked as
19 State's Exhibit No. 1. Now, do you remember
20 Investigator Barnes giving you what's called your
21 Miranda rights?

22 A No, sir.

23 Q Do you remember Investigator Barnes going over with
24 you those rights in a written form like in State's
25 Exhibit No. 1?

1 **A** No, sir.

2 **Q** Is your signature on State's Exhibit No. 1?

3 **A** No, sir.

4 **Q** Do you remember signing an advice of rights?

5 **A** I remember signing some papers and I remember him
6 telling me somewhat I guess the name of them. I
7 can't recall if he told me the actual name of them or
8 not. And I couldn't see because my eyes was -- I
9 couldn't see anyway. So I just did as he asked me to
10 do.

11 **Q** Were you understanding the conversations you had with
12 Investigator Barnes?

13 **A** Well, yes. I understood, you know, a little bit of
14 it. But I was disoriented. I really didn't -- I
15 really didn't realize a lot of the stuff he was
16 probably saying to me. No.

17 **Q** Now, I'm also showing you what's been marked State's
18 Exhibit No. 2. That's your statement Investigator
19 Barnes said you gave to them on that particular day?

20 **A** I did not.

21 **Q** Now, have you had the opportunity to review that
22 statement --

23 **A** I have.

24 **Q** -- at this point?

25 **A** I have. And I did not give them that statement.

1 Q Is everything in that statement correct?

2 A No, it's not. Ninety percent of that statement is
3 wrong.

4 Q What parts of that statement is not correct?

5 A The only part that is right is about three or four
6 lines at the very top.

7 Q What's those portions that are right? Let me do
8 this. Let me see State's Exhibit No. 2. Did you
9 tell Investigator Barnes about that it started around
10 9:15 that night?

11 A Correct.

12 Q And did you say you and Roberta were sitting around
13 the house, you had just watched *Smackdown*?

14 A I said that's what we was intending to do. We never
15 actually watched it.

16 Q Did you tell him about Roberta scratching off some
17 lottery tickets?

18 A I did.

19 Q And you told her that you were going to the store to
20 get some more lottery tickets before the store
21 closed?

22 A Yes. About 11:30. Right.

23 Q And you told him that you got on your bike and you
24 went up to the store and you came right back?

25 A I did not.

1 Q You didn't tell him that?

2 A I didn't tell him that I got on my bike and went to
3 the store.

4 Q Did you tell him that when you got back the door was
5 cracked and there were no signs of Roberta?

6 A I did.

7 Q And then it goes on talking about the officer came
8 over that night?

9 A I did.

10 Q You told him that?

11 A I did. But I didn't tell him that she was over to
12 her cousin's house. Because the officer said she was
13 at her girlfriend's house.

14 Q Did you tell him anything about Roberta calling you
15 at 1:35 and hearing sex noises?

16 A I did not. I mentioned the phone. Somebody called
17 at 1:30 and never said anything. And I did not say
18 anything about sex noises. I didn't say that.

19 Q Did you tell him anything about you and Roberta
20 arguing over \$4,000?

21 A I did not.

22 Q And pretty much you agree that the only real part you
23 told Investigator Barnes was the first sentence of
24 this statement?

25 A That's correct.

1 Q Now, did you read the statement over after
2 Investigator Barnes typed it?

3 A No, sir. I couldn't see the statement.

4 Q And was there any other reason why wouldn't have read
5 that statement over?

6 A Sir?

7 Q Was there any other reason why wouldn't have read
8 that statement over? How well do you read?

9 A I can read, you know, small words but not very big
10 words.

11 Q So Investigator Barnes would have had to read that
12 statement to you?

13 A Well, no. No. I don't think so. I think I could
14 have read it if I could have seen it.

15 Q But did he give you the opportunity to read it?

16 A Yes, he did. But, you know, he's seated where I
17 couldn't read it. And so he took it back and he said
18 -- caught himself reading it to me.

19 Q And did he ever give you a copy of that statement?

20 A Yes, I did get of a copy of it. And all he did was
21 ask me to sign it. He put it in front of me and
22 said, you know, just sign right here. I couldn't see
23 where to sign it at. So he put an X on it and put
24 his finger on it. So I got the pen to where his
25 finger were and I signed my name.

1 Q Now, after you met with Investigator Barnes, did you
2 continue to get any medical treatment?

3 A I never got any medical treatment.

4 Q Did you continue to take any kind of medications
5 after that day?

6 A After that day?

7 Q Yeah.

8 A Yes.

9 Q What kind of medication were you taking?

10 A For depression. I was seen by Mental Health. Mental
11 Health. You mean --

12 Q Yeah. Are you taking any medications today?

13 A Yeah. The name of it is Alexa, Elixir or something
14 like that.

15 Q And what's that medication for?

16 A For depression.

17 Q Now, Randolph, I'm going to ask you a couple of
18 questions to sum things up here. Did you at any
19 point shoot at Deputy White or Deputy Unger?

20 A I did not.

21 Q Did you at any point hold Ms. against her
22 free will?

23 A I did not.

24 Q Did you at any point force Ms. to have
25 sex with you?

1 **A** I did not.

2 **Q** Do you remember at any time going to the corner of
3 Randall and Oakland Street?

4 **A** I did not.

5 **Q** Beg the Court's indulgence, Your Honor. I have no
6 further questions at this time. Answer any questions
7 Ms. Campbell has for you.

8 **THE COURT:** Cross examination.

9 **MS. CAMPBELL:** Yes, sir.

10 CROSS EXAMINATION

11 **BY MS. CAMPBELL**

12 **Q** What you just told this jury about what happened
13 after the Blue Ribbon cab all the way to when you
14 gave your statement that night you remember in vivid
15 detail?

16 **A** Repeat your question again?

17 **Q** Do you remember everything just as you told this jury
18 in detail about what you did, what the police did,
19 what D.S. did from the time period when you got
20 that Blue Ribbon cab all the way to when the police
21 came in and got you?

22 **A** I do.

23 **Q** And your testimony is that night -- excuse me. Let
24 me back up. Your testimony is that early in that
25 week, on that Wednesday, you went to the hospital

1 because you couldn't sleep?

2 **A** That's correct.

3 **Q** And you got a shot?

4 **A** Repeat it?

5 **Q** Did you get a shot?

6 **A** I did.

7 **Q** And the shot was so potent you actually had to stay
8 in the hospital I believe you said and sleep?

9 **A** It put me to sleep.

10 **Q** Okay. And what doctors did you see at the hospital?

11 **A** I can't remember their names.

12 **Q** But they kept you there while you slept?

13 **A** Correct.

14 **Q** And Roberta was with you?

15 **A** That's correct.

16 **Q** And at that point you mentioned that later on in the
17 week, that Friday and Saturday, you were on pain
18 medication?

19 **A** I was on pain medication from 2006 to 2007,
20 February 24th.

21 **Q** So how long had you been on this pain medication that
22 you ultimately were taking on that Friday and
23 Saturday?

24 **A** From February -- from 2006 'til February of 2007.

25 **Q** 'Til the day this all happened?

- 1 **A** That's right.
- 2 **Q** You were never on any more pain medication after
- 3 that?
- 4 **A** No, I was not.
- 5 **Q** And this pain medication, who was your doctor?
- 6 **A** I can't remember his name.
- 7 **Q** You don't remember your doctor's name?
- 8 **A** No, I cannot.
- 9 **Q** So he is not here in the courtroom?
- 10 **A** No. My doctor is not.
- 11 **Q** And the medication you were taking, what was that?
- 12 **A** I can't remember the name of it.
- 13 **Q** So you don't remember the name of your doctor who
- 14 prescribed this medication for you and you don't
- 15 remember the pain medication, what it was called?
- 16 **A** That's correct.
- 17 **Q** Do you remember how often you were supposed to take
- 18 it?
- 19 **A** No, I cannot.
- 20 **Q** Do you remember you're supposed to take one pill a
- 21 day?
- 22 **A** I cannot remember.
- 23 **Q** Two pills a day?
- 24 **A** I cannot remember.
- 25 **Q** But you remember specifically on this date when all

1 this occurred that you don't remember that you took
2 two pills?

3 **A** I do remember taking my pain medication.

4 **Q** And were you supposed to take two pills?

5 **A** I can't remember if I was supposed to take two or
6 not.

7 **Q** When you had taken two pills on prior occasions, did
8 it cause you to commit violent acts against innocent
9 people?

10 **A** Repeat the question?

11 **Q** When you had taken this pain medication on prior
12 occasions from 2006 all the way up to February of
13 2007, had it ever caused you to act out violently
14 towards other people?

15 **A** No.

16 **Q** Had it ever caused you to get your gun and go out and
17 carjack people?

18 **A** I don't own a gun. I don't own a gun. So it didn't
19 cause me to get my gun. I didn't -- I don't own a
20 gun. I didn't own a gun at that time either.

21 **Q** Did it cause you to get anyone's gun?

22 **A** No, ma'am, it did not.

23 **Q** Had this pain medication ever in the -- was it six
24 months you've been taking it?

25 **A** Repeat the question?

1 Q How long had you been taking it?

2 A From March.

3 Q 2006?

4 A From 2006 'til February.

5 Q When in 2006?

6 A I can't remember.

7 Q Was it in the fall, in the summer, in the spring?

8 A It was probably in the spring.

9 Q So for this almost year period of time that you had
10 been taking this pain medication that caused you to
11 lose your memory and commit violent crimes, it had
12 never had that effect on you before?

13 A I can't say that the medication did this to me one
14 way or the other. So I can't deny the --

15 Q So you aren't here telling this jury the medication
16 caused you to commit these acts?

17 A No, I'm not here telling the jury that.

18 Q But you just wanted them to know that on that date
19 you took two pills of your pain medication of which
20 you don't know who your doctor is and you don't
21 remember what the name of the medication is?

22 A That's correct.

23 Q And then your testimony is, is that on that date --
24 let's move to the night before. You have specific
25 memory of the night before, do you not?

1 **A** Yes, I do.

2 **Q** And do you remember that you and Roberta were at
3 Roberta's house on Muir Street? Right?

4 **A** That's correct.

5 **Q** And that y'all were there with some lottery tickets?

6 **A** Repeat the question?

7 **Q** You were there. She was scratching off lottery
8 tickets?

9 **A** That's correct.

10 **Q** And then you went to the store around 10:30?

11 **A** No.

12 **Q** Okay. When did you go to the store?

13 **A** I did not go to the store around 10:30. It was
14 pretty close to about 12:00.

15 **Q** Close to 12:00. I'm sorry. Don't let me misspeak.

16 Your story is then you went to the store around 12:00
17 in order to get more lottery tickets?

18 **A** That's correct.

19 **Q** And why was it so important to get lottery tickets
20 that night? Why would the next morning not do?

21 **A** Well, I play the lottery -- I play the lottery a lot
22 and I like it. So it didn't matter what time that I
23 needed to buy them or that, you know, the store was
24 open. And, you know, I'd buy them.

25 **Q** And that night you mentioned something about y'all

1 hadn't won that day. That's why you needed more
2 lottery tickets?

3 **A** That's correct.

4 **Q** When you buy a lottery ticket, can you immediately
5 tell whether or not you've won?

6 **A** No. When you buy a lottery ticket, you have to
7 scratch it off to see that, see if you win or not.

8 **Q** So that's the reason you went to get the lottery
9 tickets that night?

10 **A** Yeah.

11 **Q** And you came back and Roberta was gone?

12 **A** That's correct.

13 **Q** But you all had been arguing that night?

14 **A** Roberta --

15 **Q** A verbal argument, right?

16 **A** Right.

17 **Q** And in that verbal argument --

18 **A** Not arguing. A disagreement.

19 **Q** Okay. I was just using your words. You said you'd
20 had a verbal argument with her that night. Or a
21 disagreement?

22 **A** Yeah.

23 **Q** What was it about?

24 **A** I can't remember exactly what it was about.

25 **Q** I want to put you on notice that I've talked to

1 Roberta.

2 **MR. O'NEIL:** Objection, Your Honor.

3 **MS. CAMPBELL:** I think I have to.

4 **THE COURT:** What's the objection?

5 **MR. O'NEIL:** It's improper for her to make
6 herself a witness.

7 **THE COURT:** All right. I'll sustain it. Just
8 disregard the last question.

9 **Q** Did you think Roberta was fooling around on you?

10 **A** No.

11 **Q** That wasn't what the argument was about?

12 **A** No, it was not.

13 **Q** Did you think Roberta was fooling around on you that
14 night?

15 **A** No, I didn't. No, I didn't.

16 **Q** However, you are telling this jury you had a verbal
17 argument or a disagreement with Roberta, you go to
18 the store, you come back, and she's gone?

19 **A** That's correct.

20 **Q** Was that unusual for Roberta to leave?

21 **A** No. She have left before.

22 **Q** And why was that, sir?

23 **MR. O'NEIL:** Objection, Your Honor.

24 **THE COURT:** Sustained.

25 **Q** It was not unusual for Roberta to leave?

1 **A** Well, yes. It was unusual for her to leave without
2 letting me know she was leaving.

3 **Q** Did you know she had called D.S. and asked her
4 if she could go over? I believe you testified to
5 that?

6 **A** Yes. I did.

7 **Q** So you knew that Roberta was making arrangements to
8 spend the night somewhere else?

9 **A** At one point, yes. But after that was resolved by
10 the police officer and D.S. calling back
11 telling her she couldn't come over, I didn't think
12 that she was going anywhere then.

13 **Q** And, in fact, you were so concerned when you got
14 back, even though D.S. had spent the night out
15 before, that you called the police and the police
16 officer who knew y'all came by?

17 **A** That's correct.

18 **Q** What's his name?

19 **A** I can't remember.

20 **Q** And at that point you were so concerned that she had
21 been kidnapped, I believe was your testimony, that
22 you then filed a police report?

23 **A** I didn't.

24 **Q** You didn't. I'm sorry. I misunderstood.

25 **A** I told him. Whether he filed the police report or

1 not, I don't know.

2 Q And this was a police officer you knew?

3 A Yes.

4 Q But you don't know his name?

5 A I do not.

6 Q Or your doctor's name?

7 A I do not.

8 Q And he told you not to worry because D.S. was
9 over at her cousin's house, because we had come when
10 you all had had the earlier argument?

11 A No. He did not. I did not. He did not tell me not
12 to worry because she was over to his cousin's house.
13 He told me not to worry because D.S. was at a
14 friend's house.

15 Q A friend's house. Sorry. But she was not there.
16 She was somewhere else?

17 A No. Not somewhere else. At her friend's house.

18 Q And that's based on the advice he had given her
19 earlier?

20 A Repeat it?

21 Q That night you mentioned that you just stayed up all
22 night watching movies?

23 A That's correct.

24 Q And during the course of that you just happened to
25 get a phone call around 1:35 a.m.?

1 **A** That's correct.

2 **Q** And in that phone call, when you picked it up, who
3 was on the other line?

4 **A** No one.

5 **Q** So that wasn't the phone call where you heard sex
6 noises and it was Roberta?

7 **A** I never heard sex noises.

8 **Q** And I'll get to your statement later. And then the
9 next morning you moved your car around the back, but
10 you couldn't drive it, right?

11 **A** Repeat it?

12 **Q** You moved your car around to the back of the trailer
13 you said?

14 **A** No. I did not.

15 **Q** What did you do?

16 **A** That morning I moved my car from behind the trailer
17 out in the front area.

18 **Q** In the front area?

19 **A** Yes, I did.

20 **Q** But you couldn't drive it?

21 **A** I could have drove the car. I had to drive it from
22 the back of the house out into the front of the
23 house.

24 **Q** But didn't you mention that you couldn't drive to the
25 store because of your license situation?

1 A I said I wouldn't drive it because of my license.

2 Q And you mentioned that you got hurt on the job?

3 A That's correct.

4 Q Did you get a settlement in that case?

5 A Yes.

6 Q And was that settlement for \$4,000 or more?

7 A That's correct.

8 Q And, in fact, when you got that settlement, you gave
9 Roberta \$1,000?

10 A That's correct.

11 Q That morning when you dressed you put on that red and
12 white shirt, and you had on a brown colored jacket
13 over it?

14 A Repeat the question?

15 Q You put on this red shirt you testified?

16 A Yes, I did.

17 Q And then you put your brown jacket over it?

18 A That's correct.

19 Q And do you know what happened to your brown jacket?

20 A No, I do not know what happened to it.

21 Q Did you leave it at D.S. house?

22 A Apparently that must be where it's left at.

23 Q Along with the cap you were wearing that day?

24 A No. My cap wasn't with it.

25 Q And you testified on direct that you dressed and

1 everything, and you remember that?

2 A Getting dressed?

3 Q Yes, sir. You testified to it.

4 A That morning?

5 Q That morning.

6 A Yes, I do.

7 Q And then what's the next thing you remember?

8 A After I got dressed?

9 Q Yes, sir.

10 A I went outside and proceeded to clean up the

11 backyard. I moved my car up front, talking with her

12 brother and friend of mine.

13 Q And that's Roberta's brother?

14 A Yes. That's correct.

15 Q So you were still looking for Roberta?

16 A At that point, no.

17 Q No. And why did you get in contact with her brother

18 then?

19 A He was in the yard.

20 Q He was in the yard?

21 A (Nods head affirmatively).

22 Q Do you remember leaving the yard that day?

23 A No, I do not.

24 Q You mentioned that you didn't own a gun. That's your

25 testimony?

1 **A** That's correct.

2 **Q** And how did you come to have this gun on that day?

3 **A** I'm not sure that's the gun because I haven't seen
4 it -- I haven't seen it close up. But I do not know
5 how I came in contact with the gun, with a gun. Like
6 I say, I don't know if that's the gun or not. I
7 haven't seen it close up.

8 **Q** Do you want to see it?

9 **A** (Nods head affirmatively).

10 **Q** Let's not point it towards you. Do you recognize
11 that gun?

12 **A** I -- I really can't say that's it. But ...

13 **Q** When you say you can't say that's it, say that's it?

14 **A** I don't really recognize it.

15 **Q** You don't really recognize the gun?

16 **A** No.

17 **Q** So, at some point in this time period you don't
18 remember you -- and you do admit that you ended up
19 with a gun. You testified to that?

20 **A** That's correct.

21 **Q** And you just don't know if this is the gun you ended
22 up with?

23 **A** That's right.

24 **Q** So somehow at some point when you're blacking out you
25 end up with a gun?

- 1 **A** That appears that's what happened.
- 2 **Q** And the first time you really remember having that
- 3 gun is when you got to D.S. house?
- 4 **A** That's correct.
- 5 **Q** So you don't remember going up to Barry Taylor,
- 6 pointing a gun at him and demanding he get out of his
- 7 car?
- 8 **A** I did not go up to Barry Taylor, point no gun at him,
- 9 demand him to get out of any car.
- 10 **Q** You didn't do that or you don't remember?
- 11 **A** I did not do that.
- 12 **Q** You did not do that is your testimony now?
- 13 **A** That's correct.
- 14 **Q** Okay. And when you went to Wash World, do you
- 15 remember pointing the gun at Mr. Kelly?
- 16 **A** No, I do not remember pointing any gun at Mr. Kelly.
- 17 **Q** But you do remember telling him to get out of his car
- 18 and give him the car, give you the car?
- 19 **A** That's correct.
- 20 **Q** And he was kind enough to oblige you?
- 21 **A** That's correct.
- 22 **Q** But you didn't threaten him in any way or point a gun
- 23 at him to make him give you the car?
- 24 **A** Not that I remember.
- 25 **Q** And then you remember wrecking the car?

1 **A** Yes, I do.

2 **Q** And again, you don't remember, do you remember where
3 the gun was then?

4 **A** No, I do not.

5 **Q** But you were able to get out of the car at that
6 point. And do you remember going up to the car in
7 the parking lot?

8 **A** No, I do not.

9 **Q** Do you remember pointing the gun at Mr. Fleming?

10 **A** No, I do not.

11 **Q** And telling him to give you the car?

12 **A** No, I do not.

13 **Q** Do you remember going over to the white Tahoe where
14 the children were?

15 **A** No, I do not.

16 **Q** Do you remember going into the church?

17 **A** No, I do not.

18 **Q** Do you remember flagging down cars?

19 **A** No. I stood in the middle of the road trying to, you
20 know -- because they could have run over me.

21 **Q** Do you remember why you were standing in the middle
22 of the road?

23 **A** Well, yeah. I remember now why was standing in the
24 middle of the road. Because I had just wrecked the
25 car and I was -- I was on feet.

1 Q Do you remember why you needed the Kellys' car?

2 A No, I do not.

3 Q And as you are driving from Wash World down to
4 Cushman, do you remember why you were going in that
5 direction?

6 A No. At that time I do not.

7 Q Do you remember now?

8 A Yeah. I remember now.

9 Q Why were you going down there?

10 A Because I was apparently trying to get to D.S.
11 house.

12 Q And what were you looking for at D.S. house?

13 A Roberta.

14 Q You were standing in the middle of the road and the
15 Blue Ribbon cab stopped?

16 A That's correct.

17 Q And do you remember telling him to get out?

18 A That's correct.

19 Q And then you got in and then the girl in the back got
20 out?

21 A That's correct.

22 Q And they were kind enough, too, also to give you the
23 car?

24 A They were.

25 Q And at that point you didn't show them a gun or

1 anything?

2 **A** I can't remember showing them a gun.

3 **Q** And then you went down to Booth. That's your
4 testimony today.

5 **A** That's correct.

6 **Q** And at that point you were able to go up to the door,
7 and you saw D.S. through the glass door, right?

8 **A** That's correct.

9 **Q** And then you heard somebody say what?

10 **A** I heard someone say, "Run. Go in the bedroom. Get
11 up under the bed."

12 **Q** And then you stuck I believe you say your arm in the
13 door or your foot?

14 **A** No. I was looking for the door handle when I --

15 **Q** You looked for the door handle?

16 **A** Mm-hmm (affirmative).

17 **Q** And you were able to get in?

18 **A** I opened the screen. It happened so fast. When I
19 opened the storm door and I proceeded to step inside,
20 that's when the front door came rushing up to me and
21 hit my foot, and I throwed my hands up and it hit my
22 hands and it bounced back, and I stepped on in.

23 **Q** And then you were able to step in. And it was at
24 that point when you got in and you heard her saying,
25 "Run", that you realized you had a gun?

1 **A** No. I realized when I had a gun when I throwed my
2 hands up. I saw I had a gun in my hand then.

3 **Q** So at that point is the first time -- you've been
4 driving down the road, you've driven two different
5 cars; and this is the first point when you remember
6 having a gun?

7 **A** When I seen it, that's when I remember having a gun.

8 **Q** And then you --

9 **A** I had a gun in my hand.

10 **Q** You had a gun in your hand?

11 **A** Yeah. That's when I remembered I had a gun in my
12 hand.

13 **Q** And it was in your hand at that point?

14 **A** That's right.

15 **Q** And at that point you went inside. They were trying
16 to shut the door and you went inside?

17 **A** Kenyata was behind the door and she pushed the door
18 as I was stepping in and it hit my feet and caused me
19 to throw my hands up. And it bounced back and --

20 **Q** And then of course you let, I believe you said, the
21 children go. You told the children to leave. They
22 asked if they could leave and you said, "Sure you can
23 leave"?

24 **A** No. Kenyata asked could they leave.

25 **Q** And you said, "Of course they can leave"?

1 **A** I said, "You can leave if you want to", I said.

2 **Q** And then your testimony is at that point you're
3 inside. You're in there with D.S. Excuse me.
4 Kenyata runs out the door was the testimony. The
5 other children followed her out?

6 **A** That's correct.

7 **Q** And then you looked at D.S. and said, "Where is
8 Roberta? She hasn't been home all night"?

9 **A** No. I didn't look at D.S. and asked her where
10 was Roberta, because I had already asked D.S.
11 that.

12 **Q** Did she tell you she didn't know where Roberta was?

13 **A** That's correct. I asked her to help call, help me
14 get in touch with Roberta and talk to her.

15 **Q** And then this is when things started going kind of
16 sour. That's when D.S. saw a police car and
17 she shut the front door?

18 **A** That's correct.

19 **Q** And that's when she moved the chair or the couch in
20 front of the door?

21 **A** She started putting the chair up against the front
22 door and she asked me to help her.

23 **Q** Did you help her?

24 **A** Yes, I did.

25 **Q** And did you know why you were putting the chair up

1 against the front door?

2 **A** At that time, what she said, so they couldn't get in.

3 That's when that happened.

4 **Q** So you were helping her out?

5 **A** I was helping her do what she asked me.

6 **Q** And then an officer came and I believe you said

7 knocked on the door?

8 **A** That's correct.

9 **Q** She said, "Don't answer it"?

10 **A** That's correct.

11 **Q** And that was D.S. again. And then I believe
12 you even laughed at this point. You said she got you
13 to help her move the freezer in front of the back
14 door?

15 **A** That's correct. We attempted to move the freezer in
16 front of -- we really couldn't. It was too big and
17 too heavy.

18 **Q** Did D.S. tell you why she was barricading
19 herself in her home?

20 **A** No, she did not. She said she didn't want the police
21 to come in.

22 **Q** She didn't want the police to come in is your
23 testimony now?

24 **A** That's what -- that's what she told me, so they
25 couldn't come in.

1 Q After you put the freezer in front of the door, you
2 tried to call Roberta?

3 A I didn't put the freezer in front of the door.

4 Q After she put the freezer -- excuse me -- is your
5 testimony.

6 A After we tried to put the freezer --

7 Q After the freezer gets in front of the door. And
8 that's when she goes and gets you a 24-ounce beer?

9 A No. She did not go get me a 24-ounce beer.

10 Q Explain that to the jury, because that's what you
11 testified to.

12 A When we sit down and started talking, D.S. had
13 a 24-ounce beer sitting on the stand by there. She
14 asked me did I want some. I said yes. She went in
15 the kitchen and got a glass. And she poured me about
16 I would say half of the 24-ounce beer in a glass.

17 Q And that was for you?

18 A That was for me.

19 Q And were you drinking the beer?

20 A Yeah. I sipped some of it. I didn't drink it all.

21 Q And at that point y'all sat down and talked. And you
22 told her about that Roberta was mad at you?

23 A Repeat the question?

24 Q You told her that Roberta was mad at you when you
25 told her what it was about?

- 1 **A** No. I don't think I told her Roberta was mad at me.
- 2 And I, you know --
- 3 **Q** But for some reason she told you -- and I wrote it
- 4 down -- that she should not have left you, that
- 5 Roberta was wrong?
- 6 **A** That's correct.
- 7 **Q** And that was in response to you telling her why
- 8 Roberta left you?
- 9 **A** That's correct.
- 10 **Q** And why did you tell her Roberta had left you?
- 11 **A** I said we had had a verbal argument.
- 12 **Q** But you don't remember what that argument was about?
- 13 **A** No. Not -- no, I don't.
- 14 **Q** And it wasn't because you thought Roberta was
- 15 cheating on you?
- 16 **A** Not now I don't remember. It wasn't because Roberta
- 17 was cheating on me. That's correct.
- 18 **Q** I'm not saying what she was doing. It's what you
- 19 thought. What did you think Roberta was doing to
- 20 you?
- 21 **A** I didn't think Roberta was doing anything to me.
- 22 **Q** So you don't remember what the argument was about?
- 23 **A** No, I do not.
- 24 **Q** Then the police surrounded y'all. And basically you
- 25 just did whatever D.S. told you to do that

1 afternoon?

2 **A** Well, I was -- well, when she asked me, I didn't
3 object to her asking me as far as the freezer and
4 helping her with the chair. That's it.

5 **Q** And you testified at one point you shot into the
6 floor?

7 **A** That's correct.

8 **Q** And then you shot into the chair?

9 **A** That's correct.

10 **Q** Why?

11 **A** I wanted -- I was scared and I wanted for them to
12 know. Because I had just realized or discovered I
13 had a gun. And I -- and D.S. was telling me
14 that they was going to kill me. And I wanted them to
15 know that I had it so, you know, they wouldn't kill
16 me.

17 **Q** So it was D.S. fault because she said they
18 were going to kill you?

19 **A** I don't understand the question.

20 **Q** D.S. was the one that said that they were going
21 to kill you, and that's why you had to shoot into the
22 chair?

23 **A** No. That ain't why I had to shoot in the chair.

24 **Q** Okay. Well, why did you shoot in the chair?

25 **A** I shot in the chair to let them know that I had a

- 1 gun, the police know that I had a gun.
- 2 **Q** And you were scared of the police because of why?
- 3 **A** Why was I scared of the police?
- 4 **Q** Yes, sir.
- 5 **A** I didn't want them to kill me.
- 6 **Q** And why did you think the police were going to kill
- 7 you?
- 8 **A** I guess because I had a gun.
- 9 **Q** And if you put the gun down and went out unarmed like
- 10 they asked you to, did you think they would kill you?
- 11 **A** I thought so.
- 12 **Q** But you had called the police earlier the day before
- 13 or that day. So you trust the police, don't you?
- 14 **A** Yes. I trust the police.
- 15 **Q** And during the course of the afternoon you talked to
- 16 the police over and over and over?
- 17 **A** Well, hold on, Ms. Campbell. I hadn't called the
- 18 police that day.
- 19 **Q** Had you called them the day before? Or had the
- 20 police responded?
- 21 **A** Yes. That's what you're saying? Had I called them
- 22 that night?
- 23 **Q** That night before.
- 24 **A** Oh. Yes.
- 25 **Q** When you were so upset because Roberta may have been

1 kidnapped?

2 A That's correct.

3 Q So you trust the police. But this day when you
4 turned up with a gun at D.S. house and she
5 barricaded y'all in, you didn't trust them any more?

6 A I still trust the police. It's just that I didn't
7 want them to shoot me, because I had a gun.

8 Q Do you think the police always shoot people when they
9 have a gun if you unarm yourself?

10 A I would rather not answer that question because I
11 don't think it's fair to the officers that's in the
12 courtroom.

13 Q You stated that you talked to the police that
14 afternoon?

15 A Which afternoon?

16 Q That afternoon. During the course of the afternoon
17 while you're in the house. They called?

18 A That's correct. That's correct.

19 Q Y'all answered the phone. You talked to them?

20 A That's correct.

21 Q Did you tell them you were a victim?

22 A A victim?

23 Q D.S. had barricaded you in and she wouldn't let
24 you out?

25 A Of course not. I didn't tell them that.

- 1 Q What did you tell them?
- 2 A I told them I wanted to talk with Roberta.
- 3 Q And, in fact, did you tell them you weren't letting
- 4 anybody out until you talked to Roberta?
- 5 A I did not tell them that.
- 6 Q Then at some point in the afternoon, D.S. just
- 7 the next thing you realize is she's unzipping your
- 8 pants?
- 9 A That's correct.
- 10 Q And starts touching you?
- 11 A Fondling me. Yeah. That's correct.
- 12 Q And then tells you she's heard about you?
- 13 A That's correct.
- 14 Q From Roberta?
- 15 A From Roberta.
- 16 Q And she, while the police were surrounding you, just
- 17 wants to experience that?
- 18 A Repeat the question?
- 19 Q What did she say?
- 20 A When she put her hand in my pants she said, "Roberta
- 21 had told me about how big you is." And I was in --
- 22 it shocked me. I was in shock, you know, honestly.
- 23 Because when she appeared before me she was naked.
- 24 She was doing what she was doing. So at that time I
- 25 wasn't thinking anything. I just -- all I knew, I

1 was just staring at her, you know. And so, that was
2 that. When I attempted to get up and I got as far as
3 my knees, and she turned around and backed up toward
4 me, still playing around with my private parts until
5 the projectile came through the kitchen window.

6 Q Okay.

7 A And that's when she jumped and turned me aloose
8 (sic). And I pulled my pants up. Well, they wasn't
9 really down, just unzipped and open.

10 Q And at some point that afternoon --

11 A I zipped them up.

12 Q -- she told you, she looked around and the place was
13 a mess. Is that right?

14 A No. The house wasn't a mess.

15 Q She said that they had damaged her house?

16 A That's correct. The window.

17 Q And who was she referring to?

18 A The police.

19 Q And at that point she had already made several phone
20 calls to the police telling them to back off, don't
21 be around my house?

22 A No. She wanted -- she called 911. She wanted the
23 police -- she told 911 she wanted them to leave out
24 from around her house.

25 Q And she made that phone call how many times? Do you

1 remember?

2 A Two, three times.

3 Q Two or three times? And do you remember if she told
4 the people, like Sheriff Lott and all those, that
5 that's what she wanted?

6 A No. I can't say whether it was Sheriff Lott or not.
7 I know she dialed 911. I do know that.

8 Q The police were calling you in there, talking to
9 y'all, right? On the phone?

10 A Yes, they were.

11 Q Did she tell them that when they called?

12 A No, she didn't. I don't -- I don't remember. I
13 can't remember her telling the people that were
14 calling that had talked to us. Yeah.

15 Q So she didn't tell those people that called over and
16 over and over that?

17 A I can't remember her telling them that.

18 Q But that's when she said that she was mad because
19 they had damaged her trailer; that's when she said
20 something about suing them?

21 A She asked me could she sue them for the damages.

22 Q And that's when you gave her that advice of saying,
23 well, why don't you say I had sex with you?

24 A Unfortunately, I didn't give her that advice. I told
25 her, I said -- I didn't tell her like that. I

1 told -- I -- I indicated to her where if she could
2 sue, that's probably what she would have to do.

3 Q You told her if y'all had sex, that's how you should
4 do it?

5 A Repeat the question?

6 Q You told her if she wanted to sue them she should
7 probably say that y'all had sex and that's how you
8 should do it?

9 A No, I did not.

10 Q Do you know why you testified to that before?

11 A I did not.

12 Q Okay.

13 A I explained to you just now, Ms. Campbell, that I --
14 when she asked me that, because she needed the money,
15 I explained to her, I said, "The only way you could
16 get money is probably tell the people that I did
17 everything and put me on it for it." I said, "You
18 probably could sue them then, Richland County or
19 something."

20 Q Specifically, as you testified on direct, you
21 mentioned that we had sex. That's what you testified
22 to?

23 A No. No, no. I did not.

24 Q Okay. And then the police turned off the power?

25 A That's correct.

1 Q And then the phone rang and you answered it and you
2 told them that you would come out in five minutes?

3 A That's correct.

4 Q And then you opened the curtains, you saw the red
5 lights, and you were going to go out but then they
6 came in before you could get out the door?

7 A That's correct.

8 Q And then somehow you end up back in that laundry room
9 area?

10 A No. I didn't end up back in the laundry area. When
11 I got off the phone -- and I never left the laundry
12 room area other than when I went up to the window and
13 when I went --

14 Q I was going to say, how did you open the curtains?

15 A Yeah. When I went up to the window and when I left
16 the window, I went back to the laundry room area, and
17 that's when the phone rang and I told them I would,
18 you know, come out in five minutes.

19 Q Okay. And then they took you out and they took you
20 down to the Sheriff's Department?

21 A That's correct.

22 Q And your testimony is you were confused and you were
23 disoriented because of the tear gas?

24 A That's correct.

25 Q So that they never gave you any treatment for it?

1 **A** That's correct.

2 **Q** Did you ask for treatment?

3 **A** Yes. At one point I think I did.

4 **Q** But they just said no way?

5 **A** No. They didn't say nothing.

6 **Q** Okay. And then you were met with Sergeant Barnes,
7 right? Do you remember him?

8 **A** That's correct.

9 **Q** And Investigator Thomas was there when you were
10 giving your statement?

11 **A** I don't remember him.

12 **Q** He wasn't there?

13 **A** I don't remember him being there.

14 **Q** Okay. And you talked to them for a while?

15 **A** I remember talking to Sergeant Barnes.

16 **Q** And you signed some papers. You don't know what they
17 were?

18 **A** That's correct.

19 **Q** And specifically, you signed twice on every page of
20 this four-page document which is your statement?

21 **A** That's incorrect.

22 **Q** You did not sign all eight times?

23 **A** I signed it, but that was not what I told the
24 investigator.

25 **Q** Okay. You signed it?

1 **A** I did sign it.

2 **Q** And did he go over it with you before you signed it?

3 **A** I don't think so. Because if he had, I would not
4 have signed it.

5 **Q** And you told him that night -- and you don't remember
6 Investigator Thomas being there -- you told him the
7 same thing you told this jury?

8 **A** The investigator right there?

9 **Q** Yeah.

10 **A** I don't remember him being there. It was another
11 investigator came sometime later. But to say that
12 that was him, I don't remember.

13 **Q** That's fine. Did you tell them what you just told
14 this jury today?

15 **A** Did I tell who?

16 **Q** Sergeant Barnes.

17 **A** Uh-huh (affirmative).

18 **Q** Did you tell him what you told this jury today?

19 **A** That's correct.

20 **Q** So you didn't tell him anything -- and he went
21 through some of this with you about the first five or
22 six lines which are partially correct but 90 percent
23 of this is wrong?

24 **A** That's correct.

25 **Q** So you didn't tell him that Roberta had taken your

1 \$4,000?

2 **A** I did not.

3 **Q** And do you know how they would have known you'd just
4 gotten a \$4,000 settlement?

5 **A** Yes. Because I told them that when I talked to
6 Roberta that Saturday morning. When she did talk to
7 me, I told her -- I asked her was she coming home. I
8 said, "Roberta," I said, "You know, I've got to pay
9 \$4,000 back by May", you know, trying to talk to her
10 and let her know that, you know, she needed to come
11 on home and stuff like that and to also let her know
12 that I had to pay \$4,000 back. And I didn't get but
13 3,000, you know, by May. If not, it's going to go on
14 up to -- I'd have to pay more. So how they got it
15 that I told them that she took \$4,000 from me, I do
16 not know.

17 **Q** It just happened to be the amount you had received?

18 **A** No. That's not the amount I received.

19 **Q** And other than the first four or five lines of this,
20 the rest of this you didn't say?

21 **A** That's correct.

22 **Q** And you never told them about going in the church?

23 **A** I did not.

24 **Q** You never told them about that they wouldn't give you
25 the keys so you went back outside?

- 1 **A** I never said anything like that.
- 2 **Q** You told them about the Blue Ribbon?
- 3 **A** Yes, I did.
- 4 **Q** Did you tell them he may have seen a gun in your
- 5 pocket?
- 6 **A** No, I did not.
- 7 **Q** You told them about driving to D.S. trailer?
- 8 **A** Yes, I did.
- 9 **Q** That you went through the house looking for Roberta?
- 10 **A** Yes, I did.
- 11 **Q** Do you remember -- you don't remember because you
- 12 weren't in your right mind?
- 13 **A** No, I did not.
- 14 **Q** That you knew the police were coming. You saw one
- 15 police officer and knew you couldn't leave?
- 16 **A** No, I did not tell him that.
- 17 **Q** Do you remember asking them why D.S. couldn't
- 18 leave?
- 19 **A** Asking me why D.S. couldn't leave? No. They
- 20 didn't ask me why she couldn't leave.
- 21 **Q** Do you remember them asking about the gun and firing
- 22 it and the misfires?
- 23 **A** Let me see. Yes. Yes, they did. They did ask me
- 24 about that.
- 25 **Q** Do you remember telling them about the specific sex

1 acts, talking about again how well endowed you were?

2 A Repeat the question?

3 Q It's in the statement.

4 A Repeat the question?

5 Q When they asked you about why D.S. would be
6 naked, do you remember what you told them?

7 A Yeah.

8 Q What did you tell them?

9 A I told them what I told the jury just now.

10 Q But what you told the jury, she wasn't naked. Or is
11 she naked now?

12 A Huh?

13 Q When you --

14 A I told the jury what happened. I told the jury what
15 happened. That's what I told them, the
16 investigators.

17 Q Your testimony here to this jury today is that you
18 have no memory of what happened up to the point you
19 got to the Wash World, it's somewhat vague up until
20 you saw the Blue Ribbon, and then you have a very
21 specific memory of what happened while you were being
22 held hostage in that trailer?

23 A Repeat the question? Repeat it?

24 Q You don't have much memory of what happened on
25 Oakland. You have no memory?

1 **A** Oakland?

2 **Q** Oakland Street. You know where that is?

3 **A** No, I do not.

4 **Q** Do you live in that neighborhood, Muir Avenue?

5 **A** That's correct.

6 **Q** Do you know where Oakland Avenue is?

7 **A** No, I do not.

8 **Q** Okay. And you have some memory of what happened at
9 the Wash World?

10 **A** Some memory?

11 **Q** Mm-hmm (affirmative).

12 **A** I have the memory there that I explained to the jury
13 just now about what happened at the Wash World.

14 **Q** And then you remember wrecking the car?

15 **A** That's correct.

16 **Q** And then you remember being in the street when the
17 Blue Ribbon cab came?

18 **A** That's correct.

19 **Q** And then you remember specifically everything that
20 happened while y'all were in that house, that
21 trailer?

22 **A** That's correct.

23 **Q** And you mentioned that you were confused and
24 delirious. But when you talked to the officers that
25 night you told them the same thing you told this

1 jury. Is that correct?

2 A Yes. I -- yes, I did.

3 Q You did or you didn't?

4 A I did.

5 Q So you talked to them voluntarily?

6 A Well, yes. They was asking me questions and I talked
7 to them.

8 Q And you mentioned that your eyes were swollen and
9 they hurt. Couldn't see I believe is your words?

10 A Yes. That's correct.

11 Q So you didn't know what you were signing?

12 A I couldn't see it. I couldn't see what I was
13 signing.

14 Q Do you remember them taking a photograph of you that
15 night?

16 A I'm going not -- you know, I'm not sure. I don't
17 remember them taking a photo of me.

18 Q And after you got arrested for this, you weren't on
19 any more pain medication, were you? You didn't have
20 you any more pain medication since then, that pain
21 medication you don't know the name of?

22 A Oh, no. No, no.

23 Q And you reason, you're blaming the medicine for what
24 you did?

25 A No, ma'am, I'm not.

1 Q Thank you.

2 MR. O'NEIL: Briefly, Your Honor.

3 THE COURT: Yes, sir.

4 REDIRECT EXAMINATION

5 BY MR. O'NEIL

6 Q Randolph, do you remember going over your medical
7 records before your trial?

8 A Yes, I do.

9 Q Do you remember being seen by Ortho Carolina in
10 Huntsville, North Carolina, for your arm?

11 A Yes, I do.

12 Q Do you remember going to the Ellis Physical Therapy
13 Association for your arm as well?

14 A Yes, I do.

15 Q That's here in Columbia?

16 A That's in Columbia.

17 Q Do you remember going over your medical records since
18 February 2007 up to today?

19 A Since --

20 Q February of 2007 'til today.

21 A Going over my medical record?

22 Q Yeah.

23 A Yes, I do.

24 Q Would the name of the drug Selexir, would that have
25 been one of the drugs you would have took?

1 **A** That's correct.

2 **Q** What about Bapham (phonetic)? Do you remember taking
3 that in April of 2007?

4 **A** I can't positively identify it by the name.

5 **Q** You were on several drugs back then?

6 **A** That's correct. That's correct.

7 **Q** Do you remember them putting you on Prosac as well?

8 **A** That's right. I remember Prosac.

9 **MR. O'NEIL:** No further questions, Your Honor.

10 **THE COURT:** Recross?

11 **MS. CAMPBELL:** Just one question.

12 RE CROSS EXAMINATION

13 **BY MS. CAMPBELL**

14 **Q** Prosac and Selexir, those are treatments for slight
15 depression. They aren't for any kind of pain
16 medication? Or do you know?

17 **A** I think for depression.

18 **Q** And none of that medicine had ever affected any of
19 your behavior prior to February 24th of 2007?

20 **A** I wasn't taking that medicine then.

21 **Q** Okay. Thanks.

22 **THE COURT:** You may come down, sir. Thank you
23 very much. Next witness.

24 **MR. O'NEIL:** Your Honor, at this time the
25 defense rests.

1 **THE COURT:** Any reply?

2 **MS. CAMPBELL:** Your Honor, can I consult?

3 (Pause)

4 **MS. CAMPBELL:** Nothing from the State, Your
5 Honor.

6 **THE COURT:** All right, ladies and gentlemen.
7 That will conclude the presentation of the testimony
8 in this case. The remaining portion of the trial
9 will consist of the final arguments of counsel and my
10 instructions to you on the law of the case as it
11 applies in South Carolina.

12 Now, it's 1:15. What I have done, and I hope
13 it's waiting for you, is ordered lunch for you
14 because this process will take a little bit of time.
15 And I think the most efficient use of our time, of
16 course you can make phone calls if you need to make
17 phone calls, there should be lunch waiting for you in
18 the jury room.

19 And again, I'm going to ask you not to discuss
20 the case over the lunch, maybe half hour. We're just
21 running on a tight schedule. So I'll ask you to just
22 relax and have your lunch. And, say, in about 30
23 minutes or so we'll call you back and conclude the
24 trial. So again, don't discuss the case while you're
25 in the -- hold on a minute. Hold on. Hold on. Hold

1 on. Well, it's come. It's on the way. It's in the
2 mail. I thought it had already arrived. So it
3 should be there very shortly. So just relax for a
4 few minutes, and we're going to feed you and then
5 we'll conclude the trial following that. Thank you
6 very much.

7 (Jury out at 1:18 p.m.)

8 **THE COURT:** Let's stand at ease. Counsel, I
9 will furnish you a set of instructions in the next
10 half hour. Any motions?

11 **MS. SINGLETARY:** Yes, Your Honor. At this time
12 the defense would respectfully make a motion for a
13 mistrial based on due process violations and 403,
14 Your Honor. It would be our argument that
15 inappropriate behavior of individuals in the gallery
16 that consisted of loud noises that were made while my
17 client was actually testifying, there were actually
18 loud gasps that were made by individuals in the
19 gallery and seated behind the Solicitor's Office.

20 Your Honor, also there were actual people who
21 actually were laughing and actually covered their
22 face in this manner while they were laughing or just
23 laughed, like in front of the jury. Your Honor,
24 there was patting of the feet. There were
25 inappropriate facial expressions. There were rolling

1 of the eyes. Your Honor, it was constant laughing,
2 laughing and chattering and blowing hard, Your Honor.

3 Because of these inappropriate behaviors that
4 were actually displayed, we feel that this actually
5 infected my client's right to a fair jury trial.
6 Your Honor, at no point throughout the duration of
7 this trial when individuals were on that stand that
8 my client actually conducted himself in this manner
9 at all. We feel that this actually has infected the
10 jury as it relates to my client's right to a fair
11 trial, Your Honor.

12 The behavior was so blatant and flagrant that I
13 actually had to take off my watch at one point
14 because the foreman for about five minutes -- and I
15 timed him; and there were other individuals in the
16 jury who actually did this, too -- for five minutes
17 they turned around and they looked out in the gallery
18 and did not pay attention to any testimony that was
19 elicited by our client, Your Honor.

20 And this happened throughout the duration of his
21 testimony. And this behavior is not acceptable in
22 courtrooms, Your Honor. Based on that, I feel that
23 this jury has been affected and that it actually --
24 this behavior violates my client's Fourth Amendment
25 right to a fair trial. And it was so prejudicial,

1 Your Honor, I think it just extends beyond 403, Your
2 Honor.

3 **THE COURT:** All right. State's position.

4 **MS. CAMPBELL:** Your Honor, I'm not aware of what
5 she is talking about. However, if it did become so
6 offensive, I would have thought she would have
7 brought it to the Court's attention. It was not
8 brought to the Court's attention. I am not aware of
9 any of this behavior she is talking about. Whether
10 or not the -- I mean, I just don't know, Your Honor.
11 I mean, I wasn't privy to it. I understand her
12 rendition of it.

13 **THE COURT:** All right. Ms. Singletary, I did
14 not witness the same behavior that you apparently
15 witnessed. And I certainly respect your position on
16 that. You are sitting a lot closer to the gallery
17 than I am, and that may have been the reason why you
18 may have overheard some things that I didn't
19 overhear. I did not think that the behavior -- and
20 I'm always acutely aware of -- try to be acutely of
21 aware of what's going on in the courtroom.

22 I know the victim from time to time has in any
23 case had emotional reactions to testimony. And maybe
24 there was a -- I think a minimal amount of that. But
25 I think it is the responsibility of counsel when you

1 observe something like that to inform the Court so
2 the Court can make a ruling and can correct that
3 behavior.

4 I have all the -- I have plenty of authority to
5 do that. And I could have cleared the courtroom, as
6 you know, if things become so disruptive that it
7 interferes with the failure with a fair trial for
8 your client. I do not think it rises to the level of
9 a mistrial. But as I said, I certainly would have
10 respected your wishes had you called it to my
11 attention at a previous time. So I respectfully deny
12 your motion.

13 **MS. SINGLETARY:** And, Your Honor, may I --

14 **THE COURT:** It's on the record.

15 **MS. SINGLETARY:** Yes, Your Honor. I wanted to
16 put just one last -- a couple of last things on the
17 record. Your Honor, the reason for me not actually
18 bringing it to the Court's attention at that time, I
19 didn't myself want it to interrupt the testimony at
20 that point.

21 **THE COURT:** Well, then you live with it.

22 **MS. SINGLETARY:** Yes, Your Honor. And I wanted
23 to make sure that I was actually seeing this type of
24 behavior. But we would ask that you caution
25 individuals in the gallery as a whole that this

1 behavior is not accepted in a court of law.

2 **THE COURT:** I'll be glad to do it. However, at
3 the present time we're going to take about a -- we're
4 going to take that break. And, Jackie, how about
5 checking? Mr. Dye. Or Mr. Broome.

6 **THE BAILIFF:** No, sir.

7 **THE COURT:** Not here yet? All right. We'll
8 stand at ease 'til 2:00, at which time -- or I'll try
9 to get that set of instructions to you before then.
10 But let's try to resume at 2:00.

11 **MR. O'NEIL:** Yes, sir.

12 **MS. SINGLETARY:** Thank you, Your Honor.

13 (Whereupon, a lunch break is taken)

14 **THE COURT:** Anything further with respect to the
15 jury charges?

16 **MS. CAMPBELL:** Yes, Your Honor.

17 **THE COURT:** All right.

18 **MS. CAMPBELL:** Ms. McDuffie has come in here.

19 She researched this. I would just refer to the State
20 vs. Cherry.

21 **THE COURT:** What about it?

22 **MS. CAMPBELL:** In State vs. Cherry the Supreme
23 Court in 2005 addressed the language from the Edwards
24 case --

25 **THE COURT:** That's correct.

1 **MS. CAMPBELL:** -- which is included. In that
2 case I believe the holding was that: "We hold that
3 Grippon is the sole remaining charge to be utilized
4 by the courts of this state" --

5 **THE COURT:** That's correct.

6 **MS. CAMPBELL:** -"in instructing jurors relying
7 in whole or in part on circumstantial evidence."

8 **THE COURT:** That's correct.

9 **MS. CAMPBELL:** "Accordingly, we hold that the
10 recommended language in Grippon is the sole and
11 exclusive charge to be given in circumstantial
12 evidence cases in this state", along with a proper
13 reasonable doubt instruction.

14 **THE COURT:** I understand that. What's the
15 problem?

16 **MS. CAMPBELL:** The charge you submitted me is
17 not the language. It includes language from Edwards.

18 **THE COURT:** It's language from Grippon.

19 **MS. CAMPBELL:** Beg the Court's indulgence. Let
20 me review Grippon. It was my understanding in that
21 case appellate requested the language that was added
22 and it was denied and they said that was proper.

23 **THE COURT:** The language in Grippon is: "The
24 law makes absolutely no distinction between the
25 weight or value to be given to either direct or

1 circumstantial evidence, nor is a greater degree of
2 certainty required."

3 The language that precedes that, the paragraph,
4 two paragraphs before that, are the language
5 requested by the Defendant. I elected to add that
6 language. It does not change Grippon. The last
7 paragraph is a Grippon charge. It just maybe
8 clarifies that circumstantial evidence, like any
9 other evidence, has to be proven beyond a reasonable
10 doubt.

11 **MS. CAMPBELL:** Your Honor, I thought that was
12 the language that they requested and it was denied
13 and then they said the proper instruction was what
14 was quoted.

15 **THE COURT:** No. I'm talking about the Defendant
16 in this case.

17 **MS. CAMPBELL:** Requested that language.

18 **THE COURT:** The first two paragraphs. That's
19 right.

20 **MS. CAMPBELL:** Which was expressly overturned by
21 Grippon and Cherry.

22 **THE COURT:** It's not, ma'am. It is not. The
23 language in Grippon overruled the exclusion of every
24 other reasonable hypothesis or theory. That's the
25 language from Edwards that was offensive to both

1 Grippon and Cherry. And that is not included in this
2 charge.

3 **MS. CAMPBELL:** And they said that a proper
4 charge was that which was cited in Cherry.

5 **THE COURT:** I understand. This is the charge
6 I'm going to give. Anything else?

7 **MS. CAMPBELL:** The only other thing we would
8 request, Your Honor, is we handed up a Mouzon malice
9 request.

10 **THE COURT:** All right.

11 **MS. CAMPBELL:** And we just request that be part
12 of your malice charge.

13 **THE COURT:** Is it not part of the malice charge?

14 **MS. CAMPBELL:** No, sir. I don't believe so.
15 But I've been skimming these as quickly as possible.

16 **THE COURT:** Well, I'll look at that while you
17 are --

18 **MS. CAMPBELL:** I'm going to argue it, you know.

19 **THE COURT:** I understand. Forget it. This is
20 on the AWIK?

21 **MS. CAMPBELL:** Yes, sir.

22 **THE COURT:** You like that fatally bent on
23 mischief language, don't you?

24 **MS. CAMPBELL:** I'm sorry, Your Honor?

25 **THE COURT:** I said you like that fatally bent on

1 mischief.

2 **MS. CAMPBELL:** I love fatally bent on mischief.

3 **THE COURT:** You love it.

4 **MS. CAMPBELL:** That's all I would request in
5 addition, Your Honor.

6 **THE COURT:** I probably will do that.

7 **MS. CAMPBELL:** Thank you.

8 **MS. SINGLETARY:** We have no objection, Your
9 Honor.

10 **THE COURT:** All right. Fine.

11 **MR. O'NEIL:** Just one other matter. I failed at
12 the close of the defense case to renew my directed
13 verdict motions. I'll renew my previous direct
14 verdict motions.

15 **THE COURT:** And when Ms. Singletary rose, I
16 thought that's what she was going to do, but she took
17 off on a completely different tack.

18 **MS. SINGLETARY:** Yes, Your Honor.

19 **THE COURT:** Respectfully, it's denied. Thank
20 you very much.

21 **MR. O'NEIL:** Thank you, Your Honor.

22 **THE COURT:** Ready for the jury?

23 **MS. CAMPBELL:** Yes, Your Honor. We would open
24 and close.

25 **THE COURT:** Good.

1 **MS. CAMPBELL:** Thank you.

2 **THE COURT:** Bring the jury.

3 (Jury in at 2:20 p.m.)

4 **THE BAILIFF:** Your Honor, the jury is present.

5 **THE COURT:** Thank you very much. All right,
6 ladies and gentlemen of the jury. We're about to
7 conclude the trial with the closing arguments and my
8 charge to you on the law of the state of South
9 Carolina as it applies to this case. Let me just
10 take a minute to explain one thing to you that are
11 you going to hear in the arguments of counsel, and
12 that is something under our law called a
13 lesser-included offense.

14 Now, in this case the charge of criminal sexual
15 conduct in the first degree is one that is required
16 to be proven by the State. But I will instruct you,
17 and these attorneys are going to tell you, that if
18 you do not feel the State proved that charge beyond a
19 reasonable doubt, then you could find a
20 lesser-included offense.

21 Now, for example, I know if you watch
22 television, these cop shows and court shows, they
23 always talk about murder in the first degree, murder
24 in the second degree, murder in the third degree.
25 Well, we don't have it specifically named that way in

1 South Carolina, but it's the same concept. That is,
2 that if certain elements are not proven of the main
3 charge, the indicted charge, then you could consider
4 a lesser charge or what we call a lesser-included
5 charge.

6 And in this case the lesser-included charge of
7 criminal sexual conduct in the first degree is
8 assault and battery of a high and aggravated nature.
9 Now, because that's a mouthful, we just typically
10 refer to that as ABHAN. As a matter of fact, when
11 one of the witnesses was testifying, there was
12 something to you spoken about an ABHAN. That's
13 assault and battery of a high and aggravated nature.

14 So, keep that in mind, that the attorneys are
15 probably going to talk to you about that. I will
16 talk to you about that. And that is the only charge
17 that has a lesser-included offense. And it's my
18 decision to allow that lesser-included charge to go
19 to the jury as well as the primary indicted charge.
20 All right, counsel. You may begin with your
21 summations.

22 **MS. CAMPBELL:** May it please the Court?

23 **THE COURT:** Yes, ma'am.

24 **MS. CAMPBELL:** Good afternoon. The first thing
25 I want to do on behalf of the State of South

1 Carolina, on behalf of victims in this case is to
2 thank you for your service in this case. There has
3 been a lot of up and down. There's been a lot of
4 waiting around on y'all's part. It's not something
5 you've asked for. When you walked in here on Monday
6 you don't imagine that you would be having to sit and
7 listen to facts such as have been brought before you,
8 graphic, unpleasant, criminal acts of which normally
9 no one wishes to speak.

10 And in this courtroom it is has not only been
11 thrown before you, but it has been characterized and
12 it's just been somewhat unpleasant. So thank you for
13 being here to serve. Because as you have come to
14 understand, I would say, over the last several days
15 your attendance is vital to our criminal system.

16 Now, I'm going to get up here and talk a little
17 bit at first about the law in this case. And then
18 I'm going to sit down. And then after me you're
19 going to hear from Mr. O'Neil, the defense attorney.
20 And he is going to talk to you about -- and this is
21 a closing argument. And then I'm going to have the
22 opportunity -- the burden of proof is on us -- to
23 talk to you a little bit about the facts.

24 And I want to say right know the judge is the
25 ultimate person who is going to give you or charge

1 you after we're both through on the law in this case.
2 If I say anything different about the law than what
3 the judge gives you, it's not intentional. You take
4 the law as the judge gives it to you. And in that
5 same vein, if anyone gets up here and states a fact
6 different from what you recall, you hold them
7 responsible.

8 Because, ladies and gentlemen, the roles in this
9 courtroom are very well defined. The State's role is
10 to produce all the relevant, admissible evidence.
11 The defense role is to defend their client. The
12 Judge's role is to decide what is admissible, what
13 you're allowed to hear and what the law should be
14 that you're allowed to consider once you have heard
15 all the testimony.

16 But the most important role in this courtroom,
17 ladies and gentlemen, it is undisputed, is yours.
18 Each of you individually and then ultimately
19 collectively, because you have to determine what the
20 credible, believable evidence is about what Randolph
21 Ashford did back on February the 24th of 2007.

22 And you've heard all the evidence you can
23 consider in this case. And what is evidence? It's
24 the testimony; it's the physical evidence, the
25 photographs, the gun, that have been placed into

1 evidence that will ultimately go back with you into
2 the jury room. Evidence is not questions, innuendo,
3 conjecture, speculation or just plain a fishing
4 expedition. The questions are not evidence. The
5 answers are. And in this case the evidence that you
6 have heard from the State and from the Defendant do
7 not match. They don't come close. So you must
8 decide which evidence, which witnesses are credible.

9 I want to apologize if over the course of the
10 last several days if we have done anything to offend
11 anyone. Sometimes we get caught up in legal
12 wrangling. I know at times I speak quickly. I am so
13 anxious to get the evidence before you that perhaps
14 my question wasn't phrased correctly and I have to
15 rephrase it and things of that nature. There have
16 been times you have been sent back there and told
17 you'll be out just a little while and it's not just a
18 little while. Please, I apologize if we have done
19 anything to offend you. Please don't hold that
20 against the citizens of Richland County, against the
21 victims in this case. It was not intentional.

22 Now, a criminal case is somewhat unique. As you
23 have heard over the last several days, people have
24 come before you. You've heard references to
25 witnesses's statements over and over. You've heard

1 references to perhaps reports, say the DNA analyst
2 and other reports. You've had a ballistics guy and
3 everything. Statements and reports, you may wonder
4 why they aren't admissible. You've not seen any
5 videotaped depositions, audio taped depositions.
6 And, very simply, ladies and gentlemen, that's to
7 protect the Defendant's rights. Because the
8 Defendant has a right under our Constitution, as he
9 should, to confront each and every witness that comes
10 before him and gives evidence.

11 He has the right to cross examine that person in
12 your presence so that you can judge their
13 credibility; you can judge their believability. And
14 that's why you've heard references to other reports.
15 Like with the SANE nurse, that she came in here and
16 gave you live testimony, so you can judge her
17 credibility.

18 Also you have heard about that out there that
19 day there were a lot of police officers. And you
20 haven't heard from everyone. And the reason is very
21 simple. We can only bring forth people that have
22 something else to add or are important on a certain
23 point. We can't bring the same people, like the
24 entire SRT Team in here, to say the same thing over
25 and over and over. At some point it becomes

1 cumulative. We aren't allowed by the rules of
2 evidence to do that. So that is why you've heard
3 reference to other officers, such as Officer Okinaga
4 who is now retired, who was there; other officers,
5 that they don't have something new and different to
6 bring forth.

7 You heard about the other children that were
8 actually in the car that day when he approached the
9 white Tahoe. We can't bring forth all six just to
10 keep saying the same thing over.

11 Now, the burden of proof is on the State of
12 South Carolina to prove this Defendant guilty beyond
13 a reasonable doubt. And as Ms. Singletary said in
14 her opening, sometimes we say that's a burden we
15 welcome. Ladies and gentlemen, I submit in this
16 case, in this courtroom, it is not only a burden the
17 State has welcomed, it is a burden that the State has
18 exceeded. We don't have to prove the Defendant
19 guilty beyond each and every doubt on this universe.
20 We have to prove him guilty beyond a reasonable
21 doubt.

22 Now, the judge is going to charge you, what is a
23 reasonable doubt? The easiest definition I can think
24 of is very simple. A reasonable doubt is the type of
25 doubt that causes a reasonable person to hesitate to

1 act. That's rather simplistic. The law, the courts
2 in our state have gone a little bit further in
3 talking about what is reasonable doubt. And very
4 simply, reasonable doubt has been defined, and the
5 judge will charge you, proof beyond a reasonable
6 doubt is proof that leaves you firmly convinced of
7 the Defendant's guilt.

8 There are very few things in this world that we
9 know with absolute certainty; and in criminal cases
10 such as this, the law does not require proof that
11 overcomes every possible doubt. If, based on your
12 consideration of the evidence, you are firmly
13 convinced that the Defendant is guilty of the crime
14 charged, you must find him guilty. If, on the other
15 hand, you think there is a real possibility, a real
16 possibility he is not guilty, then find him not
17 guilty. Proof that leaves you firmly convinced, that
18 is the level that the law recognizes and understands.

19 Ladies and gentlemen, I submit in this case,
20 with the testimony that you've heard, it's overcome
21 all doubt. We don't have to reach that, but the
22 evidence in this case is overwhelming. And I'll talk
23 to you a little bit about why that is.

24 Now, you are going to have nine indictments.
25 The judge will charge you, when have you multiple

1 indictments you must decide each and every one of
2 those indictments on its own. Each charge is
3 separate from each other. It's not an all or nothing
4 situation. You must consider each indictment
5 separately, because the indictments or the charges
6 themselves have different elements. This is what we
7 call a continuing offense. There were a number of
8 crimes that took place over the course of February
9 the 24th by Randolph Ashford. That's why you have
10 nine different indictments with about four or five
11 different charges. We must prove in each indictment
12 each and every element, as we should, of the
13 indictment.

14 So the indictments that are going to go back
15 before you are nine of them. And I tried to put them
16 kind of chronologically as to what you are going to
17 consider. The first charge and/or indictment that
18 happened chronologically on that day was the
19 carjacking of Barry Taylor. The next one, within
20 just minutes, was the carjacking of Pearl and Olin
21 Kelly. She was the one actually in the car. That's
22 why her name is on the indictment. It was from Mr.
23 and Ms. Kelly when they were at the Wash World.

24 The third set of charges was at the church. And
25 that happened right there on Cushman. And that's

1 when the kidnapping of Evelyn worthy -- and I'll
2 explain kidnapping in a minute -- and then the
3 carjacking of Mr. James when his Blue Ribbon cab was
4 stopped and he got out at gunpoint.

5 Finally at Booth Street, which was his ultimate
6 goal of where to get, you have the victim of D.S.

7 D.S. She is the victim of the burglary in
8 the first degree; and I'll get back to what the
9 definition of that is, of a kidnapping and of a
10 criminal sexual conduct in the first degree.

11 And finally Deputy White and Unger are the
12 victims of assault with intent to kill which is
13 different from assault and battery with intent to
14 kill. There was no actual touching in this case.
15 So, therefore, it's assault with intent to kill, the
16 bullet whiz.

17 Those are the charges. As the judge just told
18 you, sometimes in certain cases, based on testimony,
19 in this case by the Defendant, there may be a
20 lesser-included that can be considered by you. And
21 the only lesser-included you need to consider in this
22 case would be aggravated assault. Assault and
23 battery of a high and aggravated nature is a
24 lesser-included.

25 If you find that the State did not meet the

1 elements of criminal sexual conduct in the first
2 degree, and I'll get to those in a minute, then you
3 can consider assault and battery of a high and
4 aggravated nature. And then there's always not
5 guilty as to every indictment. Those are the
6 charges. And I just tried to organize those a little
7 bit because there was a lot going on that day.

8 The first charge I want to address, and I'm
9 trying to take these kind of chronologically, is
10 carjacking. Under our Code of Laws, in 16-310-75,
11 the South Carolina Code of Laws, carjacking has a
12 very simple definition. A person is guilty of
13 carjacking who takes or attempts to take -- he
14 doesn't even have to complete the thing at this
15 point; and we went with our strongest charges in this
16 case; we went with ones that he actually completed --
17 a motor vehicle from another person by force or
18 violence -- and I submit nobody is going to get up
19 here and argue that these weren't carjackings -- or
20 by intimidation while the person is operating the
21 vehicle or while the person is in the vehicle. So he
22 doesn't have to actually be driving the vehicle,
23 although in two these cases he was. Ms. Kelly was
24 sitting in the vehicle. Those are the elements.
25 Number one, he takes a motor vehicle by force,

1 violence or intimidation while they are operating the
2 vehicle. And I submit, ladies and gentlemen, no one
3 will get up here and argue that the elements of
4 carjacking have not been met.

5 Then you also -- and there are three counts of
6 that, the first being at Oakland, the second being at
7 the Wash World, and the third being the Blue Ribbon
8 cab right there at the church which ultimately gets
9 him to Booth Street.

10 The second charge I want to talk about is
11 kidnapping. You have two separate charges of
12 kidnapping. And what is kidnapping in our State?
13 The definition is a kidnapping occurs, and the law
14 says, when one unlawfully seizes, confines,
15 inveigles, decoys, kidnaps, abducts or carries away
16 any other person by any means whatsoever without
17 authority of law.

18 Now, the victims of the kidnapping are Evelyn
19 Worthy and D.S. is her name. We do
20 not have to prove that he did every one of these
21 things. We don't have to -- and kidnapping
22 traditionally you think of, okay, somebody puts
23 somebody in a trunk, drives them across states lines
24 and then sends a ransom note. That's not what did
25 kidnapping is in our state, nor in most states.

1 Kidnapping simply occurs when one's freedom -- a
2 kidnapping commences when one is wrongfully deprived
3 of his freedom and continues until freedom is
4 restored. Listen carefully to the judge. He's not
5 going to say that Ms. Worthy had to be abducted for
6 at least an hour for it to be a kidnapping, at least
7 30 minutes, at least five minutes.

8 The very moment that he walked up and put his
9 hand over her head, phone, and showed her that gun
10 and then, remember, nudged her out the door and said,
11 we're going to get a car, you're going to help me --
12 and I'm paraphrasing; that's not exactly what she
13 said -- but at that point the kidnapping is complete.
14 It continues until -- and remember her testimony --
15 she was able -- and she noticed he wasn't right next
16 to her and she ran away.

17 A person can be kidnapped for a matter of a
18 second, a matter of minutes, hours, weeks, months or
19 years. It is a continuing offense. And that is the
20 definition of kidnapping.

21 Now, all of these words do not apply in any
22 case. You cannot seize, confine, inveigle and decoy
23 and kidnap. But what are the definitions of some of
24 those words that may help? To carry away any other
25 person by any means whatsoever. He basically forced

1 Ms. Worthy out of the church and made her go down so
2 she could help him flag down a car because he was
3 going to get to Booth Street no matter what that day.
4 That is a kidnapping.

5 What happened with D.S. over that
6 six-hour or plus period was also kidnapping. Very
7 simply, if one just seizes, means to take hold of
8 suddenly or forcibly, and deprives a person of their
9 freedom for any amount of time, it is a completed
10 kidnapping. Now, if they try to seize them for that
11 purpose and don't get them, then it would be an
12 attempted kidnapping. In this case both of these are
13 kidnappings.

14 To confine means to limit, restrict or enclose
15 within bounds, imprison or shut or keep in. And I
16 submit, ladies and gentlemen, there's not a more
17 classic kidnapping than barricading someone in their
18 home while the police surround the place and refusing
19 to come out for six hours.

20 To kidnap is to remove a person against his will
21 by unlawful force or fraud. Does that describe what
22 happened to Ms. Worthy who was there to water the
23 plants minding her own business when he made it his
24 business to use her? The fact that he tells her, no,
25 I won't hurt you, doesn't negate his criminal intent

1 or responsibility. He used the gun, he displayed the
2 gun for a purpose, because people cooperate against
3 their will when faced with possible death or injury.
4 Those are the kidnappings.

5 Now, you also have two counts of assault with
6 intent to kill. And the judge is going to charge
7 you -- and his charge may be a little bit different;
8 this is language I found; this is out of one
9 statute -- an unlawful attempt to offer or commit a
10 violent injury to the person of another with malice
11 aforethought and with the present ability to complete
12 the attempted injury.

13 Now, what does all that mean? Very simply,
14 ladies and gentlemen, the only way I know to do it is
15 to walk through it. The lesser-included's of assault
16 with intent to kill are assault of a high and
17 aggravated nature and simple assault. If I walk up
18 to another person and I want to punch them in the
19 shoulder and I do so and I miss, that is an assault.
20 The battery would be the actual touching if I
21 connected, no matter what the injury, because I'm
22 offering to do violence to the person of another.

23 Assault of a high and aggravated nature goes a
24 step further. It's the same thing; the assault,
25 offer to do violence to another person. But in this

1 case there's an aggravating circumstance, be it
2 indecent liberties, which I'll get back to in a
3 minute, with another person. There are many ways you
4 can have an aggravating circumstance. But what
5 raises it to the level, as the charges in this case,
6 of assault with intent to kill is malice. Because
7 it's the offer to do violence to another, but you
8 have malice aforethought. And what does that term
9 mean? And the judge will define it for you.

10 Malice is a term of art. And the easiest way I
11 know to think about it is, it's what the word
12 "malicious" comes from. Is the person acting
13 maliciously when they offer to do violence to
14 another? And no one, I don't think, is going to get
15 up here and say that it is not a malicious act to
16 shoot at someone or to shoot into a crowd to whatever
17 extent.

18 The law recognizes that even though malice is
19 ill will, the judge will tell you and he'll instruct
20 you on this; we don't have to show a specific intent
21 to kill either Deputy Unger, either of the deputies
22 that day. We just have to show that he's acting with
23 malice.

24 Malice does not necessarily impart ill will
25 towards the individual injured -- in this case

1 there's no battery, so there was no injury, but the
2 offer to do injury -- but signifies rather a general
3 malignant recklessness of the lives and safety of
4 others or a condition of mind which shows a heart
5 regardless of social duty and fatally bent on
6 mischief.

7 And I ask you, was Randolph Ashford on that
8 day -- he was going to find Roberta or somebody was
9 going to pay. Is that a heart regardless of social
10 duty and fatally bent on mischief? And somebody did
11 pay for it. That's what we have to show.

12 The judge will also tell you that in finding
13 malice you can just infer from the use of a deadly
14 weapon the inference of malice is there. And no one
15 is going to get up here and argue that a pistol, no
16 matter if it misfires or not -- and you heard from
17 David Collins, when this gun fires, it fires for
18 real -- that a gun is not a deadly weapon. The use
19 of a deadly weapon alone is enough to infer malice.

20 The next charge is going to be burglary in the
21 first degree. And our law says, in our Code of Laws
22 it says that burglary in the first degree, if a
23 person enters a dwelling -- and a trailer or even a
24 motel room can be a dwelling in this case; it's
25 obviously a dwelling where people lived -- without

1 consent -- and you're heard the testimony -- with
2 intent to commit a crime in the dwelling and when in
3 effecting entry or while in the dwelling or in
4 immediate flight, he or another participant -- in
5 this case he is the only participant; there are no
6 co-defendants -- is armed with a deadly weapon or
7 explosive causes physical injury to a person who is
8 not a participant in the crime -- in this case it's
9 the victim -- uses or threatens the use of a
10 dangerous instrument -- it doesn't even have to be
11 necessarily what's normally a deadly weapon, but in
12 this case you have a deadly weapon -- or displays
13 what appears to be a knife or pistol -- in this case
14 a revolver.

15 We don't have to prove all four of those
16 aggravating circumstances. We have to prove one.
17 The entry into a dwelling without consent and with
18 intent to commit a crime. And when he went in there
19 and barricaded everybody in, somebody was paying that
20 day; he was committing crimes. Those are the
21 elements of burglary. And any one of these
22 aggravating circumstances is enough for it to be
23 burglary in the first degree. You see it says "or",
24 not "and".

25 Criminal sexual conduct in the first degree.

1 And again, I apologize for getting explicit. The
2 actor -- and this is going to be the Defendant --
3 engages in sexual battery with the victim, and if one
4 of the following circumstances are proven; that the
5 actor uses aggravated force to accomplish sexual
6 battery. And the judge will define for you
7 aggravated force is the threat of the use of a deadly
8 weapon. That alone is aggravated force. Or -- we
9 don't have to prove both of these again -- the victim
10 submits to a sexual battery -- and that's very -- and
11 I'll get to sexual battery in a minute; but basically
12 a sexual act -- under circumstances where the victim
13 is also the victim of forcible confinement,
14 kidnapping, robbery, extortion, burglary, housing
15 breaking or any other similar offense.

16 That means if she is the victim of kidnapping
17 and/or a burglary which apply, we don't have to prove
18 all of those; just one or two, but we have two here,
19 then it's criminal sexual conduct in the first
20 degree.

21 Now, what is sexual battery? Sexual battery
22 means sexual intercourse, cunnilingus, fellatio, anal
23 intercourse, or any intrusion, however slight. And
24 in this case the testimony, it's been graphic, that
25 he started but he couldn't finish but that there was

1 penetration -- and I'm sorry to use this verbiage --
2 into the genital or anal openings of another person's
3 body except when such intrusion is accomplished for
4 medically recognized treatment or diagnostic
5 purposes.

6 And, ladies and gentlemen, this is a classic
7 rape: At gunpoint in a hostage taking situation
8 where she feared for her life. All we have to prove
9 is that he either threatened the use of a deadly
10 weapon or she was also the victim. Any one of those
11 three is enough to raise it. We have three here.
12 It's above and beyond.

13 Very simply, the Defendant testified that the
14 only sex acts that happened that day weren't of a
15 penetrating nature. He even puts in his -- and I'm
16 not going through it; you'll have the exact
17 language -- about how she wanted it. If you find
18 that it was just an assault and battery of a lewd act
19 and that there was no actual penetration, and it
20 doesn't mean -- and you don't see anywhere in here
21 where he had to ejaculate. Listen to the judge. If
22 you find that, in fact, he didn't penetrate her, then
23 it could be an ABHAN. And the judge will instruct
24 you on the elements of ABHAN. Those are the two
25 there that you can consider.

1 Now, the judge will also instruct you, and
2 listen carefully, in criminal sexual conduct cases,
3 rape cases, under our Code of Laws, 16-3-657, the
4 testimony of a victim in a criminal sexual conduct
5 case need not be corroborated. Although I submit,
6 ladies and gentlemen, in this case everything
7 Randolph Ashford did that day was corroborated. Her
8 testimony alone is enough to prove it beyond a
9 reasonable doubt if you believe her. And I will talk
10 to you a little bit about credibility.

11 Now, the judge is also going to tell you there
12 are two types of evidence in the case. And he will
13 charge you, among other things, on the definition of
14 evidence. There are direct evidence and
15 circumstantial evidence. And in cases in our court,
16 in State vs. Cherry and State vs. Grippon, they have
17 said the following about what is the two types of
18 evidence.

19 What is direct evidence? Very simply, Ladies
20 and Gentlemen, eye witness testimony is the greatest
21 way to do it. Direct evidence is the evidence you
22 perceive through your senses: Touch, feel, see,
23 hear, things of that nature. That's direct evidence.
24 The law also recognizes that there is a second type
25 of evidence, evidence where there is a series of

1 events that can point to the conclusion of another
2 fact.

3 In this case, by far, the majority of the
4 evidence is direct evidence. You heard from 14 or 15
5 witnesses to what Randolph Ashford did on that day.
6 That's all direct testimony. Indirect testimony from
7 which you can conclude something is, say, where his
8 jacket was found in that bedroom on the end where the
9 bay window was next to the van. That's
10 circumstantial evidence that he was in that room. It
11 was his jacket. We can put him in there. No one
12 actually testified that they saw him go in that room,
13 but his jacket being left there is circumstantial
14 evidence.

15 The easiest way as an example, if I go to bed
16 tonight and I look outside and the ground is bare and
17 the grass is green and I go to sleep and I'm asleep
18 for six or seven hours and I wake up and the next
19 morning there's snow everywhere, as far as you can
20 see, that is circumstantial evidence that while I was
21 asleep it snowed.

22 Now, the defense may get up here and say no, no,
23 no, no, no; I could have hired like, you know,
24 somebody from North Carolina to come in and bring in
25 a snow blower. Ladies and gentlemen, that's not

1 reasonable. So reasonable people.

2 Circumstantial evidence is the proof of a chain
3 of facts and circumstances indicating the existence
4 of a fact. The law makes absolutely no distinction
5 between the weight or value to be given either direct
6 or circumstantial evidence, nor is a greater degree
7 of certainty required of circumstantial evidence than
8 of direct evidence.

9 You should weigh all the evidence in the case.
10 After weighing all of the evidence, if you are not
11 convinced of the guilt of the Defendant beyond a
12 reasonable doubt, you must find the Defendant not
13 guilty. If, on the other hand, you are convinced of
14 the Defendant's guilt beyond a reasonable doubt, then
15 you must find him guilty.

16 That will be some of the verbiage you hear from
17 the judge. There is no greater degree of certainty.
18 And in this case, ladies and gentlemen, the vast
19 majority; in fact, almost all, the evidence in the
20 case is direct. But in almost every case there is
21 some circumstantial evidence. But those are the
22 types of evidence. No greater degree of certainty
23 for one than the other.

24 Circumstantial evidence: They went in. They
25 caught the Defendant. Oh, excuse me. You heard

1 Marcus Brown testify. He heard a -- how did he put
2 it? Some type of thud. Then they found the gun on
3 the floor. That would be circumstantial evidence
4 that while they had him cornered back there in the
5 laundry room he dropped the gun. That's
6 circumstantial evidence.

7 Now, you're also going to have the judge
8 instruct you that there are different -- well,
9 there's expert testimony. You heard at times people
10 get called qualified as an expert witness. Very
11 simply, ladies and gentlemen, sometimes the law
12 recognizes as a lay person, such as me, I have no
13 expertise. Therefore, I can't come in and give an
14 opinion. But certain people, because of their
15 training and their qualifications, are allowed to
16 come to court and give opinions about areas of
17 expertise in which they have got training.

18 You heard from Jamine Leslie. You heard from
19 David Collins. Jamine Leslie, she's a therapist.
20 You heard from David Collins. He does ballistics.
21 They were able to give you opinions after doing
22 testing or after interviewing the victim as far as in
23 their expert field. And that's why they're able to
24 give opinions that; but, say, if I were to testify, I
25 have no expertise and, therefore, I can just talk

1 about facts. That's kind of the difference between
2 an expert witness and a lay witness. The judge will
3 tell you you consider expert testimony the exact same
4 way you do any person's testimony. It's all about
5 credibility.

6 Now, in this case, too, you will also hear
7 how -- or you've heard about the Defendant's
8 statement, how on that night he was advised of his
9 rights and then he gives a statement to Sergeant
10 Barnes and Investigator Thomas. The judge will tell
11 you many things you can consider, whether or not a
12 Defendant has given a statement.

13 Basically, you know, his educational background,
14 his ability to articulate, things of that nature.
15 And he'll go through a list of things you can
16 consider. But the most important thing you need to
17 consider and the most important part is protecting
18 his rights, whether or not he was advised of what his
19 rights were that night, whether or not he wanted to
20 talk to police. And you must base that on credible
21 evidence, observations by the police that night when
22 they were there, credible evidence.

23 Was he advised, the Defendant, of his or her
24 Constitutional rights; including, but not limited to,
25 the right to remain silent, that any statement can be

1 used against him or her in a court of law, the right
2 to have a lawyer present; if he could not afford a
3 lawyer, a lawyer would be appointed to represent him
4 or her without any cost, and that he could stop
5 making the statement at any point.

6 This Defendant was read his rights twice, a
7 third time on the top of his statement when they went
8 over it. He understood his rights. And once you
9 find that his statement is voluntary, even if he
10 doesn't like it any more, then you can consider the
11 statement in whatever manner you think appropriate in
12 determining guilt, the statement he gave that night
13 when he was advised of his rights.

14 In every case we must prove criminal intent.
15 And what is criminal intent? The easiest definition
16 I know to say is a conscious wrongdoing. Nothing
17 more than that. In other words, it's not an
18 accident. It's an intended act in order to gain
19 something or to do something. It's not an accidental
20 act from which there is no intent.

21 And I submit, ladies and gentlemen, this case,
22 there is no question of what his intent was back on
23 February 24th. Not today. Back on February 24th of
24 2007. The judge will instruct you we can't look into
25 a person's mind, dissect it open, try to figure out

1 to a mathematical certainty what his intent was. So
2 what you have to do is look back at his actions and
3 what he did in the time period right around the time
4 he was committing the crimes. And, ladies and
5 gentlemen, I submit there is no question in this case
6 that this Defendant was fatally bent on mischief and
7 had criminal intent on that day.

8 The judge will also instruct you on
9 identification. I'm about through talking about the
10 law. I'm sorry. There are so many indictments. In
11 determining identification, you consider whether a
12 person had an opportunity to observe, whether the
13 lighting was good. That's why I asked those
14 questions. Whether they were paying attention,
15 things of that nature. Whether or not when they made
16 the identification it was close in time -- within a
17 day here -- of the actual crime here.

18 You can even consider whether they've seen him
19 before. Was their identification supported by the
20 facts and the other evidence in the case? I don't
21 think anybody is going to get up here and say that
22 the identifications in this case have anything wrong
23 with them.

24 The final thing I want to talk about is
25 credibility. In this case, ladies and gentlemen, it

1 boils down to it. The judge will tell you can
2 believe part of a witness, all of a witness or none
3 of a witness; one against many, many against one.

4 When determining credibility, and the reason we
5 bring these witnesses in, because you have to
6 determine, and using your reason, is whether or not
7 they're telling the truth. Does it make sense? Is
8 that testimony corroborated by the other testimony?
9 It is corroborated by the evidence? That's
10 credibility.

11 In this case they may get up here and argue,
12 well, you can't believe any of these witnesses
13 because their clothing descriptions don't match.
14 They're height is off by two inches, things of that
15 nature. Ladies and gentlemen, that's what makes them
16 so credible. I stake this case on each and every
17 witness, victim that came before you.

18 If they had all gotten up here and said, yeah,
19 he's five-foot-eleven wearing a black jacket with
20 purplish taupe jeans and different things, then there
21 is something wrong. Because this is real life.
22 That's what makes them credible. It's like when two
23 people are standing at different corners of a stop
24 light and a wreck occurs; and one person says it's a
25 tan car and the other person says it's a brown car;

1 no one is trying to lie. It's their perception at
2 the time.

3 Credibility. I beg you to judge these people.
4 What did Barry Taylor have to gain? What did Mr. and
5 Ms. Kelly have to gain? The people at the church,
6 Mr. Fleming, Ms. Gilliard? And finally, the victim,

7 D.S. She led her life in her
8 neighborhood where everyone was tight. She stayed
9 out of trouble and she didn't ask for this.

10 She endured a horrific hostage taking situation.
11 And you heard about details about that, how it went
12 on for six hours. They begged him to give her up.
13 They even brought in Roberta. And yet today he is
14 the victim? Credibility? I beg you to judge these
15 people.

16 Because, ladies and gentlemen, if you consider
17 all the evidence in this case, it all points to what
18 he did. He was a one-man crime spree. He was going
19 to get Roberta. And I think in a statement he put it
20 best. He just needed to talk to her but if he found
21 her with a man, he didn't know what would happen.

22 That was his frame of mind. And he didn't care who
23 the casualties were on the way to getting her. He
24 didn't care whose face he had to put a gun in and he
25 didn't care whose property and whose soul he crushed

1 to get what he wanted. Thank you.

2 **THE COURT:** Mr. O'Neil.

3 **MR. O'NEIL:** Thank you, Your Honor. May it
4 please the Court.

5 **MS. CAMPBELL:** Would you like me to move the
6 evidence?

7 **MR. O'NEIL:** Appreciate it. This ain't
8 Pakistan. This ain't Pakistan. When I first became
9 a lawyer and I joined the Richland County Public
10 Defenders Office, one of my co-workers would always
11 repeat that phrase. This ain't Pakistan. I never
12 quite understood what he meant by that until I had
13 the opportunity to try a case like this in front of
14 you guys.

15 He informed me that Pakistan, their criminal
16 system isn't like ours here in America. They don't
17 have certain guarantees and rights. They don't have
18 it where Defendants are presumed innocent throughout
19 their trial and until the State can remove that
20 burden. They don't have impartial jurors like the 14
21 of you who are willing to come in here, listen to the
22 evidence and decide the evidence on the facts and not
23 emotions. And they don't hold the State, the
24 prosecuting agency, to the highest burden of proof
25 beyond a reasonable doubt.

1 This is what makes America what America is.
2 This system we have is the best system there is in
3 determining cases. It's great because we have people
4 like you who are willing to come in and serve. It's
5 often been said this system we have is the best
6 system to settle disputes between citizens and
7 citizens and the government. Today we have a dispute
8 between citizens of Richland County and Randolph
9 Ashford.

10 Now, you guys have a job to do today. I have a
11 job, the State has a job, and the judge has a job.
12 Now, I've had training to do my job and the judge has
13 had training to do his job. But you 14 people, you
14 get the least amount of training there is. You come
15 in here today with just your life experiences. The
16 judge gives you a few minutes of instructions and
17 then tell you to have at it.

18 Basically your job is to decide this case on the
19 evidence and the law; not on emotions, not on
20 sympathy, not on passion, not on fear, not on anger.
21 You have to set all of that aside and make your
22 decision. And what I usually tell jurors, I get a
23 box like this. I know there's been a lot of emotion
24 in this trial this week, a lot of tears, a lot of
25 anger, a lot of frustration. And I tell jurors take

1 all that emotion you have, all that sympathy you may
2 have for victims, all the anger you may have for
3 Defendants, all the passion that the State may try to
4 raise up in you and put it in this box. Place all of
5 this emotion, all this sympathy, place it in this
6 box.

7 And you know what? You close it and set it over
8 here. Because that emotion, that sympathy, that
9 passion, that anger, that frustration, it can't go
10 back with you in the jury room. When you go back
11 there, you have to decide this case on the evidence
12 and the law. Now, emotions, anger, passion, they
13 tend to be intense and loud. I want you to separate
14 all that out so you can hear the quiet voice of the
15 evidence and the law.

16 Now, there no accident that you 14 people are
17 here. You were picked over out of the 200 people
18 that was here for jury duty. And when you swore an
19 oath, the law, I'm going to talk to you at that
20 point, the law demands that you do a couple of
21 things. The minute that you promise to presume Mr.
22 Ashford innocent until the State can move him guilty
23 beyond a reasonable doubt. That means that the
24 default setting, that man Randolph Ashford, is
25 innocent until they can prove him guilty beyond a

1 reasonable doubt.

2 And that's their job. That's their burden. And
3 don't let this table fool you. Don't let the paper
4 on this table fool you. On this table rests all the
5 resources and the powers of the State of South
6 Carolina. They brought in the Sheriff of Richland
7 County to testify in this case this week. This is a
8 man who has singlehandedly rid this county of all
9 Olympic swimmers. They found the power. This table
10 has.

11 They have a job to do. They have a job to do.
12 They have to prove to you their case beyond a
13 reasonable doubt. That's the highest burden we have
14 here in the criminal system. I'll talk to you a
15 little bit about that a little bit later on. But I'm
16 going to ask you to fulfill those promises, the
17 promises that the law demands, not for me, not for
18 Randolph Ashford, but because of the system, because
19 of the integrity of the system. Because when you
20 fulfill those promises, you do what the law demands,
21 that's what separates us from the Pakistans of the
22 world.

23 Now, the other day when I was coming back in
24 from court I got an email. I was trying to check my
25 email. This one particular email caught my eye. It

1 said it had one question, IQ test, to see if you're a
2 genius. And I thought to myself, hey, I'm pretty
3 smart. I went to law school. Maybe I might be a
4 genius. Let me open this test up and see if I'm a
5 genius or not.

6 So I opened the email up and it had one question
7 on it and one question alone. It said: "How many
8 months have 28 days?" And I thought to myself, man,
9 that's easy. I am a genius. I know the answer.
10 There's only one easy answer. The answer to that is
11 February. I'm a genius. Yes!

12 So then I scrolled down to the bottom of the
13 email and it said, "If you picked February, you said
14 one month, that is incorrect." That's the easy
15 answer. You see, the right answer is 12 months. All
16 months have 28 days. Some just have more. I learned
17 two lessons that day. One, I'm not a genius; and,
18 two, most times the easy answer isn't the right
19 answer.

20 Now, I'm not going to spend the next 30 plus
21 minutes here talking to you about the law or going
22 over every single witness that came up here. The
23 judge can tell you about the law and you were here
24 during this week; you remember what was said. But I
25 just wanted to hit some highlights for you to have

1 something to focus on when you go back in the jury
2 room.

3 The first thing you need to consider is the
4 carjacking. Think about the carjacking of Barry
5 Taylor. The first point Ms. Singletary brought home
6 to you during opening and I'll bring it home to you
7 today. Look at the location of that carjacking. The
8 State, they put all these maps in, all these pictures
9 in. Look at this map right here. Look where Mr.
10 Ashford stayed at. Street. Look where the
11 first carjacking occurred at, the corner of Oakland
12 and Randall. Look where Ms. D.S. trailer is
13 located, over here on Street.

14 If Mr. Ashford was so bent on going over here to
15 find Roberta Neil, why would he have went out of his
16 way a half a mile this way to Oakland Street to
17 carjack a car only to come back over here to Main
18 Street to carjack another car, then to finally get
19 over here to Booth Street? This first carjacking was
20 all out the way.

21 And Mr. Ashford testified to you himself that he
22 has no memory of that carjacking. Why would he have
23 taken the cars of Ms. Kelly and Mr. James and not the
24 first one? There's no forensics of that. There's no
25 fingerprints linking Mr. Ashford to that car, no DNA,

1 none of his belongings. Mr. Taylor himself got on
2 the stand. He couldn't even tell you that Mr.
3 Ashford was the person who carjacked his car. He
4 only gave a description that day of a man either six
5 foot or six-foot-one that had old clothes on. You'll
6 have Mr. Ashford's clothes when you go back there.
7 Look to see if his clothes fit the description Mr.
8 Taylor gave.

9 Then you have the carjackings of the Kellys and
10 Mr. James. And the only thing you've really got to
11 consider on those two indictments are whether or not
12 Mr. Ashford had the intent or whether or not he used
13 any force to get especially Mr. James's cab. You
14 heard Mr. James and his granddaughter testify on the
15 stand. Remember if they told you whether or not Mr.
16 Ashford used any force to get their vehicle. If he
17 didn't use any force, any intimidation, he is not
18 guilty of that carjacking.

19 After you consider that carjacking, the next
20 thing you need to consider is kidnapping of Evelyn
21 Worthy. And the State, they showed you all these
22 boards about kidnapping and told you what kidnapping
23 was, what it wasn't. It's defined, inveigle,
24 confine, all these things for you.

25 Basically it boils down this. Ms. Worthy didn't

1 see the person who came up behind her. The person
2 who reached over her shoulder to hang the phone up,
3 she never saw that person. She never said that
4 person used any kind of force to get her to move.
5 She merely said that she saw a weapon. She didn't
6 say somebody told her to move. She didn't say
7 somebody told her to stay. She just decided to walk
8 out.

9 And remember what she. She said somebody told
10 her, "You're going to help me get some keys." Not
11 anything about somebody saying, you're going to go
12 help me get any cars. The person that came up to Ms.
13 Worthy made no kind of demands, and when Ms. Worthy
14 got to the street, she ran off on her own. Decide
15 for yourself whether or not Randolph Ashford deprived
16 Ms. Worthy of her freedom.

17 Then you have the burglary first at the Booth
18 Street address. Basically all you need to consider
19 here is whether or not when Randolph Ashford entered
20 that home, he told you he had entered her home,
21 whether he entered it with the intent to commit a
22 crime. If he didn't, he's not guilty of that. No
23 matter what he did on the inside, if he didn't enter
24 that threshold with the intent to commit a crime,
25 he's not guilty. If there's nothing been stolen from

1 the residence, anything like that,, if he didn't enter
2 that threshold with the intent to commit a crime, he
3 is not guilty of burglary first, no matter what else
4 may or may not have happened inside the home.

5 Next you have the assault with intent to kill as
6 it relates to both the deputies, both Deputy Unger
7 and Deputy White. Now, what's amazing about this;
8 think about this, neither Deputy White nor Deputy
9 Unger got on that stand and said they saw Randolph
10 Ashford shoot at them. The only testimony that you
11 heard was that Deputy White said he heard something
12 whiz by him in the woods.

13 And you'll have all the pictures back there to
14 look at it. They were not in front of the van but
15 behind the van in the wood line. Look at the
16 pictures of the windows when you get back there. See
17 if you see any window with any bullet hole. You
18 won't find that there.

19 Ms. D.S. says she saw Mr. Ashford shooting
20 out the front of the house. Once again, look at the
21 pictures. Look at where the front of the house is
22 facing. Look for yourself to see if it's possible
23 for Randolph Ashford to have shot any one of those
24 deputies who were by the light blue van if you're
25 shooting out the front of the window.

1 Mr. Ashford told you the only time he was
2 shooting, he shot once in the floor and once in the
3 chair. And there is pictures of the shot in the
4 chair. They only found two shell casings in that
5 house that day. You'll have the firearm back there
6 with you as well. The firearm can only hold six
7 projectiles. Three projectiles were still found in
8 the firearm; one live round on the floor. That only
9 leaves two. You just have to chase down one in the
10 floor and one in the chair.

11 And, first of all, you had the guy from SLED who
12 told you he looked at the gun. He said when he test
13 fired the gun it only fired correctly five out of the
14 20 times he tried to fire it. I'll let you decide
15 whether or not that gun was going to shoot at one of
16 the deputies.

17 Investigator Reed-Enzor, she went to where they
18 said they got shot at by the van, looked for the van,
19 found no bullet holes in the van, no projectiles, no
20 projectiles anywhere in the woods, no evidence that
21 Randolph Ashford shot at these deputies. No gunshot
22 residue anywhere in the house, anywhere around the
23 windows, anything like that. If quiet voice of the
24 law demands you find him not guilty of assault with
25 intent to kill.

1 And the last thing you have to consider is the
2 CSC and the kidnapping of Ms.
3 Basically, just as the State says, this is a
4 credibility issue. And one thing you have to look at
5 is the testimony that they had, their demeanor that
6 they had on the stand. Ms. said that
7 Randolph Ashford called the house all night long.
8 And then she looked at the phone records and she saw
9 that there was no calling all night long.

10 She said that he used the mops to clean up some
11 water that was on the kitchen. He mopped up all the
12 water that was in the kitchen. Investigator
13 Reed-Enzor looked at the mops and the mops appeared
14 dry. Your job is to evaluate the credibility of the
15 witnesses.

16 There has been no physical evidence of a rape.
17 She went to see the SANE nurse. No tearing, no
18 bruising, no semen, no bruises on her arms at all, no
19 physical evidence of a rape. The quiet voice of the
20 law demands you find him not guilty.

21 And all of this, you have to consider the
22 standard you're going to be using. You're going to
23 be using the standard of beyond a reasonable doubt.
24 Now, beyond a reasonable doubt is the highest burden
25 that we have in our system. It's higher than the

1 civil side because much more is at stake on this
2 side. I often tell people if you want to imagine
3 what reasonable doubt is, imagine that you woke up
4 one morning and you found one of your significant
5 others, their picture was in the newspaper, and they
6 had been accused of committing a horrendous crime.
7 What would be the level convincing you to believe
8 that person, your significant other was guilty of
9 that crime? That's the same level of commitment and
10 convincing you have to have to find Randolph Ashford
11 guilty beyond all reasonable doubt.

12 If you get back there and you think, oh, he must
13 have done it, "must have" does not equal "beyond a
14 reasonable doubt". And if you think he did any one
15 of these nine crimes, that's not enough. You have to
16 be firmly convinced. You have to be firmly convinced
17 not only of each and every one of the crimes but of
18 the ID's as well. You've got to be firmly convinced
19 of the statement he gave, whether or not he freely
20 and voluntarily waived his rights.

21 Consider his personal attributes. Consider his
22 education. Consider his medication. Consider his
23 condition, the tear gas that he was under, whether or
24 not you think he could have voluntarily waived his
25 rights to not have counsel there and to freely talk

1 with law enforcement.

2 You have to find beyond a reasonable doubt on
3 every single one of these indictments separately.
4 The quiet voice of the law demands you separately
5 address each and every one of these indictments.

6 Now, this is usually the time of my closing
7 arguments that I ask the jury to find in favor of my
8 client. I'm not going to do that here today. I'm
9 not going to ask y'all to find in favor of Randolph
10 Ashford. I'm going to ask you 14 people to find in
11 favor of the law, to uphold the integrity of the
12 system, to do as the quiet voice of the law requires
13 you to do. Don't do it because I'm a nice person.
14 Don't do it because Randolph Ashford is a good person
15 or you like Randolph Ashford. Do it because you are
16 good people. You swore an oath to uphold the law.
17 That's what I know you will do.

18 Dr. Martin Luther King, Jr. once said: "The
19 true test of a man is not where he stands at the
20 times of comfort and convenience but at times of
21 challenge and in times of controversy." When you get
22 back to that jury room, it's going to be comfortable,
23 it's going to be easy to say, yeah, he was arrested,
24 they have all these indictments, all these boards,
25 all these pictures, I feel sympathy for the victim;

1 let's find him guilty of everything.

2 But it won't be correct. Because you'll have
3 taken away all that sympathy. You don't have that
4 sympathy and that anger back there with you. You
5 have to listen to the quiet voice of the law. I know
6 once you listen to the quiet voice of the law, you
7 will realize the law demands that you find him not
8 guilty, that this is America; this isn't Pakistan.
9 Thank you.

10 **THE COURT:** Ms. Campbell.

11 **MS. CAMPBELL:** Thank you, sir. In every case
12 you try to anticipate prior to trial what the defense
13 is going to be. In some cases it can be a simple
14 case of identification; simply it's the wrong guy.
15 In some cases it can be simply there is no crime that
16 was actually committed; it was a drug deal gone bad.

17 In this case as I listened to opening arguments
18 and have listened to cross examination and over the
19 last several days, it is kind of the oldest defense
20 in the book; just simply try to harp on an
21 inconsistency. Is it a green jacket or a brown
22 jacket? Attack the police. Say they didn't do their
23 job -- and in this case, ladies and gentlemen, they
24 did -- and go with that.

25 But this case goes a little further than that.

1 Because the defense has absolutely no burden to prove
2 anything. That is their right under the
3 Constitution, as it should be. However, ladies and
4 gentlemen, once they chose to put up a defense and to
5 testify, you judge that the same way you do every
6 other witness in this case. Because their theory is,
7 is that D.S. -- and I submit, ladies
8 and gentlemen, judge her. What you see is what you
9 get. She was at home in her living room with three
10 small children and her brother's wife minding her own
11 business when her cousin's friend, common law
12 husband, chose to commit a series of acts, heinous,
13 despicable acts against innocent citizens, just as
14 she was, in order to get at Roberta. Because
15 Roberta -- and you'll have his statement -- wasn't
16 there and he couldn't find her and he was going to
17 get her.

18 And I think he summed it up best. I didn't know
19 what would happen if I found that man with Roberta.
20 That's what was on his mind. The theory in this case
21 is that D.S. brilliantly was able to
22 realize that this was the perfect time to take him
23 hostage, that he had committed these series of events
24 to get to her house, these series of crimes and came
25 with a gun so that she could hold him hostage, so

1 that then, under their theory, the police could come
2 and she would tell them to leave; and then when they
3 threw things in her house, she could sue them and
4 then go to the hospital and just say, as he told her
5 to, that this was a rape. This was just her lucky
6 day, according to the Defendant.

7 And it is amazing that D.S. was
8 brilliant enough to take advantage of the opportunity
9 that this young, innocent man afforded her. That's
10 the defense theory. I submit, ladies and gentlemen,
11 this case is not about reasonable doubt, because you
12 have two different stories; one inbetween the
13 statement, and then you have the story from the 15 or
14 so fact witnesses who have no bias, no prejudice,
15 nothing to gain or lose. They didn't want to come
16 here to be able to tell you how somebody stuck a gun
17 in their face. That didn't make their week, their
18 month, their year.

19 They didn't want to see their car get totaled.
20 They didn't want to come in here and get cross
21 examined for the fun of it. Are they credible? I
22 beg you, I submit in no case are they more credible
23 than this. Because either you believe them because
24 they all corroborate each other; or, I submit, ladies
25 and gentlemen, if you believe what he testified to

1 here today, then cut him loose.

2 Then they don't want you -- they're desperate
3 for you not to consider the statement. It wasn't
4 voluntary. He had tear gas. And why is that? It
5 crushes him. That night he thought as fast as he
6 could on his feet. And I submit they say he doesn't
7 have enough education to understand. He sure
8 corrected me every time I asked him a question. He
9 made sure he didn't just let anything slide by. I
10 don't care what anyone's education was; he knows what
11 he's doing.

12 They don't want you to consider that statement
13 because the statement kills him. Either Mr. Taylor,
14 the Kellys, Ms. Worthy, Mr. James, Ms. D.S.
15 either they're all victims, or he is innocent.

16 As I listened to opening argument, Ms.
17 Singletary got up here and she talked about what our
18 case would show. And again, you remember it as you
19 heard it. She talked about how when he woke up, he
20 did unspeakable acts for no reason. Listen carefully
21 to the judge. We don't have to prove to you that he
22 was acting reasonably in his jealous haze. We just
23 have to prove that the acts occurred.

24 They got up there and said he woke up, did
25 unspeakable acts for no reason, all over \$4,000,

1 which they're now denying. We aren't alleging that,
2 ladies and gentlemen. But we don't have to prove
3 motive. We don't have to prove that his criminal
4 acts were reasonable. No criminal act; murder, rape,
5 burglary, robbery, is reasonable. That no one,
6 someone in their right mind would not commit these
7 acts. That the burden of proof is on the state, we
8 agree with that. It should be and it is.

9 But he took the first car. Why did he take the
10 second? Well, ladies and gentlemen, we don't have to
11 prove why he took it. We have to prove that he did
12 take it with criminal intent. And when one pulls out
13 a gun and points it at Mr. Kelly and Ms. Kelly is
14 inside the car, that's criminal intent. Did he like
15 that car better? It was nicer. Was he having
16 trouble making the other car run? You heard about
17 how Mr. Taylor had problems with it.

18 He was on a mission. Oh. And why was he over
19 on Oakland Street if he lives over here on Muir
20 Street? I don't know. Was he hanging out with those
21 two guys in the roadway? What was he doing over
22 there? We don't have to prove what he was doing
23 there. All we have to prove is that he took the car.

24 They say you can't believe he did the carjacking
25 because Mr. Taylor didn't identify him. And that's

1 what makes him credible. He didn't get up in his
2 face. But guess who did? Mr. Kelly. There is no
3 doubt about his identification. And he admits that's
4 right.

5 The issues, squeamish, it's about sex. He
6 wouldn't do this because it was his girlfriend's
7 cousin. Listen to the nurse. There is no physical
8 evidence. They are right about that. And there
9 shouldn't be in this case, because no one here says
10 that he deposited any DNA in her. That the ABIK
11 isn't an ABIK because he shot indoors. That the gun
12 is a six-shooter, two shell casings and four live
13 rounds. And I submit, ladies and gentlemen, in his
14 own statement, the one they don't want you to
15 consider, he says he reloaded. Remember? He says he
16 had bullets in his pocket, he took out a couple and
17 put them back in. He didn't know what he did with
18 the expended shells. He thought they should be at
19 the thing.

20 And then she added he did not commit the CSC; he
21 did not commit the assault with intent to kills.
22 That was the opening argument. And don't get me
23 wrong. Mr. O'Neil is exactly right. We need to
24 prove each and every element of each and every
25 offense. But I submit, ladies and gentlemen, with

1 the evidence we brought forth in this case, we have
2 proven each and every element for each offense, and
3 it's not a lesser-included.

4 Now, you've heard from a number of witnesses.
5 And he says he's not going to talk about these
6 witnesses. And I don't blame him. I want to talk
7 about what these witnesses told you. Barry Taylor,
8 he is down there on Oakland Avenue. He's going down
9 the street. He sees two crackheads in the street and
10 the Defendant. The Defendant is the one with the
11 gun. He approaches him.

12 And this is what he doesn't remember. At that
13 point he doesn't say, have a nice day; or, oh,
14 please, would you give me a car. He said, "Get out
15 of the car." He goes back towards Main Street which
16 would be the correct way to go to get to where he
17 wanted to go.

18 What was he doing over there? I don't know.
19 Was he looking for the gun? He claims this wasn't
20 his gun. He had no find it somewhere. Was he over
21 there looking for Roberta? Maybe he realized she
22 wasn't over at some other friend's house, so he
23 needed to get a car to get over to D.S. We
24 don't have to prove why he was there. We have to
25 prove that he was there. And I submit, ladies and

1 gentlemen, the evidence of the carjacking is
2 overwhelming.

3 Olin Kelly and Pearl Kelly, what did they tell
4 you? They're there doing their laundry on a
5 Saturday. Mr. Kelly has worked 37 years at the same
6 job. They're there in their nice car. And he sees
7 it. And, whoa, how nice. So what does he do? And
8 he admits this. He goes up to them. He puts a gun,
9 get out of the car. Tell your wife to get out of the
10 car. Are these the acts of a coherent man? And even
11 he admits the pills, even though that's an inference,
12 didn't make him do any of this.

13 He takes their car. He is on a mission. He is
14 going so fast that when he goes over those railroad
15 tracks he loses control. He wrecks the car. Oops.
16 He needs another one. He doesn't hesitate. He gets
17 out of the car. He's still got the gun. And what
18 does he do? He goes up to Mr. Fleming, Ms. Gilliard.
19 Goes up to them. He doesn't say, have a nice day.
20 He says, "Get out of the car." They drive off. He
21 still needs a car.

22 He then goes over to the Tahoe where the girls
23 are, children. One was six, scares them off, still
24 doesn't have a car that he can run. So he goes
25 inside the church where he's just seen all the

1 children run. And then there's Ms. Worthy. She is
2 there watering the flowers. She's a deaconess. She
3 is doing what people should do on a Saturday morning.
4 Not him. They're saying this isn't a kidnapping
5 because he didn't force her to do anything? It
6 wasn't her idea to go out and flag down cars. She
7 wasn't the one with the gun. He had the gun. He
8 says, "I need your keys." They said he didn't make
9 any demands of her? "I want your keys. Okay. Not
10 your keys. You're helping me get some."

11 And he nudges her forward. She testified. And
12 I beg you to judge her. She didn't want to go out in
13 the road for the fun of it. You know. And Mr.
14 Fleming saw the man with the gun to her head. She
15 didn't even know the gun was to her head because she
16 was so scared, she wouldn't look up. Again, what
17 makes them credible? He said she goes to the edge of
18 the road. She goes all the way into the road.
19 That's credible. Both Ms. Gilliard and Mr. Fleming
20 identify him. Mr. Fleming has seen him before.

21 At that point she testifies the only time she
22 gets away from him is when she realizes he's not just
23 right behind her. That's kidnapping, ladies and
24 gentlemen. Listen to the judge.

25 So he's in the middle of the street. Cars are

1 honking by. He finally stops Mr. James. And they
2 said Mr. James -- or remember Shana said she wasn't
3 that scared? So that makes this not a carjacking?
4 Mr. James didn't give up his taxi cab that he'd been
5 driving for 30 something years because he was in a
6 generous mood that morning. He gave up his taxi cab
7 for the exact same reason Mr. Taylor gave up his car,
8 that Mr. Kelly and Ms. Kelly gave up their car;
9 because he had a gun and he pointed it at them and he
10 told them to get out.

11 That's a crime. That's carjacking. And then he
12 drives down the street. And that's when this whole
13 conspiracy starts and he becomes the victim of

14 D.S. according to him. He even in
15 his statement; and you'll have it, he says she was so
16 scared she wouldn't get out of her chair and she
17 couldn't move the other one.

18 You heard from M.H. the ten-year-old that
19 was there that day. It's not that he went around and
20 magnanimously let the children out. You remember?
21 She said her auntie begging him to let them go and he
22 did. He had what he needed with D.S.
23 because if he wasn't going to find Roberta, he had
24 found her.

25 And then what's interesting is he testifies that

1 he is there. Remember how he kept saying he was too
2 scared to come out because the police might hurt him
3 because he had a gun? But then at the same time he
4 says, oh, well, I had to shoot the gun twice so the
5 police would know I had a gun. Does it make sense?
6 Is it credible?

7 Why change from his statement he gave back the
8 night this happened? Because that statement wasn't
9 good enough. He sat here for two years. He sat here
10 in the court. And he got up and testified, trying to
11 put together a scenario where he is just simply
12 misunderstood, a victim of all these horrible people
13 who have intentionally framed him of these awful
14 crimes. And if you believe that, ladies and
15 gentlemen, then you should set him free. I beg you,
16 judge their credibility.

17 You've heard from the SANE nurse and the EMS
18 people. Oh, and then my favorite part is when he
19 told because she was getting a little
20 irritated because the police kept throwing, you know,
21 tear gas in and she was -- it was destroying the
22 place. At least the windows; that's for sure. So
23 she needed to sue. And then his advice was to, oh,
24 you should say we had sex so you'll win your lawsuit?
25 Is that credible?

1 You heard from the police officers that
2 responded. You heard from the EMS, from Linda
3 Morphis. She told you about her demeanor when she
4 came in contact with her that night. She told you
5 about how Ms. D.S. is 51 years old, that she
6 wouldn't expect to find any vaginal tearing, that her
7 findings were consistent with what she reported.

8 You heard from Deputy Unger and Nathan White.
9 And they got up here and were honest with you. They
10 were in the woods and somebody shot at them. And,
11 ladies and gentlemen, I submit there weren't any
12 random shooters out there that day. The only person
13 who was shooting a gun that day was this Defendant.
14 He wants to say you can't convict him because he
15 didn't shoot out of a window? That's their defense?

16 And remember. That shooting occurred shortly
17 after the whole hostage taking began, within the
18 first hour or so. And we know he was shooting
19 because we got where he shot inside. And he admits
20 he was shooting inside. You heard from John Barron
21 and David Collins, Shana Sorrells, Mr. Barron. He
22 didn't ejaculate; you wouldn't expect to find any
23 DNA. It's consistent. David Collins, the gun
24 misfires when it shoots; and when it shoots, it
25 shoots for real. Shana Sorrells, she didn't have any

1 alcohol or anything in her system.

2 And, finally, ladies and gentlemen, you heard
3 from Eric Barnes and Investigator Thomas.

4 Credibility. Because either you believe those two
5 men would put their careers on the line to frame this
6 poor man or you believe the Defendant.

7 And look at the statement when you get back
8 there: Look at the gist of his statement. There are
9 details in there that they don't have any access to,
10 that they don't know about. They wouldn't know that
11 he'd gotten some settlement from some wreck or
12 injury. They wouldn't know what had been going on
13 with he and Roberta. On the argument, remember the
14 verdict argument which he can't remember the gist of
15 it any more? How would they know that?

16 And if they're going to frame him, why would
17 they put in there his excuses for what happened? Why
18 not just say, yeah, I did this intentionally? The
19 way it's written as it is is because that's the
20 information he gave them. Remember initially when
21 confronted with any sex acts, until he thought
22 someone was peering in with satellite or something,
23 he denied any sex. And he went, oh, yeah. And the
24 only thing he's consistent on is talking about his
25 own personal genitalia. And then conveniently today,

1 there's no sex act. Is he trying to get out of the
2 CSC, only get convicted of an ABHAN?

3 In his first statement, it is self-serving. He
4 minimizes his criminal culpability. And then today,
5 ladies and gentlemen, he became the victim. It's an
6 amazing transgression.

7 You've heard from the negotiations from the SWAT
8 Team. Oh, even today. Remember? I was getting
9 ready to come out and they just came in before I
10 could get out the door. This is after six plus
11 hours. Again, a victim. The negotiations went on
12 for hours. They kept saying come out and he wouldn't
13 come out. The negotiations were with D.S.
14 D.S.

15 All that police force, all that personnel wasn't
16 out there because D.S. D.S. was calling,
17 saying, go away, go away from my house, I don't want
18 you all coming around my house. And even he wouldn't
19 say that's what was told to him. Remember Sheriff
20 Lott? He made threats. He said he'd come out.
21 Finally, he was just jerking us around. It wasn't
22 that -- and it just boggles the mind. D.S.
23 D.S. barricades herself in her own house with this
24 man and then offers him a beer and they smoke
25 cigarettes and talk?

1 This case is classic.. On Friday night Randolph
2 Ashford, by his own testimony, got into a verbal
3 argument. She didn't stay home that night for
4 whatever reason. He became angry. He got a call at
5 1:35. He told investigators there were sex sounds.
6 He thought she might have taken his \$4,000. Where
7 did they make that up from?

8 This is the oldest motive in the book. Because
9 he went over there that day and he was going to do
10 anything and everything he had to do to get there,
11 and he didn't care who he hurt or who he threatened
12 to do it. And on the way he took down Barry Taylor,
13 he took down the Kellys, he took down Mr. James. He
14 interrupted Ms. Worthy's life. And it didn't matter.
15 He went into a church with a gun where children had
16 just run because he was going to get Roberta and that
17 man. That's what was in his head.

18 And when he got over there, he didn't think
19 about it. The police were there before he knew it,
20 and at that point he had D.S. You
21 remember the first thing he did was make her call
22 her? Get Roberta here. The police even went so far
23 as to bring Roberta down there to talk to him to try
24 to talk him out. He made offers to exchange Roberta
25 because he wanted to kill her and kill himself. That

5 We aren't asking you, no one would ask you to
6 base a verdict on emotion, on anger. All we ask is
7 that you do follow up with the law. And I did go
8 through the law because it's important.

15 And he counted on the fact that even if she did
16 tell anybody; oh, the police were never going to
17 believe D.S. And he counted on the
18 fact that even if she came forward, he could just
19 simply confuse the jury and make it go away.

20 All we ask, ladies and gentlemen, is you hold
21 him responsible for what he did do and for the crimes
22 for which he is charged. We didn't stack the
23 charges. Charge him with the attempted's or anything
24 else, just the crimes that he did commit. And I
25 submit, ladies and gentlemen, when you go back there

1 and you consider the evidence in this case, you will
2 reach a verdict that does speak the truth. It comes
3 from the Latin phrase "veredicto", to speak the
4 truth; and that you will find him guilty of each of
5 these indictments individually, guilty as charged.
6 Thank you.

7 **THE COURT:** All right, ladies and gentlemen. It
8 now becomes my responsibility to explain to you the
9 law of the State of South Carolina as it applies to
10 this case. But before I do that, let me ask; this
11 will take about 30 minutes, would you like to take a
12 short break? I've got a lot of yesses. Let's take
13 about five minutes. Well, I don't know if every --
14 you know --

15 **FOREPERSON:** There's two restrooms in there.
16 We're all right.

17 **THE COURT:** I've always had a problem figuring
18 out how long it would take 14 people to relax. I'll
19 tell you what. You knock on the door when you're
20 ready and we'll be ready. Don't discuss the case
21 among yourselves while you're in the jury room.

22 (Jury out at 3:45 p.m.)

23 **THE COURT:** Counsel, this is the verdict form on
24 the CSC first. I'll have you take a look at it and
25 see if you have any objections. We'll stand at ease

1 for five or so minutes.

2 (Whereupon, a break is taken)

3 **THE COURT:** Any objection to the jury form?

4 **MR. O'NEIL:** No, Your Honor.

5 **MS. CAMPBELL:** No, sir.

6 **THE COURT:** Bring the jury.

7 (Jury in at 4:02 p.m.)

8 **THE BAILIFF:** Your Honor, the jury is present.

9 **THE COURT:** All right. Thank you, ladies and
10 gentlemen. All right, ladies and gentlemen. Now
11 you've heard all the testimony in this case. You'll
12 take with you to the jury room all of the evidence
13 that there is in the case that's been introduced.
14 You've heard everything there is to see and hear.
15 You've heard the arguments of both the State and the
16 Defendant, and I'll now explain the law to you as it
17 applies to this case.

18 Now, I'll remind you that under our Constitution
19 and Code of Laws only the jury can make findings of
20 fact in this case. I am not permitted to indicate to
21 you how I might feel about the facts. So if I've
22 said or done anything in this case which would
23 indicate to you that I have an opinion concerning the
24 facts of this case, you must disregard that. This
25 jury must independently weigh the evidence presented

1 in this trial and render a verdict based solely on
2 that evidence.

3 The same Constitution and laws which designate
4 and make you the finders of the fact also makes me
5 the instructor of the law. If you have some idea as
6 to what the law is or what the law ought to be and it
7 does not agree with what I now tell you the law is,
8 you are now obligated under your oath which you have
9 taken to abandon that preconception on your part and
10 accept and apply the law precisely as I now state it
11 to you.

12 The Defendant in this case has been charged with
13 nine indictments alleging carjacking, first degree
14 criminal sexual conduct, burglary first degree,
15 kidnappings and assault and battery with intent to
16 kill. I remind you that the fact that the Defendant
17 has been arrested and charged and indicted in this
18 case is not evidence in this case, cannot be
19 considered by you as evidence in this case. Nor does
20 it create any presumption or inference of guilt of
21 the Defendant. These documents are simply the formal
22 written instruments which contain the charges made
23 against the Defendant. They are the formal documents
24 by which the case is brought into court.

25 This Defendant has pled not guilty to each of

1 these indictments, and that plea puts the burden on
2 the State of South Carolina to prove the Defendant
3 guilty. A person charged with committing a criminal
4 offense in South Carolina is never required to prove
5 himself or herself innocent.

6 I charge you this is an important rule of law,
7 that the Defendant in a criminal case, no matter what
8 the seriousness of the charge may be, will always be
9 presumed to be innocent of the crime for which the
10 indictment was issued unless guilt has been proven by
11 evidence satisfying you of that guilt beyond a
12 reasonable doubt.

13 This presumption of innocence does not end when
14 you begin your deliberations, but it accompanies the
15 Defendant through the trial until you reach a verdict
16 of guilt based on evidence satisfying you of that
17 guilt beyond a reasonable doubt.

18 The presumption of innocence is not a mere legal
19 theory. It's not just a legal phrase. It is a
20 substantial right to which every Defendant is
21 entitled unless you, the jury, are satisfied from the
22 evidence of the Defendant's guilt beyond a reasonable
23 doubt.

24 Well, what is a reasonable doubt in the law? A
25 reasonable doubt is the kind of doubt that would

1 cause a reasonable person to hesitate to act. Let me
2 repeat that. A reasonable doubt is the kind of doubt
3 that would cause a reasonable person to hesitate to
4 act. The State has the burden of proving the
5 Defendant guilty beyond that reasonable doubt.

6 Some of you may have served as jurors in civil
7 cases where you were told it is only necessary to
8 prove that a fact is more likely true than not true,
9 such as by the greater weight or preponderance of the
10 evidence. In criminal cases, however, the State's
11 proof must be more powerful than that. It must be
12 beyond a reasonable doubt.

13 Proof beyond a reasonable doubt is proof that
14 leaves you firmly convinced of the Defendant's guilt.
15 The State must meet its burden as to each of the
16 elements charged. There are very few things in this
17 world we know with absolute certainty, and in
18 criminal cases the law does not require proof that
19 overcomes every possible doubt.

20 If, based on your consideration of the evidence,
21 you are firmly convinced that the Defendant is guilty
22 of the crimes charged, you must find the Defendant
23 guilty. On the other hand, if you think there is a
24 real possibility that the Defendant is not guilty,
25 then you must give the Defendant the benefit of the

1 doubt and find him not guilty.

2 Now, generally there are two types of evidence
3 which has been described to you that are generally
4 presented during a trial, direct evidence and
5 circumstantial evidence. Direct evidence -- and we
6 probably had both in this case. Direct evidence is
7 the testimony of a person who claims to have actual
8 knowledge of a fact, such as an eye witness. It is
9 evidence which immediately establishes the main fact
10 to be proved.

11 Circumstantial evidence, on the other hand, is
12 proof of a series or chain of facts and circumstances
13 indicating the existence of some fact. It is
14 evidence which immediately establishes collateral
15 facts from which the main fact may be inferred.
16 Circumstantial evidence is based on inference and not
17 on personal knowledge or personal observation.

18 Circumstantial evidence is permissible provided
19 to the extent that the state relies upon
20 circumstantial evidence to prove the elements of the
21 crime, it must prove all of the circumstances relied
22 upon beyond a reasonable doubt. They must be wholly
23 and in every particular perfectly consistent with one
24 another and they must point conclusively and beyond a
25 reasonable doubt to the guilt of the accused.

1 Every circumstance that is relied on by the
2 State as material must be brought to the test of
3 strict proof and satisfy the burden of showing guilt
4 beyond a reasonable doubt. All of the facts proved
5 must be consistent and taken as a whole should be of
6 a conclusive nature and a tendency producing a
7 certainty beyond a reasonable doubt that the
8 Defendant committed the offense charged.

9 But the law makes absolutely no distinction
10 between the weight or value to be given to either
11 direct or circumstantial evidence, nor is a greater
12 degree of certainty require of circumstantial
13 evidence than of direct evidence.

14 You should weigh all the evidence in the case;
15 and after weighing all of the evidence, if you are
16 not convinced of the guilt of the Defendant beyond a
17 reasonable doubt, you must find the defendant not
18 guilty.

19 Now, necessarily you must determine the
20 credibility of witnesses who have testified in this
21 case. Credibility simply means believability. It
22 becomes your duty as jurors to analyze and evaluate
23 the evidence and determine which evidence convinces
24 you of its truth.

25 In determining the believability of witnesses

1 who have testified in this case, you may believe one
2 witness over several witnesses or several witnesses
3 over one witness. You may believe part of the
4 testimony of a witness and reject the remaining part
5 of the testimony of the same witness. You may
6 believe the testimony of a witness in its entirety or
7 you may reject the testimony of a witness in its
8 entirety.

9 You may consider whether any witness has
10 exhibited to you any interest in the case, bias,
11 prejudice or other motive in this case. You may also
12 consider the appearance and manner of the witness
13 while on the witness stand.

14 Now, ladies and gentlemen, during this trial
15 you've heard the testimony from a child. When a
16 child testifies, you must determine, as with any
17 witness, whether that testimony is believable. In
18 deciding believability, you may consider not only
19 matters I have already discussed with you, but you
20 must also consider the age of the child, the child's
21 ability to observe and remember facts and the child's
22 ability to understand and answer questions.

23 Because young children may not fully understand
24 what's happening here, it's up to you decide whether
25 the child understands the seriousness of appearing as

1 a witness in a criminal trial and whether the child
2 understood the questions, whether the child exhibited
3 to you a good memory and whether the child understood
4 the difference between lying and the truth. In
5 addition, young children may be influenced by the way
6 questions are asked. It's up to you to decide
7 whether or not the child understood the questions
8 asked.

9 And by the same token, we had an expert witness
10 in this case, or several expert witnesses. Normally
11 a person cannot give opinion testimony. That is,
12 normally a person who testifies, they must testify as
13 to what they saw or heard or sensed by smell or
14 something of that nature.

15 However, there is an exception in our law. When
16 someone is called by education or experience, experts
17 are permitted to testify as to their opinions in
18 certain areas if the Court qualifies them in that
19 way. That does not mean you must accept that
20 opinion. It's evidence for you to use any way you
21 see fit.

22 You've heard evidence that the Defendant was
23 convicted of a crime in this case other than the one
24 for which the Defendant is now on trial. This
25 evidence may be considered by you, if you conclude

1 that it's true, only in deciding whether the
2 Defendant's testimony is believable and for no other
3 purpose. You must not consider the Defendant's prior
4 record as any evidence of the Defendant's guilt to
5 the charge we're trying here today.

6 Now, in order to establish criminal liability,
7 criminal intent is required. For example, the mental
8 state required to be proved by the State for some
9 particular crime might be a specific purpose or a
10 specific intent, knowledge of certain facts or
11 recklessness. Criminal intent must be proven by the
12 State beyond a reasonable doubt.

13 Criminal intent is always a matter that must be
14 determined by the jury from the circumstances
15 surrounding the situation. There is no way to prove
16 intent to a mathematical certainty. There is no way
17 medical science can dissect a person's brain and
18 determine what the person had in mind. So the law
19 says that criminal intent may be inferred from the
20 circumstances shown to have existed at the time and
21 place. This is how you make the determination of
22 whether or not the element requiring intent was
23 present.

24 Criminal intent is a mental state, a conscious
25 wrongdoing. It's up to you to determine what the

1 Defendant intended to do based on the circumstances
2 shown to have existed.

3 An issue in this case is the identification of
4 the Defendant as the person who committed the crimes
5 charged. The State has the burden of proving
6 identity beyond a reasonable doubt. You must be
7 satisfied beyond a reasonable doubt of the accuracy
8 of the identification of the Defendant before you may
9 convict the Defendant.

10 Identification testimony is an expression of
11 belief or impression by a witness. You must
12 determine the accuracy of the identification of the
13 Defendant. You must consider the believability of
14 each identification witness in the same way as any
15 other witness. You may consider whether the witness
16 had an adequate opportunity to observe the offender
17 at the time of the offense. This would be effected
18 by things like how long or short a time was
19 available, how far or close the witness was, the
20 lighting conditions and whether the witness had a
21 chance to see or know the person in the past.

22 Once again, I instruct you the burden of proof
23 is on the State, and that extends to every element of
24 the crime charged. And this specifically includes
25 the burden of proving beyond a reasonable doubt the

1 identity of the Defendant as the person who committed
2 the crime. If after examining the testimony you have
3 a reasonable doubt as to the accuracy of the
4 identification, you must find the Defendant not
5 guilty.

6 Now, in this case a statement is alleged to have
7 been made by the Defendant and has been admitted into
8 evidence in this case. While the Court has
9 determined that the statement is admissible, I
10 instruct you that you make the ultimate decision of
11 whether or not the Defendant made the statement. If
12 the Defendant did make the statement, you must
13 determine whether the statement was made by the
14 Defendant voluntarily and of his own free will.

15 This means that the statement was not caused by
16 pressure, force, fear, threats, coercion or
17 intimidation or by hope or promise of leniency or a
18 reward of any kind. In determining whether the
19 statement was voluntary, you should consider both the
20 characteristics of the Defendant and the details of
21 the questioning.

22 Some of the factors you may consider are the age
23 of the Defendant, the Defendant's education or lack
24 of education, the Defendant's mental ability or
25 capacity, the Defendant's IQ or intelligence, the

1 Defendant's background and environment, the place and
2 length of the detention, the nature of questioning,
3 the advice or lack thereof to the Defendant of his
4 Constitutional rights; including, but not limited to,
5 the right to remain silent, that any statement could
6 be used against him in a court of law, the right to
7 have a lawyer present, that if he could not afford an
8 attorney, a lawyer would be appointed to represent
9 him without any cost, that he could stop making a
10 statement at any time.

11 You must consider carefully all of the
12 surrounding circumstances before you give any weight
13 to the alleged statement. The State has the burden
14 of proving beyond a reasonable doubt that the alleged
15 statement was voluntary. If you determine it was,
16 you may give the statement any further consideration
17 you deem proper. You must decide what weight, if
18 any, should be given to the alleged statement. If
19 you determine the alleged statement was not the free
20 and voluntary statement of the Defendant, you should
21 not consider the statement at all.

22 Now, I told you what the nine indictments in
23 this case charge. Carjacking of Barry Taylor;
24 carjacking of the Kellys; kidnapping of Pearl Kelly;
25 burglary in the first degree, kidnapping of

1 D.S. criminal sexual conduct of
2 D.S. assault with intent to kill of Deputy David
3 Unger and assault with intent to kill of Deputy David
4 White.

5 Each indictment charges a separate and distinct
6 offense. You must decide each indictment separately
7 on the evidence and the law applicable to it
8 uninfluenced by your decision as to any other
9 indictment.

10 As I instructed you earlier, the State must
11 prove every element of each of these charges beyond a
12 reasonable doubt. The Defendant may be convicted or
13 acquitted on any or all of the charges, offenses
14 charged. You will be asked to write a separate
15 verdict of guilty or not guilty on each indictment.

16 Carjacking. The Defendant is charged with three
17 counts of carjacking. To prove each charge of
18 carjacking the State must prove beyond a reasonable
19 doubt that the Defendant took or attempted to take a
20 motor vehicle from another person by force and
21 violence or by intimidation while the person was
22 operating the vehicle or while the person was in the
23 vehicle.

24 Kidnapping. The Defendant is also charged with
25 two counts of kidnapping. In order to prove the

1 Defendant guilty of these charges the State must
2 prove beyond a reasonable doubt the Defendant
3 knowingly and unlawfully seized, confined, inveigled,
4 decoyed, captured or kidnapped, abducted or carried
5 away another person without the authority of law.

6 To do a thing unlawfully is to do it willfully
7 against the law. Knowingly means with knowledge,
8 conscientiously and not accidentally. To seize means
9 to take hold of suddenly or forcibly confine.
10 Confine means to limit, restrict or close within
11 bounds, imprison or shut or keep in. Inveigle means
12 to lure, entice or lead astray by false
13 representations, promises or other deceitful means.
14 Decoy means to lure as if by a decoy. Decoy is
15 something to entice a person into a trap. Kidnap
16 means to remove a person against his will by unlawful
17 force or by fraud. Abduct means to carry off
18 secretly or by force for an illegal purpose. And
19 carry away means to remove.

20 The State does not have to prove that the
21 Defendant did all of these things. Instead, if you
22 find beyond a reasonable doubt the Defendant did any
23 of these things, you may find the Defendant guilty of
24 kidnapping. Something done without authority of law
25 is something which the law does not sanction, permit,

1 allow, condone or provide justification for. The
2 kidnapping does not have to be for any personal or
3 monetary gain or for any illegal purpose, but it may
4 be for any reason whatsoever. Kidnapping is a
5 continuous offense that commences when one is
6 wrongfully deprived of freedom and continues until
7 that freedom is restored.

8 The Defendant is also charged with the offense
9 of first degree burglary. In order to prove the
10 Defendant guilty of this crime the State must prove
11 beyond a reasonable doubt that the Defendant entered
12 a dwelling without consent with the intent to commit
13 a crime and an aggravating circumstance exists. This
14 means the State must prove beyond a reasonable doubt
15 the Defendant entered a dwelling without consent.

16 A dwelling means any house, apartment, building,
17 or shed in which there sleeps a proprietor or tenant
18 or a person who lodges there with a view to the
19 protection of the property as well as the living
20 quarters of a building which is used or normally used
21 for sleeping, living or lodging by a person. In
22 order to be a dwelling, someone must sleep or reside
23 in the building or have the intent to return and
24 continue to sleep in the building.

25 Entering a building without consent means to

1 enter a dwelling without consent of the person in
2 lawful possession or to enter a dwelling by using
3 deception, artifice, trick or misrepresentation to
4 get consent to enter the residence of the person in
5 lawful possession.

6 In order to prove that the Defendant entered the
7 dwelling without consent, the State does not have to
8 prove that the Defendant's entire body entered the
9 dwelling, but the smallest entry is sufficient. In
10 addition, the State does not have to prove that force
11 was used to gain entry.

12 Next the State must prove beyond a reasonable
13 doubt that the Defendant intended to commit a crime,
14 either a felony or a misdemeanor, at the time of
15 entry. The mere entry into a building without
16 consent is not burglary. If the intent to commit a
17 crime is formed after the entry, it is not a
18 burglary. On the other hand, if the Defendant
19 entered to commit a crime at the time of the entry,
20 it is a burglary even if that intent was abandoned
21 after the entry. It does not matter that the
22 intended crime was not completed. Intent may be
23 shown by acts and conduct of the Defendant and any
24 other circumstances from which you may naturally and
25 reasonably infer intent.

1 And finally, the State must prove beyond a
2 reasonable doubt that when effecting entry or while
3 in the dwelling or in immediate flight from the
4 building the Defendant was armed with a deadly weapon
5 or explosive or caused physical injury to a person
6 who was not a participant in the crime or used or
7 threatened the use of a dangerous instrument or
8 displayed what was or appeared to be a knife, pistol,
9 revolver or rifle. A deadly weapon is any article,
10 instrument or substance which is likely to cause
11 death or great bodily harm.

12 Criminal sexual conduct, first degree criminal
13 sexual conduct. Finally the Defendant is -- not
14 finally. The Defendant is charged with criminal
15 sexual conduct in the first degree. In order to
16 prove the Defendant guilty of this offense the State
17 must prove two things beyond a reasonable doubt.

18 First the State must prove beyond a reasonable
19 doubt that the Defendant engaged in sexual battery
20 with the victim. A sexual battery is sexual
21 intercourse, anal intercourse or any intrusion,
22 however slight, of any part of a person's body or of
23 any object into the genital or anal openings of
24 another person's body.

25 If you find the State has not shown beyond a

1 reasonable doubt that a sexual battery occurred, you
2 must stop deliberating, and your verdict on this
3 charge would have to be not guilty. However, if you
4 find that a sexual battery did occur, you must then
5 decide whether the State has proven beyond a
6 reasonable doubt that either the Defendant used
7 aggravated force to accomplish the sexual battery or
8 the victim submitted to sexual battery while the
9 victim was also the victim of a forcible confinement,
10 kidnapping, robbery, extortion, burglary,
11 housebreaking or any other similar act or offense.

12 Aggravated force means the use of physical force
13 or physical violence of a high and aggravated nature
14 to overcome the victim. This includes the threat of
15 using a deadly weapon. The law of our state does not
16 require that the testimony of a victim be
17 corroborated where the Defendant has been charged
18 with criminal sexual conduct in the first degree.

19 Now, I was talking to you earlier about the
20 lesser-included offense. If you find the State has
21 failed to prove the Defendant guilty beyond a
22 reasonable doubt of first degree criminal sexual
23 conduct, you may then consider whether the State has
24 proven the Defendant guilty beyond a reasonable doubt
25 of the lesser-included offense of assault and battery

1 of a high and aggravated nature.

2 Assault and battery of a high and aggravated
3 nature is an unlawful act of violent injury to a
4 person accompanied by circumstances of aggravation.

5 Assault occurs when a person unlawfully attempts or
6 offers to commit a violent injury upon another person
7 and has the present ability to complete the attempted
8 injury. An assault is the intentional creation of a
9 reasonable fear of immediate bodily harm.

10 It is not necessary that the attempted injury or
11 harm actually take place. For example, if I walk up
12 to you and when we are within arm's reach I draw back
13 to hit you, that's an assault. Battery is the
14 unlawful touching of another person by a person who
15 has committed the assault. Unlawful touching can be
16 used by a part of the accused's body or by any object
17 the accused puts in motion.

18 A battery is the completion of the assault by
19 using or applying force to another person, however
20 slight, in a rude, angry or resentful manner without
21 legal justification for doing so. Using my earlier
22 example, if I carry through the assault by hitting
23 you, then that is the battery.

24 The State must also prove a circumstance of
25 aggravation. Circumstances of aggravation include

1 the use of a deadly weapon, the intent to commit a
2 felony, the infliction of serious bodily injury, a
3 great disparity between the ages or physical
4 conditions of the parties, a difference in the
5 genders of the parties, taking indecent liberties or
6 familiarities with a female through the use of force,
7 the purposeful infliction of shame and disgrace, and
8 the resistance of lawful authorities. These are only
9 some examples of circumstances of aggravation.

10 If you have a reasonable doubt as to whether a
11 battery or an aggravating circumstance exists, then
12 you must resolve that doubt in the defendant's favor
13 by finding him not guilty of the lesser-included
14 offense of assault and battery of a high and
15 aggravated nature.

16 The Defendant is also charged with two counts of
17 assault with intent to kill. In order to prove
18 assault with intent to kill the State must prove
19 beyond a reasonable doubt that the Defendant with
20 malice aforethought unlawfully attempted or offered
21 to commit a violent injury upon another person and
22 had the present ability to complete the attempted
23 injury.

24 An assault is the intentional creation of
25 reasonable fear of immediate bodily harm. It's not

1 necessary for the attempted injury or harm to
2 actually take place. For example, as I said earlier,
3 if I walk up to you and when we are within arm's
4 reach I draw back to hit you, that is the assault.

5 Malice is hatred or ill will or hostility
6 towards another person. It is the intentional doing
7 of a wrongful act without just cause or excuse and
8 with an intent to inflict an injury or under
9 circumstances that the law will infer an evil intent.

10 Malice aforethought does not require that malice
11 exist for any particular time before the act is
12 committed, but malice must exist in the mind of the
13 Defendant just before and at the time the act is
14 committed. Therefore, there must be a combination of
15 the previous evil intent and the act.

16 Malice aforethought may be express or inferred.
17 These terms "express" and "inferred" do not mean
18 different types of malice but merely the manner in
19 which the malice may be shown to exist; that is,
20 either by direct evidence or by inference from the
21 facts and circumstances which are proved.

22 Express malice is shown when a person speaks
23 words which express hatred or ill will for another or
24 when the person prepared beforehand to do the act
25 which was later accomplished. For example, lying in

1 wait for a person or any other acts of preparation
2 going to show that the deed was within the
3 Defendant's mind would be express malice.

4 Implied malice may arise from the willful,
5 deliberate and intentional doing of an unlawful act
6 without just cause or excuse or from the use of a
7 deadly weapon. A deadly weapon is any article,
8 instrument or substance which is likely to cause
9 death or great bodily harm. The following are
10 examples of deadly weapons: Pistols, shotguns,
11 rifles, those types of things. A gun may be used as
12 a deadly weapon even if it's not operating.

13 If facts are proved beyond a reasonable doubt
14 sufficient to raise an inference of malice to your
15 satisfaction, this inference would be simply an
16 evidentiary fact to be considered by you, the jury,
17 along with other evidence in the case, and you may
18 give it the weight you decide it should receive.

19 intention means the result which actually
20 occurs, not accidentally or involuntarily. Evidence
21 of the character of the assault, the character of the
22 instrument used, the manner it was used, the purpose
23 to be accomplished and the resulting wounds or
24 injuries may be considered in determining the intent
25 with which the assault was committed.

1 Intent may also be inferred when it's
2 demonstrated that the Defendant voluntarily and
3 willfully committed the acts, the natural tendency of
4 which is to destroy another's life.

5 Malice does not necessarily impart ill will
6 toward the individual injured but signifies rather a
7 general malignant recklessness of the lives and
8 safety of others or a condition of mind which shows a
9 heart regardless of social duty and fatally bent on
10 mischief.

11 Now, ladies and gentlemen, I am required to
12 declare the law as I have just done through these
13 instructions to help and guide you just to a just and
14 lawful verdict. Whether some of these instructions
15 will apply will depend on what you find to be the
16 facts. The fact that I have instructed on various
17 subjects in this case must not be taken by you as
18 indicating an opinion of this Court as to what you
19 should find to be the facts or as to which party is
20 entitled to your verdict.

21 Your verdict must represent the considered
22 judgment of each juror. In order to return a
23 verdict, it is necessary that each juror agree. Your
24 verdict must be unanimous in other words. All 12 of
25 you must agree on the verdict. Your verdict cannot

1 be based on sympathy, passion, prejudice, emotion or
2 any other consideration that's not in evidence in
3 this case. Remember at all times that you are not
4 partisans favoring one party over another. You are
5 judges, judges of the facts. Your sole interest is
6 to seek the truth from the evidence in this case.

7 Now, Mr. Foreman, I'm going to ask you to retire
8 to the jury room in just a minute. But I'll explain
9 the form of verdicts. I'm going to send with you to
10 the jury room all the indictments. On the face of
11 the indictments in the bottom left-hand corner is a
12 box entitled "verdict". As you go through these
13 indictments and decide on each indictment, fill in
14 that box either not guilty or guilty, sign your name
15 and date it.

16 When you have accomplished that as to all nine
17 indictments, knock on the jury room door and we will
18 send the -- the bailiffs will bring you back and we
19 will receive the verdict.

20 As to the criminal sexual conduct, because it
21 has a lesser-included offense, I have prepared a
22 special jury verdict form for that indictment. This
23 verdict form reads: We, the jury, by unanimous
24 consent on the charge of first degree criminal sexual
25 conduct find the Defendant, Randolph Ashford, guilty

1 or not guilty. If you find the defendant not guilty
2 of first degree criminal sexual conduct, then you may
3 consider whether the Defendant is guilty of the
4 lesser-included offense of assault and battery of a
5 high and aggravated nature.

6 And if you do not find the Defendant guilty of
7 first degree criminal domestic violence, go to the
8 second portion of this verdict form which reads: We,
9 the jury, by unanimous consent on the lesser-included
10 offense of assault and battery of a high and
11 aggravated nature find the Defendant, Randolph
12 Ashford, guilty or not guilty. Again, sign the form,
13 date it and knock on the jury room door when you've
14 completed your work.

15 Now, I'm going to ask you to retire to the jury
16 room but do not begin your deliberations until you
17 have received all of the evidence and the verdict --
18 I mean the indictments for you to consider. It's
19 going to take a few minutes to round up the evidence
20 and bring it to you. Once you have received all the
21 evidence you can begin your deliberations. If you
22 have any questions, just write them down and let me
23 know. Thank you very much.

24 (Jury out at 4:32 p.m.)

25 **THE COURT:** Any objections to the charge? From

1 the State?

2 **MS. CAMPBELL:** No, sir.

3 **THE COURT:** From the defense?

4 **MR. O'NEIL:** No, Your Honor.

5 **THE COURT:** Thank you very much. Let's check
6 the evidence, please. Any objection to dismissing
7 the alternates?

8 **MR. O'NEIL:** No, Your Honor.

9 **MS. SINGLETARY:** No, Your Honor.

10 **THE COURT:** Got one no, one maybe. Keep them
11 sitting in the hall for five minutes. All right.
12 Has everything gone to the jury?

13 **THE BAILIFF:** The alternate is in the hallway.

14 **THE COURT:** I said has everything gone to the
15 jury?

16 **THE BAILIFF:** Yes, sir.

17 **THE COURT:** Go ahead and tell them they can
18 start deliberating. We got 12 in there?

19 **THE BAILIFF:** Yes, sir.

20 (Jury deliberating at 4:40 p.m.)

21 **THE COURT:** All right. Just give me a minute.
22 I want to bring the alternates in, but I've got to
23 figure out who they are.

24 (Pause)

25 **THE COURT:** All right. Bring them in. Order in

1 the court. I'm going to dismiss the alternates.

2 (Whereupon, the alternates are dismissed from
3 the trial of the case)

4 (Whereupon, a break is taken)

5 (Court Reporter Carol Thueme takes the verdict)

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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Jenny H. Williams, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 31st day of March, 1st, 2nd and 3rd days of April, 2009.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

June 15, 2009

Jenny H. Williams

Jenny H. Williams, Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF RichlandRandolph Ashford # 256638
Name of applicant and Inmate number (if applicable)

OR

IN THE INTEREST OF

Juvenile

v.

State of South Carolina) IN THE COURT OF (Select one)
) ☒ GENERAL SESSIONS
) ☐ FAMILY COURT
) JUDICIAL CIRCUIT) APPLICATION FOR
) FORENSIC DNA TESTING

) ORIGINAL INDICTMENT NO.

) 2007-GS-40-2048

) OR

) ORIGINAL PETITION NO.

) -JU-INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may continue an answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the end of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted or adjudicated.

I understand that DNA testing is only available if I have been convicted or adjudicated of an offense listed in S.C. Code Ann. § 17-28-30, that I am currently incarcerated for that offense, and that I am asserting that I am innocent of the offense. Further, if the conviction or adjudication was the result of a plea of guilty or nolo contendere, the application must be filed within seven years of the date of sentencing.

1. Identify the proceedings in which the applicant was convicted or adjudicated:

One (1) Count of 1st degree Burglary After 6/20/85
And Sentence to 20 year imprisonment.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RANDOLPH ASHFORD #256638,
Name of applicant and Inmate number (if applicable)

OR

IN THE INTEREST OF

Juvenile

v.

State of South Carolina

) IN THE COURT OF (Select one)

) ☒ GENERAL SESSIONS) ☐ FAMILY COURT

) FIFTH JUDICIAL CIRCUIT

) APPLICATION FOR

) FORENSIC DNA TESTING

) ORIGINAL INDICTMENT NO.

) 2007-GS-40-2048

) ORIGINAL PETITION NO.

) -GS- -

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1. Identify the proceedings in which the applicant was convicted or adjudicated:

Jury trial

JEANETTE W. MCBRIDE
CLERK OF COURT
RICHLAND COUNTY
FILED
2017 APR 23 PM 2:50

2. Give the date of the entry of the judgment and sentence: April 3, 2009, amended April 9 2009

and current place of incarceration: Lee Correctional Institution

3. Identify all previous or ongoing proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or adjudication:

- (a) Direct Appeal (filed April 6, 2009 - dismissed January 25, 2012)
- (b) PCR Application (filed February 6, 2012 - pending)
- (c)

4. Make a reasonable attempt to identify the physical evidence or biological material that should be tested: a green jacket (State's Exhibit 102)

Identify specific type of DNA testing being sought: testing for biological material on the green jacket matching DNA of the Applicant

5. Explain why the identity of the applicant was or should have been a significant issue during the original court proceedings, notwithstanding the fact that the applicant may have pled guilty or nolo contendere or made or is alleged to have made an incriminating statement or admission as to identity:

Testimony at trial identified the perpetrator as wearing a green jacket matching one found at the crime scene. The Applicant testified that he did not wear the green jacket, so his DNA should not be on the jacket. This would have been a significant issue at trial since the State used the jacket, inter alia, to place the Applicant at the crime scene,

6. Explain why the physical evidence or biological material sought to be tested was not previously subjected to DNA testing, or if the physical evidence or biological material sought to be tested was previously subjected to DNA testing, provide the results of the testing and explain how the requested DNA test would provide a substantially more probative result:

Applicant requested his trial counsel to have the jacket DNA-tested, but counsel did not.

7. Explain why if the DNA testing produces exculpatory results, the testing will constitute new evidence that will probably change the result of the applicant's conviction or adjudication if a new trial is granted and is not merely cumulative or impeaching:

It would refute the State's contention that the perpetrator was the Applicant.

8. I assert that I am actually innocent of the listed offense, that this offense is listed in S.C. Code Ann. § 17-28-30 and that I am currently incarcerated for the listed offense. I attest that this application is made to demonstrate innocence and not solely to delay the execution of a sentence or the administration of justice.
9. If DNA testing is conducted and results are determined to be inculpatory by the Court, I understand that:
- (a) The Court may hold me in contempt of court if it determines that my assertion of actual innocence was intentionally false;
 - (b) The Court may assess the cost of any DNA testing against me;
 - (c) The South Carolina Department of Corrections may use this determination to deny good conduct credit; and,
 - (d) The Department of Probation, Parole, and Pardon Services can use this determination to deny parole.

Randolph Ashford

Randolph Ashford

Print Applicant Name

Signature of Applicant

STATE OF SOUTH CAROLINA)

County of Richland)

VERIFICATION

I Randolph Ashford, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; and that the matters and allegations set forth are true.

Randolph Ashford
Signature of Applicant

SWORN to and subscribed before me this 22
day of April, 2013.

Manuel H. (L.S.)
Notary Public

My Commission Expires: 3/8/2020

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I Randolph Ashford, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true.

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Randolph Ashford
Signature of Applicant

SWORN to and subscribed before me this 22
day of April, 2013.

Manuel M. [Signature] (L.S.)
Notary Public

My Commission Expires: 3/8/2014

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	
 Randolph Ashford	)	State's Response to Defendant's Motion
	)	For Post Conviction DNA Testing
-vs-	)	
	)	Indictment No(s): 2007-GS40-2048
The State,	)	
	)	
Respondent.	)	

On April 23, 2013 Randolph Ashford (Petitioner), pursuant to S.C. Code Ann. §17-28-40, made an application for post-conviction relief in which the Petitioner moved the Court to order the DNA analysis of evidence recovered in the Petitioner's case. While the Petitioner was convicted and sentenced for a qualifying crime, burglary in the first degree, it is the State's position that the Petitioner is not eligible for post-conviction relief under the Post-Conviction Relief DNA Testing and Preservation of Evidence statute (hereinafter "The Statute"), because the Petitioner is not currently incarcerated for one of the enumerated offenses. Further, the identity of the applicant was not a significant issue during the original court proceedings. Additionally, the DNA testing will not constitute new evidence that will probably change the result of the applicant's conviction, would be a waste of time, and would be cumulative. For the foregoing reasons, the State submits that Petitioner's Motion should be denied.

I. Petitioner Does Not Meet the Post-Conviction Relief DNA Testing and Preservation of Evidence Requirements.

Petitioner contends that he is entitled to DNA testing of evidence under The Statute largely in reliance on his ability to meet the form and content requirements for the application set forth in §17-28-40. However, Petitioner must first be currently incarcerated for a qualifying

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C.P. & G.S.

offense as designated in §17-28-30, for which post-conviction DNA testing is available.

Subsection (A) of §17-28-30 provides:

“A person who pled not guilty to at least one of the following offenses, was subsequently convicted of or adjudicated delinquent for the offense, is currently incarcerated for the offense, and asserts he is innocent of the offense may apply for forensic DNA testing of his DNA and any physical evidence or biological material related to his conviction or adjudication.”

S.C. Code Ann. § 17-28-30. The State concedes that the Petitioner was convicted of burglary in the first degree, an enumerated offense. However, it is the State's position that the Petitioner is not currently incarcerated for burglary in the first degree, but is currently serving the sentence for his kidnapping conviction. Kidnapping is not an enumerated offense under S.C. Code Ann. § 17-28-30.

In the case of this Petitioner, it is absolutely clear that the sentencing judge ordered that the Petitioner be committed to the State Department of Corrections first for a term of twenty (20) years on indictment 2007-GS40-2003 for kidnapping, concurrent to a second kidnapping indictment 2007-GS40-1938, and finally an additional term of 20 years for burglary in the first degree, to be served consecutively to the kidnapping indictments (2007-GS40-2003, 2007-GS40-1938). Clarifying the sentencing Court's order and intent, there exists hand written instructions on the Petitioner's sentencing sheets for kidnapping and burglary in the first degree. The hand written instructions state that for burglary in the first degree the Petitioner was to serve “20 years [c]onsecutive to 2007-GS40-2003, 2007-GS40-1938.”¹

The Honorable Judge G. Thomas Cooper, the sentencing judge in the Petitioner's case, clearly indicated that the twenty year sentence for burglary in the first degree was to be served consecutive to the twenty year sentences for kidnapping. Because a sentencing judge has the

¹ Case No. 2007-GS40-2003: Kidnapping; Case No. 2007-GS40-1938: Kidnapping; Case No: 2007-GS40-2048: Burglary in the first degree.

authority to structure a convicted defendant's sentencing, together with the fact that the structure of the Petitioner's sentence clearly shows that he is currently serving a sentence for kidnapping, the post-conviction DNA procedures outlined in The Statute are not applicable to the Petitioner at this time and the Petitioner's Motion must be denied.

II. Identity was not at Issue

Petitioner claims that identity was or should have been a significant issue during the original court proceedings. This claim is patently false and the State contends that it is made solely to delay the administration of justice. Petitioner was convicted of burglary in the first Degree after a jury trial on April 3, 2009. Petitioner's charges arose from an incident that occurred on February 24, 2007, at _____ Street in Richland County. Petitioner did enter without consent the dwelling of D.S. _____ with a handgun and held Ms. D.S. _____ against her will. The Richland County Sheriff's Department responded and Petitioner engaged in a hostage standoff with police for several hours. Ultimately, law enforcement was able to make forced entry into the residence and the Petitioner was arrested inside the incident location.

D.S. _____ testified at trial and positively identified Petitioner as the individual who unlawfully entered her home, held her at gunpoint and then engaged in a standoff with police. Numerous members of law enforcement also testified that Petitioner was the individual who engaged in a lengthy standoff and was arrested inside the residence he had burglarized. Further, Petitioner gave a statement that was admitted into evidence where he admitted to unlawfully going into the victim's home while armed with a handgun.

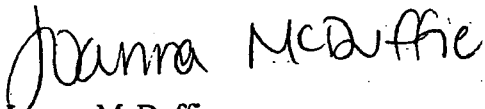
III. Conclusion

The State's submits that the Petitioner is not currently incarcerated for an offense that makes him eligible for post-conviction DNA testing under The Statute. Additionally, DNA

testing of evidence in the Petitioner's case lacks probative value, is a waste of time, and will be cumulative as identity was not at issue.

For the foregoing reasons the State requests that Petitioner's Motion under §17-28-40 of The Statute should be DENIED.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Joanna McDuffie".

Joanna McDuffie
Assistant Solicitor, Fifth Judicial Circuit

This 18th day of July, 2013

STATE OF SOUTH CAROLINA)

County of Richland)

GENERAL SESSIONS
2007-GS-40-2048

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

RANDOLPH ASHFORD,)

DEFENDANT,)

January 5, 2015
Columbia, South Carolina

BEFORE:

THE HONORABLE ROBERT E. HOOD, JUDGE.

APPEARANCES:

JOANNA MCDUFFIE, ASSISTANT SOLICITOR
Attorney for the State

DAVID BELDING, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T SINDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 MR. BELDING: Your Honor, David Belding for the
2 defendant. I'd ask Mr. Ashford to be brought down,
3 please.

4 THE COURT: Okay. Where is Mr. Ashford?

5 MR. BELDING: He is in the yellow.

6 THE COURT: Okay. Come on down.

7 (Complies.)

8 Who represents the State on this?

9 MS. McDUFFIE: I do, Your Honor.

10 THE COURT: Okay.

11 MS. McDUFFIE: Judge, do you want the original?

12 THE COURT: I don't know what I have.

13 (Pause).

14 MS. McDUFFIE: May it please the Court, Your Honor.

15 We are here today in the matter of Randolph Ashford vs.
16 the State. Mr. Ashford has filed a motion for post
17 conviction DNA testing. That motion was filed on
18 April 23rd, 2013.

19 Your Honor, the State did file their response within
20 the statutory 90-day period. That response was clocked in
21 on July 18th of 2013.

22 THE COURT: All right. Mr. Belding?

23 MR. BELDING: Thank you, Your Honor. May it please
24 the Court. If you would -- is it all right if he sits
25 down for a minute?

1 THE COURT: Sure.

2 MR. BELDING: Your Honor, let me start just a very
3 brief overview. This is a pretty complicated matter just
4 so there's no confusion on the record. I was appointed
5 about three years ago to represent Mr. Ashford in a PCR
6 case.

7 When we came up for our PCR evidentiary hearing in
8 front of Judge Clifton Newman, he allowed Mr. Ashford who
9 is not only very eloquent to speak -- and Mr. Ashford
10 indicated that he had filed pro se an application for DNA
11 testing under the statute code section 17-28-10, et seq.

12 Judge Newman heard argument at that time, and he put
13 the PCR in abeyance so that we could pursue DNA testing.
14 Because it was filed pro se, I refiled, as Ms. McDuffie
15 said. I filed it in April of -- April of 2013, a couple
16 of years ago. So it's taken a little while to get this
17 heard.

18 The issue before the court is that we would like to
19 have one specific piece of the State's evidence tested for
20 DNA and any physical evidence related to DNA matter. That
21 is State's Exhibit 102 to the trial. It is a green
22 jacket.

23 What happened here, Your Honor, briefly, my summation
24 of the facts are that this involved a -- this was a case
25 that involved several carjackings where the defendant

1 allegedly ended up at a mobile home of a lady.

2 Police, the Richland County Sheriff's Department,
3 were summoned and arrived on the scene, and the mobile
4 home was surrounded. There was basically a hostage
5 standoff for several hours.

6 At the end of the standoff, two people emerged from
7 the mobile home, the alleged victim, and the defendant
8 Mr. Ashford.

9 In the course of the trial, there was testimony from
10 Richland County sheriff's deputies that they observed a
11 black male through a window of the mobile home, so they
12 couldn't make exactly a positive ID, I don't think. But
13 in any event, this is the gentleman that -- Mr. Ashford is
14 the gentleman that emerged from the mobile home. They put
15 that together.

16 When they searched the mobile home after he was taken
17 into custody -- oh, I'm sorry. In their testimony, they
18 said they observed what appeared to be a black male with a
19 green jacket on in this window of what ended up being a
20 bedroom of this mobile home.

21 When Mr. Ashford was taken into custody and they
22 searched the mobile home, they went back into the bedroom
23 that corresponded to the window they claim they saw
24 Mr. Ashford or some black male standing there with a green
25 jacket on and found a green jacket lying on the bed.

1 That, of course, was taken as evidence. It was introduced
2 as State's 102.

3 Prior to the trial, Mr. Ashford, he had two public
4 defenders, Deon O'Neil and Nicole Singletary, appointed to
5 this case. He repeatedly pressed them to get a DNA test
6 done on this jacket, and ever since I have known
7 Mr. Ashford, it has been his contention that there would
8 be no DNA of his on this green jacket. And, therefore,
9 the State's evidence -- if -- if -- if his lawyers had
10 pursued that DNA test and gotten a result that said that,
11 then they would have something decent to cross-examine the
12 State's witnesses about because they used that to help
13 place him at the scene. All right. It's circumstantial
14 evidence.

15 Now, in the closing argument -- and I doubt we'll
16 have the transcript here -- but as an officer of the
17 court, let me just represent to you that on page 888 of
18 the trial transcript beginning at about line three, this
19 is the summation, this is the closing argument by Luck
20 Campbell.

21 She states that, you know, most of the -- the
22 majority of the evidence is direct evidence. You heard
23 from 14 or 15 witnesses to what Randolph -- Randolph
24 Ashford did on that day. That's all direct testimony.

25 Indirect testimony from which you can conclude

1 something is, say where his jacket was found in that
2 bedroom on the end where the bay window was next to the
3 van, that's circumstantial evidence that he was in that
4 room. It was his jacket. We can put him in there.

5 No one actually testified that they saw him go in
6 that room, but his jacket being left there is
7 circumstantial evidence. So the State, obviously, thought
8 that this green jacket was an important piece of evidence.

9 I want to cleave and separate the PCR from what we're
10 doing here today, but Judge Newman and later Judge Kinard
11 both stated in PCR hearings that they wanted the DNA done
12 through the procedure in the statute, which means we're
13 here under the General Sessions indictment number which is
14 2007-GS-40-2048..

15 Under the statute in chapter 28 of article 17, there
16 is an enumerated list of -- I mean not every little case
17 is the crime -- as you know, Judge, is proper for DNA
18 testing and going through all of that trouble.

19 So there is an enumerated list of offenses under
20 17-28-30 for which DNA testing should be made available,
21 and one of those under subsection 15 is burglary in the
22 first degree for which the person is sentenced to ten
23 years or more.

24 Well, that's one of the sentences we have here is
25 that exact situation. Now, Mr. Ashford was also convicted

1 of kidnapping, of assault with intent to kill, of
2 carjacking. None of those are eligible under the statute.

3 So our point is that he is serving a sentence for
4 burglary first which is enumerated offense under the
5 section.

6 Now, not to preempt Ms. McDuffie any, but in the
7 return, the State argued that he is not serving his
8 burglary sentence at this time. He is actually serving
9 his kidnapping sentence that Judge Cooper, Thomas Cooper,
10 in sentencing said this -- these sentences are to run
11 consecutively, and he gave the kidnapping one first. He
12 gave the burglary one second.

13 In -- in the transcript, Your Honor, in the record --
14 and in the record on appeal, it's page 1096. In the
15 transcript, it is page 25 of the last day which was
16 April 3rd, 2009.

17 Judge Cooper states on the record, "both of these
18 kidnapping charges are to run concurrent with each other,
19 with each other, and on your burglary first charge, that
20 is 2000-40-2048, burglary in the first degree, the
21 sentence of the Court is that you be committed to the
22 State Department of Corrections for a period of 20 years.
23 This sentence is to run consecutive to the -- pause,
24 either way to the two kidnapping concurrent sentences
25 or -- it doesn't make any difference whether the

1 kidnappings run consecutive to the burglary or the
2 burglary runs consecutive to the kidnapping, and I'm also
3 ordering that your name be added to the sexual offender
4 registry."

5 Even on the record, Judge Cooper said it doesn't
6 matter which order they're served in.

7 So, A, we can take the position -- kind of
8 preemptively because Ms. McDuffie hasn't argued yet --
9 that he is serving a burglary first sentence because even
10 Judge Cooper said it doesn't matter which way they run.
11 They all run together.

12 Secondly, the name of the act actually is Access to
13 Judicial Justice Post Conviction DNA Testing Act, and in
14 the headline, it talks about post conviction DNA testing
15 and preservation of evidence.

16 As I understand preemptively in Ms. McDuffie's
17 argument, Your Honor, she would ask that this whole
18 process be delayed until it's clear that Mr. Ashford is
19 serving his burglary sentence which might come at the end,
20 running consecutively, of the kidnapping sentence.

21 I don't understand how that does any judicial
22 economy, and I certainly don't understand how that works
23 to preserve any evidence in this case.

24 It seems to me that if this is going to be an issue,
25 we might as well take care of it now, not wait until the

1 kidnapping convictions have been maxed out and he starts
2 serving his burglary sentence as it is figured by the
3 records department at the Department of Corrections..

4 And finally, we do think that identity was an issue.
5 Mr. Ashford has always maintained that that was not his
6 jacket, and the way to prove that is a DNA test.

7 He told his attorneys, "Get that jacket tested," and
8 they didn't do it. Now, that is an issue on PCR. I'm not
9 trying to bootstrap my way up there, but the judge at the
10 PCR specifically said he wanted us to go through the
11 General Sessions DNA forensic testing procedure in the
12 statute.

13 So that's why we're here, but if, second thing,
14 Exhibit 102 wasn't important, they wouldn't have put it
15 in. They mentioned it specifically in the closing
16 argument.

17 They used that to buttress the testimony of the
18 Richland County sheriff's deputies that this was the guy
19 they saw at the scene because it's his green jacket. Now,
20 if he does a DNA test on that green jacket and it comes
21 back with his DNA, I don't know what I would be left to
22 take.

23 But if it comes back that there is no DNA matter of
24 Randolph Ashford on that green jacket, that would have
25 been something that those lawyers could have used at

1 trial.

2 It would not have been circumstantial evidence
3 placing him at the scene and hit his whole -- I believe
4 his whole defense would have had a major point to make
5 with the jury, and they didn't do that. And that's why
6 we're here, to ask for a DNA testing of State's
7 Exhibit 102, the green jacket, find out whether or not
8 there is any DNA material on that that belonged to
9 Mr. Ashford.

10 Your Honor, in all the hearings I've done with
11 Mr. Ashford, he is -- he is very eloquent. He is good at
12 speaking for himself since he says no one is going to look
13 out for him better than himself, and I would ask the
14 Court's indulgence, if he has anything else to say, if you
15 would be willing to hear from him.

16 THE COURT: I don't allow bifurcated representation,
17 but he can tell you what he wants to say.

18 MR. BELDING: Okay. One moment, Your Honor.

19 (Pause).

20 Okay. He says we're fine for now. Thank you very
21 much, Your Honor.

22 THE COURT: Ms. McDuffie.

23 MS. McDUFFIE: Thank you, Your Honor. May it please
24 the Court. First, we would argue that he is not currently
25 incarcerated for burglary.

1 THE COURT: Skip that argument. I don't buy that.

2 MS. McDUFFIE: All right. Thank you, Your Honor.

3 Second, identity in this case is not an issue, Your
4 Honor. He went to the victim in this case's house. He
5 forced his way in at gunpoint. He then held her hostage
6 for numerous hours.

7 A hostage team from Richland County had to be called
8 in, a SWAT team. I don't even want to put a number of the
9 officers that were there that day, Your Honor, but I
10 believe he was identified not only by the woman he held at
11 gunpoint but by 14 or 15 other officers who were -- who
12 saw him in the home, and he was actually removed from the
13 home as the person that held the victim at gunpoint.

14 And further, Your Honor, he admitted -- and he gave a
15 statement admitting -- where he unlawfully went into the
16 victim's home while armed with a handgun.

17 Your Honor, so he confessed to breaking into the
18 home. He was removed from the home by the SWAT team and
19 taken immediately into custody, and he was identified by
20 the woman he held at gunpoint as being the individual who
21 broke into her home and held her at gunpoint.

22 Further, she was not a stranger. She knew him
23 because she was actually there to -- I believe he had
24 relations with one of her relatives, and he was looking
25 for that relative when he broke into this woman's home and

1 held her at gunpoint.

2 Numerous law enforcement officers also testified that
3 this defendant is the person who engaged in the lengthy
4 standoff and was arrested inside the residence, Your
5 Honor, and was ultimately taken into custody at the scene.

6 There is no question that this individual was the
7 person that was in the home, broke into the home and held
8 the victim at gunpoint and then engaged in the lengthy
9 hostage standoff with law enforcement.

10 Your Honor, law enforcement did testify that when
11 they initially saw the person in the bedroom that he was
12 wearing that green jacket, but Your Honor, his DNA on that
13 jacket is not relevant in any way in terms of identity.

14 Even if his DNA is not on that jacket, it doesn't do
15 anything to establish identity. Identity was clearly
16 established by direct evidence, not only by the victim
17 herself identifying the defendant but by the defendant's
18 own statement and the statement of numerous law
19 enforcement officers who testified that he was the person
20 who held the victim at gunpoint and engaged in the hostage
21 standoff with law enforcement.

22 Your Honor, so it's -- I mean, it's purely just not
23 relevant whether or not his DNA is on that jacket or not.
24 Your Honor, his confession, the numerous law
25 enforcement --

1 THE COURT: You say confession. Tell me. Tell me
2 what it is he said.

3 MS. McDUFFIE: That he went into the victim's -- he
4 forced his way into the victim's home while armed with a
5 handgun, Your Honor. I don't have the exact statement,
6 Your Honor, but I can get that for you.

7 THE COURT: And the victim testified that she knew
8 him?

9 MS. McDUFFIE: She did.

10 THE COURT: And that he was the one in there?

11 MS. McDUFFIE: Yes, Your Honor, the only one in
12 there.

13 THE COURT: And was he the only one in there?

14 MS. McDUFFIE: Your Honor, there were -- I believe at
15 one point her children and other family members were in
16 the home. They were allowed to leave, I believe, but when
17 law enforcement -- when they finally were able to make
18 entry into the home, it was him and her.

19 THE COURT: And that was it. The victim didn't say
20 there was some other person that ran out the back or --

21 MS. McDUFFIE: There was no other assailant.

22 THE COURT: Somebody else --

23 MS. McDUFFIE: He was the sole assailant.

24 THE COURT: Okay. What about that, Mr. Belding?

25 MR. BELDING: Your Honor, first of all, the defendant

1 did not testify at trial. The evidence of -- and I think
2 we probably need to get any purported confession in before
3 you in its -- in its written form.

4 My understanding is that's not what he, you know,
5 confessed to. Mr. Ashford had some blackout issues on
6 that day that I'm familiar with and having told me that,
7 but the point is this -- I would like, at this point, to
8 hand up a recent case from the South Carolina Court of
9 Appeals if it please the Court.

10 Your Honor, this is the State of Steve Bagwell vs.
11 the State of South Carolina. It was decided August 27th
12 of last year, 2014. It is a PCR case. In this case, the
13 circuit judge was reversed in a -- because he did not
14 request a DNA test on three pieces of glass with blood on
15 them that were introduced at trial -- it's a similar
16 situation. It's certainly analogous. In that situation,
17 they have -- the purported alleged victim said, "This is
18 the guy that beat me up," and he was convicted of
19 burglary.

20 And to buttress that testimony, the State introduced
21 three pieces of glass that had blood on them, and the
22 defendant wanted his PCR -- his trial counsel to have that
23 tested for DNA, and they didn't do it.

24 They ended up doing it later, found out that it was
25 not his DNA on the blood on the glass, and on that basis,

1 the judge ruled that he -- that trial counsel was
2 ineffective. I think this is by analogy very similar to
3 what we have here.

4 If, in fact, his trial counsel, Mr. O'Neil,
5 Ms. Singletary, had done what he asked and had a DNA test
6 made of the jacket, it would have given them something to
7 talk about at trial that would dispute the identity
8 testimony that was proffered by the Richland County
9 sheriff's deputy.

10 They say they saw the guy who was Mr. -- the
11 defendant, Mr. Ashford, in the mobile home wearing a green
12 jacket. Well, it stands to reason that if he is wearing
13 it, there would be some DNA evidence on it.

14 THE COURT: That actually doesn't stand to reason.
15 You have no scientific evidence that can substantiate that
16 claim. Just because he's wearing a jacket that his DNA is
17 on it.

18 MR. BELDING: On the other hand -- and I understand
19 what you're saying. In -- in reverse, if they find DNA
20 evidence on the jacket, it's pretty clear he had it on or
21 touched it.

22 So it would at least open up an area of inquiry that
23 his trial counsel should have explored in trying to defend
24 him. I mean, they went to trial in this case. There is
25 no reason they wouldn't have had that jacket tested if

1 it's going to end up being important enough to introduce
2 as evidence and to have the solicitor specifically mention
3 in the closing argument to the jury as circumstantial
4 evidence of his guilt because it placed him at the scene.

5 THE COURT: Go ahead.

6 (Pause.)

7 Go ahead.

8 MR. BELDING: Your Honor, just -- and to finish that
9 point, I'm informed by Mr. Ashford that it would have been
10 very easy. He had a place on the back of his neck that
11 clearly if he had the jacket on would have left some DNA
12 skin residence or -- skin residue or something on the
13 jacket. So if they tested it, they would have been able
14 to determine if there was some DNA evidence of his on it.

15 THE COURT: Here is what I don't understand. I don't
16 understand how regardless of the test, how it has anything
17 to do with innocence.

18 It has to -- the application is made to demonstrate
19 innocence. Whether he had this jacket on, didn't have
20 this jacket on, whether his DNA is on it, whether anybody
21 else in the county's DNA is on it or whether there is no
22 DNA on it doesn't have anything to do with whether or not
23 to demonstrate innocence.

24 MR. BELDING: Well --

25 THE COURT: He was caught at the scene.

1 MR. BELDING: Right.

2 THE COURT: He was present. He was there. According
3 to Ms. McDuffie, which I would need to see this,
4 obviously, but he has given some form of confession to
5 doing it, and the victim has positively identified him as
6 being the person in the house. And he was literally found
7 in the house, so I mean, I don't understand what this has
8 to do with demonstrating innocence.

9 MR. BELDING: What -- and I'm going to try to answer
10 that question, Your Honor, almost in reverse.

11 THE COURT: Okay.

12 MR. BELDING: And here is -- here is the way I look
13 at it. If, in fact, that green jacket was not involved in
14 the perpetration of this crime, I don't know why the State
15 introduced it. They made a real issue about it all the
16 way up through the closing argument that this places him
17 at the crime.

18 So if -- if, in fact, he didn't wear that jacket,
19 that reflects upon the testimony of the --

20 THE COURT: But just because there is no DNA on the
21 jacket -- just because his DNA is not on the jacket
22 doesn't mean he didn't wear that jacket.

23 MR. BELDING: Exactly. Well, because DNA, as we
24 know, is not 100 percent. They give a percentage. If
25 they find something on there, then they say there's a .999

1 percent chance that it's his or that he had it on.

2 If it's zero, they didn't find any DNA material that
3 matched him on it, that doesn't mean -- and I agree with
4 you -- but this was used to place him at the scene and --

5 THE COURT: He was also at the scene himself.

6 MR. BELDING: He was arrested at the scene, Your
7 Honor.

8 THE COURT: Right. In the home, right?

9 MR. BELDING: Well, coming out of the house.

10 THE COURT: After a standoff.

11 MR. BELDING: Right.

12 THE COURT: I mean, I don't understand how the issue
13 is whether or not he is at the scene. He is, obviously,
14 at the scene.

15 MR. BELDING: I understand what you're saying.

16 THE COURT: That's why I don't understand why the
17 green jacket matters.

18 MR. BELDING: Well, and Mr. -- Mr. Ashford is telling
19 me that it's because the officers testified the
20 perpetrator fired out the window, the black male with the
21 green jacket on, and he's saying if I don't have any -- he
22 wants a DNA test to prove that testimony is false.

23 I understand Ms. McDuffie's argument because she
24 preemptively, she stated this before that that goes to the
25 evidence of assault with intent to kill which is not an

1 issue here today. However, the whole case was tried
2 together.

3 There was one cumulative trial for all of the
4 charges. So all of the testimony went to the jury for all
5 of the charges.

6 THE COURT: All right. What about all of these
7 factors in 17-28-90(d) that have to be proven?

8 (Pause).

9 MR. BELDING: I can't believe, Your Honor, that page
10 has been torn off.

11 THE COURT: Well, this is all the factors of the
12 evidence is still there. It's in the right condition. It
13 can actually be tested, if there is a sufficient chain of
14 custody.

15 MR. BELDING: I understand, yes. I have read that,
16 Your Honor. I just don't have it to look at. Let me tell
17 you. We, of course, don't have the jacket, but we assume
18 it is in the evidence, you know, archives of the Fifth
19 Circuit Solicitor's Office.

20 THE COURT: Well, I mean, the problem is the statute
21 says that it's Mr. Ashford's burden to prove each of those
22 factors by a preponderance of the evidence. It says, "The
23 court shall order DNA testing of the -- of his DNA and the
24 physical evidence for biological material upon a finding
25 that the applicant", that would be Mr. Ashford --

1 MR. BELDING: Correct.

2 THE COURT: -- "has established each of the following
3 factors by a preponderance of the evidence." Then it goes
4 through one, two, three, four, five, six, seven different
5 factors.

6 They all deal with the -- where it is, who has
7 touched it. Who has had it, can it even be tested. Is
8 testing even available, all those different factors. It
9 says that he is required to prove to the court beyond a
10 preponderance of the evidence that all of that exists.

11 MR. BELDING: I read that, Your Honor, and I tell
12 you, I don't know how this statute becomes effectuated
13 with that standard of proof because these things are all
14 in the possession and control of the Solicitor's Office in
15 the state..

16 THE COURT: I doubt that. The Solicitor's Office
17 doesn't have it.

18 MR. BELDING: I don't know.

19 MS. McDUFFIE: No, Your Honor. If it was introduced
20 at trial, it's now in the custody of the Clerk of Court --

21 THE COURT: Right.

22 MS. McDUFFIE: -- and we have no control over any of
23 this.

24 MR. BELDING: Well, let me ask you, Your Honor. If
25 you're going to hold this hearing in abeyance for purposes

1 of looking at the purported confession, would you allow us
2 to submit an affidavit addressing those points within...

3 THE COURT: That's fine.

4 MR. BELDING: All right.

5 THE COURT: Who has got the transcript?

6 MR. BELDING: I have a transcript that was part of
7 the appellate record. It's most of it. It's in a funny
8 kind of order, but I have three volumes of the transcript.

9 THE COURT: Because we -- I would want to see the
10 portions of the transcript where his confession was
11 introduced at trial.

12 MR. BELDING: Okay.

13 THE COURT: And more than likely, the victim's
14 testimony about her knowledge of him and the portion where
15 the cops talk about him wearing the green jacket.

16 MR. BELDING: Okay.

17 And, Your Honor, since this is our motion -- and I
18 appreciate your indulgence -- I think that I have better
19 or quicker access to the transcript than Ms. McDuffie
20 does. So I'll be glad to provide that with a supplement
21 submission, if that's all right with you, addressing the
22 set of factors in 17-28-90. I appreciate your allowing us
23 to do that.

24 THE COURT: All right. You have got 30 days to get
25 all of that done.

1 MR. BELDING: Thank you, Your Honor.

2 THE COURT: And once that is submitted, then I'll
3 take proposed orders from both sides with that attached.

4 MR. BELDING: Okay.

5 THE COURT: Anything else Mr. Ashford wants to say
6 before he leaves?

7 MR. ASHFORD: No, sir.

8 THE COURT: Okay. Did that cover it?

9 MR. ASHFORD: Yes, sir. I would like to say this,
10 though, my -- my -- my statement, I never confessed to any
11 of this other --

12 THE COURT: Okay. Well, that's why I want to see it.
13 So I'm not saying Ms. McDuffie is misrepresenting
14 something to me. I want to look at it as the way it was
15 presented to the jury, and then we'll go from there.
16 Okay.

17 MR. BELDING: Thank you, Your Honor.

18 THE COURT: All right. Thank you very much.

19 (Whereupon, the proceedings were concluded.)
20
21
22
23
24
25

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Richland County, South Carolina, on the 5th day of
January, 2015.

October 2, 2015

Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

State,

v.

Randolph Ashford

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Indictment No.: 2007-GS-40-2048

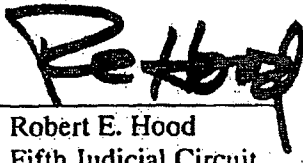
ORDER

This matter came before this Court on January 5th, 2015, at a hearing on Defendant's Motion for Post-Conviction DNA Testing. Defendant was convicted of Kidnapping, Burglary, Carjacking, Assault and Battery of a High and Aggravated Nature, Assault with Intent to Kill on April 3, 2009. At the January hearing, Defendant was represented by David E. Belding, Esq., and the State was represented by Joanna McDuffie, Esq. Defendant's motion is premised on the argument that the State used circumstantial evidence of a green jacket to connect Defendant to the crime scene.

Pursuant to S.C. Code Ann. §17-28-90(B)(1), the applicant must establish that the physical evidence is available for testing. After the hearing on January 5th, Mr. Belding informed the Court via letter dated January 23, 2015, that the green jacket in question was not available for testing. This letter also contained an affidavit from James D. Truitt of the Richland County Clerk of Court stating that the green jacket was not made an exhibit at trial, and thus was not in the possession of the Clerk's office.

Based upon a consideration of the facts before me, and S.C. Code Ann. §17-28-90(B)(1), I find that Defendant's Motion to for Post-Conviction DNA is DENIED for lack of sufficient factual cause for the motion.

IT IS SO ORDERED.


Robert E. Hood
Fifth Judicial Circuit

April 29, 2015

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

VS.

AKA:

Race:

Sex:

Age:

DOB:

SSN:

Address:

City, State, Zip:

DL#

SID#

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO:in violation of § 17-25-30 of the S.C. Code of Laws, bearing CDR Code # 768☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES:

Solicitor 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: SEE SHEET FOR 2007-GS-40-2002-13-09
☒ 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:	\$
\$14-1-206 (Assessments 107.5%)	\$
\$14-1-211(A)(1) (Conv. Surcharge)	\$100
\$14-1-211(A)(2) (DUI Surcharge)	\$100
\$56-5-2995 (DUI Assessment)	\$12
\$56-1-286 (DUI Breath Test)	\$25
\$35.13 (Public Def/Prob)	\$500
\$73.3, 1B TP (Law Enforce. Funding)	\$25
\$33.7, 1B TP (Drug Court Surcharge)	\$100
\$50-21-114 (BUI Breath Test Fee)	\$50
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea
\$90.11 TP (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$

TOTAL \$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2009)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007 -GS- 40 - 1939

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

SENTENCE SHEET

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly.

pmts. of \$ _____ Beginning _____
\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP☐ Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2126Sentence Date: 4-3-09CERTIFIED TRUE COPY
OF ORIGINAL FILEDRICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

IN THE COURT ... GENERAL SESSIONS

COUNTY OF
STATE

VS

INDICTMENT/CASE#: 2007 -GS- 40 - 1940A/W#: J556199

AKA:

Race: WSex: MaleAge: ...Date of Offense: 2-24-07S.C. Code §: 16-3-652DOB: ...SS#: ...CDR Code #: 0160Address: 1City, State, Zip: Cola SC 29003

DL#

SID#

SENTENCE SHEET

In disposition of the said indictment, on this day the Defendant who was ☒ CONVICTED OF ☐ PLEADSTO: Assault and Battery of a High and Aggravated Naturein violation of § 17-25-0030

of the S.C. Code of Laws, bearing CDR Code #

0013☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, _____ (defendant initial)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kang

Solicitor

SC Bar #

Randolph Ashford

Defendant

Penones

Attorney for Defendant

74814

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: See Sheet for 2007 GS 40 2002 (4-3-09)
☒ 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. 2-24-07☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ set by SCDPPPS _____

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	_____
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ _____
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
\$56-5-2995 (DUI Assessment)	\$12	\$ _____
\$56-1-286 (DUI Breath Test)	\$25	\$ _____
\$35.13 (Public Def/Prob)	\$500	\$ _____
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ _____
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$ _____
\$50-21-114(BUI Breath Test Fee)	\$50	\$ _____
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
\$90.11 TP (SCCJA Surcharge)	\$5	\$ _____
3% to County (if paid in installments)	\$	\$ _____

TOTAL

Clerk of Court/ Deputy Clerk Jeanette McBrideCourt Reporter: Williams/Thorne☐ Appointed PD or appointed other counsel, \$35.13 TP
☐ Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE: [Signature]Judge Code: 2126Sentence Date: 4-3-09

SCCA/217 (03/2009)

**CERTIFIED TRUE COPY
OF ORIGINAL FILED**
Jeanette McBride
C.C.C.F.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

VS.

AKA:

Race: BlackSex: Male

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

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

TO:

in violation of §

17-25-30

of the S.C. Code of Laws, bearing CDR Code #

768☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or Lowd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Lawrence

Solicitor

SC Bar #

Randolph Ashford

Defendant

Scarnon

Attorney for Defendant

74811

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: SEE SHEET FOR 2007-65-40-2002 (43.09)☐ 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. 2-24-07☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ set by SCDPPPS

Attend Voc. Rehab. or Job Corp.

Recipient:

May serve W/E beginning _____

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$56-1-286 (DUI Breath Test) \$25 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ _____

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

\$50-21-114 (BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

\$90.11 TP (SCCJA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ _____

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter: WilliamsPRESIDING JUDGE: [Signature]Judge Code: 2126Sentence Date: 4-3-09

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

VS.

INDICTMENT/CASE#: 2007 -GS- 40 - 2000

A/W#:

K195896

Date of Offense:

2-24-07

S.C. Code §:

16-3-1075(B)(1)

CDR Code #:

2599

AKA:

Race: Black

Sex: Male

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

SENTENCE SHEET

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

TO:

in violation of § 16-3-1075(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2599

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45
(CSC w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] Solicitor SC Bar # [Signature] Defendant [Signature] Attorney for Defendant SC Bar # 74814

WHEREFORE, the Defendant is committed to the State Department of Corrections, ☐ County Detention Center, for a determinate term of 100 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 SEE SHEET FOR 2007-GS-40-2002 (4-3-09)
☒ 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. 2-24-07
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	\$
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
\$35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
\$90.11 TP (SCCA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

Clerk of Court/ Deputy Clerk

Court Reporter:

Judge Code: 2126

Sentence Date: 4-3-09

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jasnette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

SCCA/217 (03/2009)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATERichland

VS.

Randolph Ashford

AKA:

Race: BlackSex: Male

Age: _____

DOB: _____

SS#: _____

Address: _____

City, State, Zip: _____

DL# _____

SID# _____

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

TO:

CarjackingIn violation of 16-3-1075(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2599☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45(CSC w/minor 1st or Lawd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Lam Se

Solicitor

SC Bar # _____

Randolph Ashford

Defendant

Yeanomal

Attorney for Defendant

74814

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: SEE SHEET FOR 2007-GS-40-2002 (4-3-09)☒ 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. 2-24-07☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ set by SCDPPPS _____

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	_____
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ _____
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
\$56-5-2995 (DUI Assessment)	\$12	\$ _____
\$56-1-286 (DUI Breath Test)	\$25	\$ _____
\$35.13 (Public Def/Prob)	\$500	\$ _____
\$73.3; 1B TP (Law Enforce. Funding)	\$25	\$ _____
\$33.7; 1B TP (Drug Court Surcharge)	\$100	\$ _____
\$50-21-114(BUI Breath Test Fee)	\$50	\$ _____
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
\$90.11 TP (SCCJA Surcharge)	\$5	\$ _____
3% to County (if paid in installments)	\$	\$ _____
TOTAL	\$	\$ _____

Clerk of Court/ Deputy Clerk Jeanette McBrideCourt Reporter: WilliamsJudge Code: 2126Sentence Date: 4-3-09PRESIDING JUDGE E. J. Carr

**CERTIFIED TRUE COPY
OF ORIGINAL FILED**
Jeanette McBride
 C.C.C.F. S.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

VS

INDICTMENT/CASE#: 2007 -GS- 40 - 2002

AW#: K195898

AKA:

Race: Black

Sex: Male

Age:

DOB:

SS#:

Date of Offense: 2-21-07

S.C. Code §: 16-3-1015(B)(1)

CDR Code #: 2599

Address:

City, State, Zip:

DL#

SID#

SENTENCE SHEET

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

TO:

in violation of § 16-3-1015(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2599

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, _____ (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

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: 2002, 65-46, 2003, 2001, 2000, 2040, 1939, 1938☒ 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. 2-24-07 1941☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ set by SCDPPPS _____

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$56-1-286 (DUI Breath Test) \$25 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ _____

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

\$50-21-114(BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

\$90.11 TP (SCCJA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

Clerk of Court/ Deputy Clerk

Court Reporter: Williams

Judge Code: 2126

Sentence Date: 4-3-09

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Jesse Williams
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

IN THE COURT GENERAL SESSIONS

COUNTY OF
STATE

VS.

INDICTMENT/CASE#: 2007 -GS- 40 - 2003

A/W#:

Date of Offense:

S.C. Code §:

CDR Code #:

AKA:

Race: BlackSex: Male

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

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

TO:

in violation of §

16-3-910

of the S.C. Code of Laws, bearing CDR Code #

0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, _____ (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:

Solicitor Lawrence SC Bar # _____ Defendant Randolph Ashford Attorney for Defendant Deon Omar SC Bar # 74814WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 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: 2007-GS-40-2048☒ 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. 2-24-07☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ set by SCDPPPS _____

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive, weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP☐ Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE C. J. [Signature]Judge Code: 2126Sentence Date: 4-3-09CERTIFIED TRUE COPY
OF ORIGINAL FILEDJeannette McBride
Clerk of CourtRICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

IN THE COURT GENERAL SESSIONS

COUNTY OF
STATE

VS.

INDICTMENT/CASE# 2007 -GS- 40 - 2048

AKA:

Race: Black

Sex: Male

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

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

TO:

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kari J. [Signature]

Solicitor

SC Bar #

Randolph Ashford

Defendant

J. [Signature]

Attorney for Defendant

74814

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 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: 2007-65-40-2003; 2007-65-40-1938☒ 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. 2-24-07☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5%)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
§90.11 TP (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL		

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2009)

Judge Code: 2126

Sentence Date: 4-3-07

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP☐ Requires \$300 be paid to Clerk during probation.

PRESIDING JUDGE

[Signature]

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

WITNESSES

(S) Thomas Croxton - RCSD

ARREST WARRANT NUMBER

J556196

ACTION OF GRAND JURY

TRUE BILL

TRUE BILL

For person of Grand Jury

Date:

VERDICT

For person of Petit Jury

Date:

DOCKET NO. 2007-GS-40-1939

AMENDED

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

APRIL TERM 2007

42

THE STATE
vs.

RANDOLPH ASHFORD

Indictment for

ASSAULT WITH
INTENT TO KILL

SC Code: 17-25-30

CDR Code: 768

Class MIS-UNC

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead
guilty to the within indictment or

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

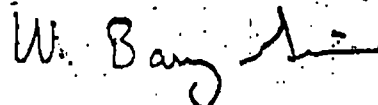
INDICTMENT

At a Court of General Sessions, convened on April 18, 2007, the Grand Jurors of Richland County present upon their oath:

ASSAULT WITH INTENT TO KILL

That RANDOLPH ASHFORD, did in Richland County on or about February 24, 2007, with malice aforethought commit an assault with intent to kill upon one Deputy Unger. All in violation of Section 17-25-30 C/L, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



WARREN B. GIESE, SOLICITOR

WITNESSES

(S) Thomas Croxton - RCSD

Em Barr RCSD

ARREST WARRANT NUMBER

J-556199

ACTION OF GRAND JURY

TRUE BILL

Jay Allen
Foreperson of Grand Jury

APR 19 2007

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2007-GS-40-1940

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

APRIL TERM 2007

42

THE STATE
vs.

~~RANDALL ASHFORD~~
RANDOLPH

Indictment for

CRIMINAL SEXUAL CONDUCT
1ST DEGREE

SC Code: 16-3-652
CDR Code: 0160
Class FEL/A(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment of

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Janette W. M. Mc
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

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