

VOLUME I OF III

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SC SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Charleston County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

CLARK D. THOMAS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002286

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
CASE NOS. 2006-GS-10-12295 & 12296

STATE OF SOUTH CAROLINA,

VS

CLARK DAVID THOMAS,

Defendant.

TRANSCRIPT OF PROCEEDINGS

July 7th, 2008
Charleston, South Carolina

(VOLUME 1, Pages 1 thru 79)

BEFORE:

THE HONORABLE DEADRA L. JEFFERSON, Judge

APPEARANCES:

NATHAN WILLIAMS, ESQ.
ASSISTANT SOLICITOR
ATTORNEY FOR STATE

MICHAEL T. BOLUS, ESQ.
ATTORNEY FOR DEFENDANT

HEATHER GAYLE BURNS, RDR
OFFICIAL COURT REPORTER
9TH JUDICIAL CIRCUIT

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1 (Whereupon, the judge
2 enters the courtroom at
3 3:15 p.m.)

4 **THE COURT:** Does the
5 defendant wish to have a
6 formal arraignment, Mr. Bolus?

7 **MR. BOLUS:** Yes. And
8 also we need -- my client is
9 in lock-up. They -- his --
10 they will not allow him to
11 have a razor or anything. But
12 I would appreciate if someone
13 could do something about it.

14 **THE COURT:** They allow
15 them to shave, don't they?

16 **MR. BOLUS:** He's at the
17 jail.

18 **DEPUTY VINCE:** He's
19 in disciplinary segregation.
20 If he's in that unit they
21 don't allow them sharp
22 instruments.

23 **THE COURT:** Okay.

24 **MR. BOLUS:** He's
25 concerned about his unkempt

1 appearance. His, his hair,
2 hasn't had a -- used a brush.
3 Can't shave. Frankly, I don't
4 think he looks so hot. I've
5 known him for years and I, I
6 saw him and he's looked a lot
7 better. Of course at the jail
8 you don't look good, but I --
9 his hair and his face and all
10 that could look a lot better,
11 your Honor. I mean he'd
12 request that he could get
13 cleaned up.

14 THE COURT: Just so the
15 record is clear, he doesn't
16 look dissheveled or unkempt,
17 but I would imagine that if
18 someone is used to being
19 shaven and they're not, that
20 that is very uncomfortable to
21 him. I would ask the jail
22 allow him to shave or at least
23 that he be allowed to shave.
24 You have an electric razor or
25 something you can bring him

1 here tomorrow morning that
2 they can allow him to use?
3 They probably -- they'd
4 probably allow him to do that
5 here.

6 MR. BOLUS: I'll call
7 his mother --

8 THE COURT: If it's not
9 a razor, it's electric.

10 DEPUTY VINCE: Your
11 Honor, we went through this
12 once before. He has to
13 request that.

14 THE COURT: That's what
15 I thought. We had that with
16 Mr. Chase, didn't we?

17 DEPUTY VINCE: Yes.

18 THE COURT: He has to
19 request it and they'll allow
20 him to do it.

21 MR. BOLUS: Well, I'll
22 be sure to tell his daughter
23 when she comes over tomorrow,
24 or his mother comes over
25 tomorrow, somebody bring him

1 at least an electric razor.

2 THE COURT: As a
3 stand-by.

4 MR. BOLUS: Okay.

5 THE COURT: I'm sure.
6 But if he requests to be
7 shaved before he comes over in
8 the morning, they will allow
9 him to do it.

10 MR. BOLUS: Thank you.

11 THE COURT: Okay. And
12 you are requesting a formal
13 arraignment you said?

14 MR. BOLUS: Yes.

15 THE COURT: Please
16 bring in the panel.

17 Is there requested
18 voir dire other than this
19 witness list that I have?
20 This voir dire that I have?
21 Oh, you all gave it to me
22 already. I'm sorry. I didn't
23 realize it.

24 (Whereupon, the jury
25 panel enters the courtroom at

1 3:27 p.m.)

2 THE COURT: If there
3 are any cell phones, please
4 turn them off because if they
5 go off the deputies will
6 confiscate them and they will
7 not be returned to you.

8 Good afternoon,
9 ladies and gentlemen. I hope
10 that you all had a restful
11 lunch. Ladies and gentlemen,
12 we're going to select a jury
13 for the case, for the case of
14 the State of South Carolina
15 versus Clark David Thomas.
16 And they're indictments
17 2007-GS-10-03499, which is
18 criminal sexual conduct in the
19 first degree, and that
20 indictment alleges as follows:
21 That David Clark Thomas did in
22 Charleston County on or about
23 June seventh, 2006 willfully,
24 unlawfully, and feloniously
25 without just cause and against

1 Rachel Crowley's will and
2 consent, and with the use of
3 aggravated force, engage in a
4 sexual battery upon Rachel
5 Crowley, alleged violation of
6 Code Section 16-3-652 of the
7 Code of Laws as amended.

8 And indictment
9 2006-GS-10-12296, which is an
10 indictment for criminal
11 domestic violence of a high
12 and aggravated nature, and
13 that indictment alleges as
14 follows: That Clark David
15 Thomas did in Charleston
16 County on or about June fifth,
17 2006, unlawfully cause
18 physical harm to a household
19 member, Rachel Crowley, and
20 was accompanied by
21 circumstances of aggravation
22 including but not limited to
23 the infliction of bodily
24 injury, a disparity between
25 the ages and physical

1 conditions of the parties, and
2 a difference in the sexes,
3 alleging a violation of
4 16-25-65, Code of laws as
5 amended.

6 And indictment
7 2006-GS-10-12295, which is an
8 indictment for kidnapping, and
9 that indictment alleges as
10 follows: That Clark David
11 Thomas did in Charleston
12 County on or about June fifth,
13 2006, seize, abduct, confine,
14 or carry away Rachel Crowley
15 without the authority of law
16 and against Rachel Crowley's
17 will and consent, alleging a
18 violation of 16-3-910 of the
19 Code of Laws as amended.

20 We're going to follow
21 the same procedure. I'm going
22 to ask counsel for the State
23 to stand and introduce himself
24 and anyone who will be
25 assisting him in the trial of

1 the case, as well as the
2 members of his office, and if
3 counsel for the defense would
4 provide us with the same
5 information and introduce your
6 client to the panel. You may
7 proceed.

8 **MR. WILLIAMS:** Thank
9 you, your Honor.

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

11 **MR. WILLIAMS:** Good
12 afternoon. My name is Nathan
13 Williams. I'm assistant
14 solicitor here in the ninth
15 circuit, Charleston County.
16 Other members of the office,
17 it's a long list I'm going to
18 read off. The solicitor in
19 our circuit is Scarlett
20 Wilson. Our chief deputy is
21 Bruce Durant. Other assistant
22 solicitors are Mike Sahn,
23 Debbie Herring Lash, Elizabeth
24 Gordon, Dale Savage, Tyler
25 Schachte, Mike Dewaay, Kim

1 Steele, Kris Neely, Jim Stack,
2 Culver Kidd, Peter McCoy, Nick
3 Bianchi, Rutledge Durant, Trip
4 Riesen, Burns Wetmore, Amy
5 Harrell, Julie Cardillo,
6 Jennifer Shealy, Michael
7 Nelson, Kevin Hale, Greg
8 Voigt, Chad Simpson, Stephanie
9 Bianco, Trip Lawton, Larry
10 Todd, Brian Bird, and Ellen
11 Stockford.

12 THE COURT: And if
13 counsel for the defense would
14 provide us with the same
15 information and introduce your
16 client to the panel.

17 MR. BOLUS: Tom Bolus.
18 I'm a lawyer. I've got an
19 office in Folly Beach. And I
20 also have an office in North
21 Charleston. My brother and I
22 have joint venture. We don't
23 share the money, we just share
24 the bills.

25 This is Clark David.

1 Thomas. Thank you.

2 THE COURT: Thank you.

3 Ladies and gentlemen,
4 we will go through the same
5 process again. It is called
6 voir dire and it's just a
7 simple -- it's a fancy way of
8 us saying that the Court is
9 going to ask some questions to
10 allow the attorneys to more
11 efficiently exercise their
12 peremptory challenges. If any
13 question applies, I would ask
14 that you stand and in a loud
15 and clear voice state your
16 name and your juror number and
17 an answer to the question if
18 applicable, and remain
19 standing until the Court has
20 completed questioning you.

21 Is there any member
22 of the panel related by blood
23 or marriage to Clark David
24 Thomas or Rachel Crowley? If
25 so, please stand at this time.

1 (There is no
2 response.)

3 Does any member of
4 the panel have close, personal
5 or social relationship with
6 either Clark David Thomas or
7 Rachel Crowley? If so, please
8 stand.

9 (There is no
10 response.)

11 The following are a
12 list of potential witnesses in
13 this case. I would ask that
14 you listen very carefully.

15 Rachel Crowley, Kathy
16 Maree, Officer Chris Talbott
17 of the North Charleston Police
18 Department, Office David
19 Watson, Officer Andy Coker,
20 Detective James Rowan,
21 Sergeant Al Hallman, Brnady
22 Paulson, Officer R.VanHorn --
23 actually, eliminate that. I
24 apologize. I'll start over.

25 Officer Chris

1 Talbott, Officer David Watson,
2 Officer Andy Coker, Detective
3 James Rowan, Sergeant Al
4 Hallman, and Brandy Paulson,
5 all of the North Charleston
6 Police Department.

7 Officer R. VanHorn,
8 Sergeant William Roberts,
9 Marie Clark, all of the
10 Charleston Police Department.

11 Ben Dubois, Doctor T.
12 Paraschos, P-a-r-a-s-c-h-o-s,
13 of Saint Francis Hospital, and
14 Jill Clark of the South
15 Carolina Law Enforcement
16 Division.

17 Is there any member
18 of the panel related by blood
19 or marriage to any of the
20 people that I have listed or
21 does anyone have a close,
22 personal, or social
23 relationship with any of these
24 individuals? If so, please
25 stand.

1 (There is no
2 response.)

3 Has any member of the
4 panel ever been represented by
5 any of the attorneys involved
6 or anyone with whom they
7 practice law? If so, please
8 stand.

9 (There is no
10 response.)

11 Is there any member
12 of the panel related by blood
13 or marriage to, or have a
14 close personal or social
15 relationship with any of the
16 attorneys involved or anyone
17 with whom they practice law?
18 If so, please stand.

19 Yes, sir.

20 **A JUROR:** Claron
21 Robertson, juror one
22 ninety-one. Julie Cardillo is
23 one of the assistant
24 solicitors. Her cousin Rob
25 Cardillo is lawyer in my law

1 firm.

2 THE COURT: Sir, as a
3 result of this experience do
4 you feel that you can remain
5 fair and impartial and render
6 a fair and impartial decision
7 in this case, based solely on
8 the evidence as it will be
9 presented and on the law as
10 the Court will instruct?

11 A JUROR: Yes, ma'am.

12 THE COURT: Thank you,
13 sir. You may take your seat.

14 Has any member of the
15 panel formed or expressed an
16 opinion about any issue or
17 matter involved in this case?
18 If so, please stand.

19 (There is no
20 response.)

21 Is there any member
22 of the panel aware of any bias
23 or prejudice for either the
24 State or the defense in this
25 case? If so, please stand.

1 (There is no
2 response.)

3 Was there any member
4 of the panel a member of the
5 grand jury which issued the
6 indictments in this case? If
7 so, please stand.

8 (There is no
9 response.)

10 Is there any member
11 of the panel a member of a
12 group, a member of or
13 contributor to any group which
14 has as its primary concern the
15 promotion of law enforcement,
16 law enforcement or victim's
17 rights? These groups would
18 include but are not limited
19 to: Mothers Against Drunk
20 Driving, Students Against
21 Drunk Driving, Citizens
22 Against Violent Crime, People
23 Against Rape, or Citizens
24 Advocating a Return to Decency
25 and Ethics? If so, please

1 stand at this time.

2 (There is no
3 response.)

4 Is there any member
5 of the panel who has a
6 religious, moral, or
7 philisophical beliefs that
8 would impair your ability to
9 be fair and impartial, or
10 impair your ability to sit in
11 judgment of a fellow human
12 being? If so, please stand at
13 this time.

14 Yes, sir.

15 A JUROR: Gregory
16 Frazier, number seventy-nine.
17 I, I don't believe in judging
18 a human being.

19 THE COURT: I can't
20 hear you, sir.

21 A JUROR: I, I don't
22 believe in judging a human
23 being.

24 THE COURT: Is that a
25 moral or philisophical or

1 religious belief?

2 A JUROR: Religious.

3 THE COURT: Sir, are
4 you capable of setting aside
5 that belief and listening to
6 the, to the evidence as it
7 will be presented, and the law
8 that the Court will instruct
9 in order to render a verdict
10 in this case?

11 A JUROR: No, ma'am,
12 I'm not.

13 THE COURT: Sir, you
14 will be excused from this
15 panel only.

16 MR. BOLUS: What
17 number?

18 THE COURT: Number
19 seventy-nine.

20 Is there any member
21 of the panel who has had a bad
22 experience with law
23 enforcement such that you feel
24 it would impair your ability
25 to be fair and impartial? If

1 so, please stand.

2 (There is no
3 response.)

4 Does any member of
5 the panel have a family member
6 who is incarcerated currently
7 at a state penitentiary? If
8 so, please stand.

9 (There is no
10 response.)

11 Is there any member
12 of the panel who is currently
13 being prosecuted by our -- or
14 a family member who is being
15 prosecuted by the ninth
16 circuit solicitor's office?
17 If so, please stand at this
18 time.

19 (There is no
20 response.)

21 Is there any member
22 of the panel who is a member
23 of a group whose primary
24 concern is advocating against
25 criminal domestic violence or

1 any violence against women?
2 If so, please stand at this
3 time.

4 (There is no
5 response.)

6 Is there any member
7 of the panel or member of your
8 family ever been the victim of
9 criminal domestic violence,
10 kidnapping, or any assault of
11 any kind, or any other type of
12 violent crime? If so, please
13 stand at this time.

14 Yes, sir. If you
15 would tell me your name and
16 your juror number.

17 A JUROR: Albert Quick,
18 juror number one eighty-two.

19 THE COURT: And, sir,
20 was it you or a family member?

21 A JUROR: Family
22 member.

23 THE COURT: And which
24 was it? Was it C. D. V.,
25 kidnapping, or was it some

1 other type of assault?

2 A JUROR: Various
3 number of assaults. May I
4 approach the bench?

5 THE COURT: You don't
6 have to go into any more
7 detail than that.

8 A JUROR: Okay.

9 THE COURT: Yes, sir.
10 If you'd remain standing for
11 me.

12 Yes, sir.

13 A JUROR: A number of
14 sexual assaults.

15 THE COURT: And your
16 number, sir, and your name?

17 A JUROR: Eight, Scott
18 Baldino.

19 THE COURT: Your number
20 again and your name?

21 A JUROR: Eight, Scott
22 Baldino.

23 THE COURT: As a result
24 of these experiences, do you
25 feel that you could remain

1 fair and impartial and render
2 a fair and impartial decision
3 in this case, based solely on
4 the evidence as it will be
5 presented and on the law as
6 the Court will instruct?
7 Number one eighty-two?

8 A JUROR: No, I do not.

9 THE COURT: And number
10 eight?

11 A JUROR: Yes.

12 THE COURT: Number
13 eight will be excused from
14 this panel only -- I mean
15 number one eighty-two will be
16 excused from this panel only
17 and number eight may -- you
18 may both take your seats.

19 Also I neglected to
20 mention, one of the potential
21 witnesses in this case is
22 Kristan Thomas. Is there any
23 member of the panel related by
24 blood or marriage to Miss
25 Thomas or have a close

1 personal or social
2 relationship with her? If so,
3 please stand at this time.

4 (There is no
5 response.)

6 Is there any member
7 of the panel or any member --
8 is there any member of the
9 jury or any member of your
10 family ever been employed with
11 the ninth circuit solicitor's
12 office? If so, please stand
13 at this time.

14 (There is no
15 response.)

16 Is there any member
17 of the panel or a member of
18 your family who has ever been
19 employed in law enforcement at
20 any time? If so, please stand
21 at this time.

22 If you'll give me
23 your name and your juror
24 number, whether it was you or
25 a family member.

1 A JUROR: Juror

2 number --

3 THE COURT: I'm sorry,

4 sir. Yes, ma'am.

5 A JUROR: I'm juror

6 number one oh four. My name

7 is Cheryl Hair. My husband is

8 a South Carolina State

9 Trooper.

10 THE COURT: Tell me

11 your number again, ma'am.

12 A JUROR: One oh four.

13 THE COURT: Thank you.

14 If you'd remain standing.

15 Yes, ma'am.

16 A JUROR: I'm Noelle

17 Orr. My brother was a City of

18 Charleston Police Office and

19 D. E. A. task force member.

20 THE COURT: Yes, ma'am.

21 A JUROR: Juror number

22 one. My name is Sheila

23 Aikman. I have several

24 cousins that are with the

25 Berkeley County, Berkeley

1 County Sherrif's Department.

2 THE COURT: Yes, sir.

3 A JUROR: Two ten.

4 Anthony Singleton. They have
5 to be in Charleston County?

6 THE COURT: No, sir.

7 Any type of law enforcement.

8 A JUROR: Sister. My
9 sister is a police officer in
10 Columbia.

11 THE COURT: As a result
12 of these experiences, do you
13 all feel that you can remain
14 fair and impartial, and
15 render a fair and impartial
16 decision in this case, based
17 solely on the evidence as it
18 will be presented and on the
19 law as the Court will
20 instruct? If your answer is
21 yes, please take your seat.

22 (All are seated.)

23 Let the record
24 reflect that all answered yes.

25 Does any member of

1 the panel know of any reason
2 whatsoever why he or she
3 should not serve as a juror in
4 this case, with particular
5 emphasis being placed on your
6 ability to be fair and
7 impartial to both the State
8 and the defendant? If so,
9 please stand.

10 (There is no
11 response.)

12 Are there any
13 additional questions from the
14 State?

15 MR. WILLIAMS: No, your
16 Honor.

17 THE COURT: From the
18 defense?

19 MR. BOLUS: None.

20 THE COURT: Strikes are
21 ten and five. You may
22 proceed. And if your name is
23 called -- Mr. Major, could you
24 demonstrate for me again for
25 those who were not present?

1 If your name is called, please
2 bring all of your personal
3 belongings and come forward as
4 Mr. Major is doing and then
5 turn forward, back facing the
6 panel until we've either
7 seated you or excused you from
8 the panel.

9 You may proceed.

10 **COURT CLERK:** Juror
11 number two twenty-eight, Kevin
12 Thompson.

13 What say you for the
14 State?

15 **MR. WILLIAMS:** Please
16 excuse Mr. Thompson.

17 **COURT CLERK:** Mr.
18 Thompson, if you'll please
19 have a seat back in the
20 audience. You've been excused
21 from the trial of this case.

22 Juror number two ten,
23 Anthony Singleton.

24 What say you for the
25 State?

1 MR. WILLIAMS: Please
2 submit the juror.

3 COURT CLERK: What say
4 you for the defendant?

5 MR. BOLUS: Is this two
6 ten?

7 COURT CLERK: Yes. Two
8 ten.

9 MR. BOLUS: Please
10 excuse the juror. Excuse.

11 COURT CLERK: Mr.
12 Singleton, please have a seat
13 back in the audience. You've
14 been excused from the trial of
15 this case.

16 Juror number one
17 ninety-one, Claron Robertson.

18 What say you for the
19 State?

20 MR. WILLIAMS: Please
21 submit the juror.

22 COURT CLERK: What say
23 you for the defendant?

24 MR. BOLUS: Please
25 excuse Mr. Robertson.

1 COURT CLERK: Mr.

2 Robertson, please have a seat
3 back in the audience. You've
4 been excused from the trial of
5 this case.

6 Juror number one
7 seventy-six, Richard Phelps.

8 What say you for the
9 State?

10 MR. WILLIAMS: Seat
11 this juror.

12 COURT CLERK: What say
13 you for the defense?

14 MR. BOLUS: Seat the
15 juror.

16 COURT CLERK: Mr.
17 Phelps, please have a seat in
18 the jury box. You've been
19 selected as a juror in this
20 case.

21 Juror number one
22 fifty-eight, Susan Meissner.

23 What say you for the
24 State?

25 Juror number one seventy-six, Richard Phelps

1 What say you for the
2 State?

3 MR. WILLIAMS: Seat
4 this juror.

5 COURT CLERK: What say
6 you for the defense?

7 MR. BOLUS: Seat the
8 juror.

9 COURT CLERK: Mr.
10 Phelps, please have a seat in
11 the jury box. You've been
12 selected as a juror in this
13 case.

14 Juror number one
15 fifty-eight, Susan Meissner.

16 What say you for the
17 State?

18 MR. WILLIAMS: Please
19 submit the juror.

20 COURT CLERK: What say
21 you for the defense?

22 MR. BOLUS: Excuse the
23 juror.

24 COURT CLERK: Miss
25 Meissner, please have a seat

1 back in the audience. You've
2 been excused from the trial of
3 this case.

4 Juror number two
5 seven six, Thomas Woolam.

6 MR. BOLUS: I'm sorry.
7 I missed the number.

8 COURT CLERK: Two seven
9 six.

10 What say you for the
11 State?

12 MR. WILLIAMS: Please
13 submit the juror.

14 COURT CLERK: What say
15 you for the defense?

16 MR. BOLUS: Seat the
17 juror.

18 COURT CLERK: Mr.
19 Woolam, please have a seat on
20 the jury. You've been
21 selected as a juror in this
22 case.

23 Juror number
24 twenty-five, Curtis Boyles.

25 What say you for the

1 State?

2 MR. WILLIAMS: Please
3 submit the juror.

4 COURT CLERK: What say
5 you for the defense?

6 MR. BOLUS: Seat the
7 juror.

8 COURT CLERK: Mr.
9 Boyles, please have a seat on
10 the jury. You've been
11 selected as a juror in this
12 case.

13 Juror number one oh
14 two, Joanne Hadden.

15 What say you for the
16 State?

17 MR. WILLIAMS: Please
18 submit the juror.

19 COURT CLERK: What say
20 you for the defense?

21 MR. BOLUS: Your Honor,
22 please excuse the juror.

23 COURT CLERK: Miss
24 Hadden, please have a seat
25 back in the audience. You've

1 been excused from the trial of
2 this case.

3 That's four strikes
4 for the defendant.

5 Juror number two
6 seventy-three, Allison
7 Chellis.

8 What say you for the
9 State?

10 MR. WILLIAMS: Please
11 submit the juror.

12 COURT CLERK: What say
13 you for the defense?

14 MR. BOLUS: Seat the
15 juror.

16 COURT CLERK: Miss
17 Chellis, please have a seat in
18 the jury box. You've been
19 selected as a juror in this
20 case.

21 Juror number
22 twenty-four, Vernesha Bowens.

23 What say you for the
24 State?

25 MR. WILLIAMS: Please

1 excuse Miss Bowens.

2 **COURT CLERK:** Miss
3 Bowens, please have a seat
4 back in the audience. You've
5 been excused from the trial of
6 this case.

7 Juror number two
8 sixty-one, James Goulden.

9 What say you for the
10 State?

11 **MR. WILLIAMS:** Please
12 excuse Mr. Goulden.

13 **COURT CLERK:** Mr.
14 Goulden, please have a seat
15 back in the audience. You've
16 been excused from the trial of
17 this case.

18 That's three strikes
19 for the State.

20 Juror number two
21 sixty-five, Shawn Hill. Two
22 six five.

23 What say you for the
24 State?

25 **MR. WILLIAMS:** Please

1 submit the juror.

2 COURT CLERK: What say
3 you for the defendant?

4 MR. BOLUS: Seat the
5 juror.

6 COURT CLERK: Mr. Hill,
7 please have a seat in the jury
8 box. You've been selected as
9 a juror in this case.

10 Juror number one oh
11 four, Cheryl Hair. One oh
12 four.

13 What say you for the
14 State?

15 MR. WILLIAMS: Please
16 submit the juror.

17 COURT CLERK: What say
18 you for the defendant?

19 MR. BOLUS: Please
20 excuse the juror.

21 COURT CLERK: Miss
22 Hair, please have a seat back
23 in the audience. You've been
24 excused from the trial of this
25 case.

1 Juror number two
2 seventy, Joyce Mosely. Two
3 seven zero.

4 What say you for the
5 State?

6 MR. WILLIAMS: Please
7 submit the juror.

8 COURT CLERK: What say
9 you for the defendant?

10 MR. BOLUS: Seat the
11 juror.

12 COURT CLERK: Miss
13 Mosely, please have a seat in
14 the jury box. You've been
15 selected as a juror in this
16 case.

17 Juror number tw
18 seventy-one, Mary O'Daniel.
19 Two seven one.

20 What say you for the
21 State?

22 MR. WILLIAMS: Please
23 submit the juror.

24 COURT CLERK: What say
25 you for the defendant?

1 **MR. BOLUS:** Excuse the
2 juror.

3 **COURT CLERK:** Miss
4 O'Daniel, please have a seat
5 back in the audience. You've
6 been excused from the trial of
7 this case.

8 Six strikes for the
9 defendant.

10 Juror number one
11 eighty-seven, Sherry Reeves.
12 One eight seven.

13 What say you for the
14 State?

15 **MR. WILLIAMS:** Please
16 submit the juror.

17 **COURT CLERK:** What say
18 you for the defendant?

19 **MR. BOLUS:** Seat the
20 juror.

21 **COURT CLERK:** Miss
22 Reeves, please have a seat in
23 the jury box. You've been
24 selected as a juror in this
25 case.

1 Juror number

2 forty-four, Samantha

3 Chmielorz.

4 What say you for the

5 State?

6 MR. WILLIAMS: Please

7 submit the juror.

8 COURT CLERK: What say

9 you for the defendant?

10 MR. BOLUS: Seat the

11 juror.

12 COURT CLERK: Madam

13 Juror, please have a seat in

14 the jury box. You've been

15 selected as a juror in this

16 case.

17 Juror number

18 eighty-nine, Joseph Giacinto.

19 What say you for the

20 State?

21 MR. WILLIAMS: Please

22 submit the juror.

23 COURT CLERK: What say

24 you for the defendant?

25 MR. BOLUS: Seat the

1 juror..

2 COURT CLERK: Sir,
3 please have a seat in the jury
4 box. You've been selected as
5 a juror in this case.

6 Juror number
7 eighty-five, Lakeshia Gathers.

8 THE JUROR: May I
9 approach the bench, please?

10 THE COURT: Yes, ma'am.

11 (Whereupon, the
12 following took place at side
13 bar, in the presence of but
14 out of the hearing of the jury
15 panel.)

16 THE COURT: Counsel,
17 approach, please.

18 THE JUROR: Your Honor,
19 I've had experience with
20 domestic abuse and --

21 THE COURT: For that
22 reason do you feel that you
23 could not be a fair and
24 impartial juror in the trial
25 of this case, listen to the

1 evidence and the law as the
2 Court will instruct --

3 THE JUROR: I would not
4 be.

5 THE COURT: Thank you
6 for telling us. I'm going to
7 excuse you from the panel.
8 Any exception from the State?

9 MR. WILLIAMS: No, your
10 Honor.

11 THE COURT: Any
12 exception from the defense?

13 MR. BOLUS: No, your
14 Honor.

15 THE COURT: Thank you,
16 ma'am, for telling us. Number
17 eighty-five is excused from
18 this panel.

19 (Whereupon, the
20 following took place in open
21 court.)

22 COURT CLERK: Yes, your
23 Honor.

24 Juror number one
25 fifty-five, John McPherson.

1 MR. BOLUS: One
2 fifty-five?

3 COURT CLERK: Yes. One
4 five five.

5 What say you for the
6 State?

7 MR. WILLIAMS: Please
8 submit the juror.

9 COURT CLERK: What say
10 you for the defendant?

11 MR. BOLUS: Please seat
12 the juror.

13 COURT CLERK: Mr.
14 McPherson, please have a seat
15 in the jury box. You've been
16 selected as a juror in this
17 case.

18 Juror number forty,
19 Brenda Carey. Four zero.

20 What say you for the
21 State?

22 MR. WILLIAMS: Please
23 submit the juror.

24 COURT CLERK: What say
25 you for the defendant?

1 MR. BOLUS: Seat the
2 juror.

3 COURT CLERK: Miss
4 Carey, please have a seat in
5 the jury box. You've been
6 selected as a juror in this
7 case.

8 Juror number two
9 fifty-three, Coby Broadwein.
10 Two five three.

11 What say you for the
12 State?

13 MR. WILLIAMS: Please
14 submit the juror.

15 COURT CLERK: What say
16 you for the defendant?

17 MR. BOLUS: Seat the
18 juror.

19 COURT CLERK: Mr.
20 Broadwein, please have a seat
21 in the jury box. You've been
22 selected as a juror in this
23 case.

24 THE COURT: There'll be
25 one alternate. Strikes will

1 be one and two.

2 COURT CLERK: Juror
3 number one zero six, Stephen
4 Hamlett. One zero six.

5 MR. BOLUS: How many
6 alternates? Two?

7 THE COURT: There'll be
8 one alternate.

9 COURT CLERK: What say
10 you for the State?

11 MR. WILLIAMS: Please
12 submit the juror.

13 COURT CLERK: What say
14 you for the defendant?

15 MR. BOLUS: Seat the
16 juror.

17 COURT CLERK: Mr.
18 Hamlett, please have a seat in
19 the jury box. You've been
20 selected as a juror in this
21 case.

22 Your Honor, the jury
23 has been selected and are
24 seated.

25 THE COURT: Are there

1 any motions regarding the
2 selection of the jury? From
3 the State?

4 MR. WILLIAMS: No, your
5 Honor.

6 THE COURT: From the
7 defense?

8 MR. BOLUS: None, your
9 Honor.

10 THE COURT: To the
11 balance of the panel, we thank
12 you for your time and
13 attention. You're excused for
14 the remainder of the day.
15 Please call the jury
16 information line after six
17 o'clock this evening for
18 further instructions. I hope
19 you all have a great evening.
20 You're excused with the
21 Court's thanks.

22 (Whereupon, the
23 balance of the jury panel not
24 selected in this case leave
25 the courtroom at 4:12 p.m.)

1 THE COURT: Ladies and
2 gentlemen, you've been
3 selected for the case of the
4 State of South Carolina versus
5 Clark David Thomas. I
6 anticipate that we will begin
7 this case on Wednesday, maybe
8 sooner than that. I'm going
9 to excuse you to your jury
10 room for a short moment so
11 that I can discuss scheduling
12 with the attorneys. During
13 this break please do not
14 discuss the case or speculate
15 about what you may think it
16 may be about. Go with the
17 bailiffs. We should be out in
18 less than five minutes. We
19 appreciate your patience.

20 (Whereupon, the jury
21 leaves the courtroom at
22 4:22 p.m.)

23 THE COURT: Okay. Are
24 there any pretrial motions
25 that we can deal with?

1 MR. BOLUS: Your Honor,
2 I've had a protected day on
3 Friday. Obviously if we can
4 start Wednesday we'll probably
5 finish --

6 THE COURT: If we can
7 start on Wednesday we'll
8 finish by Thursday.

9 MR. BOLUS: I
10 appreciate the Court just
11 looking after me on that, and
12 I would request, I noticed the
13 name on the witness list and I
14 received three different
15 purported packages of
16 discovery and Ben Dubois who's
17 on this jury list, I
18 understand that he has an
19 extensive criminal record and
20 also is a, maybe a
21 co-conspirator of some kind or
22 he's in jail, working a deal.
23 I have nothing in my file
24 where there's statements of
25 whatever nature, what his

1 record is or I don't know what
2 the deal is or what's going
3 on, but I do recognize the
4 name and that's a surprise to
5 me from the solicitor. I have
6 nothing in my discovery and I
7 just request if there is
8 something on him, a record, a
9 deal, or statement, that I get
10 ahold of it.

11 MR. WILLIAMS: Your
12 Honor, the rap sheets are all
13 I've been given by the police
14 officer and I've given them to
15 Mr. Bolus before trial. Your
16 Honor, there's no -- I'm not
17 aware that Mr. Dubois has any
18 charges. If that becomes the
19 case, I'll certainly let Mr.
20 Bolus and your Honor know
21 that.

22 MR. BOLUS: If there's
23 been a statement made -- he
24 made an interview, I think he
25 was interviewed by the State

1 or your office or something,
2 and --

3 MR. WILLIAMS: It's my
4 understanding, your Honor, he
5 made a statement to the
6 victim's mother regarding this
7 defendant basically. It's
8 kind of convoluted. The
9 statement, however, was to
10 the, to the essence of asking
11 the defendant if he was
12 guilty. That's the only
13 thing, the guilt of the
14 defendant. That's my
15 understanding of what he said
16 and I'm not sure that I'll
17 present it.

18 MR. BOLUS: That would
19 bring up other problems. I
20 understand -- that is
21 interesting. You know, I
22 think it was something like
23 that. But you're saying the
24 --

25 THE COURT: Say that

1 again. I'm confused.

2 MR. WILLIAMS: It's
3 kind of a long, it's kind of a
4 long thing, Judge, and I --
5 essetnially the defendant's --
6 I'm sorry. The victim's
7 mother got the defendant's
8 phone from the defendant's
9 room which she had access to,
10 and there was a message on the
11 phone to this defendant from a
12 witness --

13 THE COURT: Asking if
14 he's guilty. Okay. Now I'm
15 clear. All right.

16 MR. WILLIAMS: And
17 obviously, your Honor, he's
18 still a witness that I'm not
19 sure we'll present, but the
20 testimony -- I haven't talked
21 to him to see what he says.

22 MR. BOLUS: But if he's
23 not your witness I can handle
24 that statement.

25 THE COURT: Well, he

1 said he's going to run - -

2 MR. BOLUS: Okay.

3 THE COURT: - - the
4 records on him and all the
5 non-police witnesses. Now my
6 other question was are there
7 any pending offers in this
8 case? I may have asked that
9 earlier, but I can't remember.
10 It's been a long day. I
11 apologize.

12 MR. WILLIAMS: Your
13 Honor, I haven't had any real
14 discussions with Mr. Bolus on
15 that topic.

16 THE COURT: Okay.

17 MR. WILLIAMS: I
18 certainly am willing to, but
19 it is my impression that the
20 defendant is not ammeanable to
21 any type of plea. All these
22 charges, your Honor, are "zero
23 to" offenses. Zero to thirty.
24 Zero to ten. So I think
25 certainly were he to plead

1 guilty to the charges he would
2 be subject to a certain degree
3 of punishment, your Honor. I
4 will tell the Court that I'm
5 going to ask for significant
6 prison terms.

7 THE COURT: Okay. Is
8 the victim here?

9 MR. WILLIAMS: She is
10 not, your Honor. I have
11 spoken with her. I expect she
12 would ask for significant time
13 as well.

14 THE COURT: Please
15 define "significant time."

16 MR. WILLIAMS: Ten to
17 twenty years. Given the
18 circumstances, your Honor,
19 and his previous record, I
20 would ask for significant
21 time.

22 THE COURT: What are
23 the facts that are alleged?
24 You mean after a trial you
25 would be asking for the

1 maximums?

2 MR. WILLIAMS: Upon
3 conviction, your Honor.
4 Essentially, your Honor, the,
5 the facts are that the
6 defendant was married to the
7 victim, that she was leaving
8 him, was trying to leave him.
9 They went back to bedroom, an
10 apartment, rather, a hotel
11 room, that the defendant was
12 living in and that the victim
13 had stayed at. She had some
14 things there. She went to get
15 those things. He then tased
16 her I want to say dozens of
17 times. There are several
18 marks that will be testified
19 to. Taped her up. There was
20 a tape on her chin. Tied her
21 up with zip-ties and sexually
22 assaulted her over two days.

23 About two days later
24 the North Charleston
25 Department finds the defendant

1 carrying the victim back up
2 off the freeway near
3 McDonald's and that's -- one
4 of the charges is kidnapping.
5 What -- they then carried her
6 back up to the freeway and
7 they asked her what's going
8 on. She then tells them about
9 what happened. They go back
10 to the room. Find the taser.
11 Find the duct tape. Find the
12 zip-ties. And she then goes
13 to the doctor.

14 THE COURT: Is there
15 any indication that there was
16 any alcohol or other
17 intoxicants involved?

18 MR. WILLIAMS: Yes,
19 your Honor. They -- the
20 victim told me that she
21 certainly had a drug problem
22 at the time. She is clean
23 now. But at the time she, she
24 will testify that she had
25 abused drugs with the

1 defendant.

2 THE COURT: What kind
3 of drugs?

4 MR. WILLIAMS: Crack
5 cocaine. Heroin. Alcohol I'm
6 sure. Now, I don't think,
7 your Honor, she will testify
8 that she was using drugs that,
9 at that time, however she will
10 testify that the defendant was
11 trying to put pills in her
12 mouth and she was trying to
13 spit them back out.

14 I believe, your
15 Honor, there was a lot of
16 evidence -- the defendant's
17 computer was seized and
18 information was taken off that
19 computer.

20 THE COURT: What was
21 taken off that computer?

22 MR. WILLIAMS: Well,
23 basically a journal that he
24 has. And there were letters
25 that he wrote, and those

1 letters indicate excessive
2 drug use. There was a lot of
3 drugs found in the apartment.
4 Most of it paraphernalia, but
5 there will be a S. L. E. D.
6 toxi -- a S. L. E. D. expert
7 that will testify there was
8 cocaine inside the room, crack
9 cocaine. There were also
10 syringes. And the cocaine was
11 in the form of spoons and
12 broken up, or in the form that
13 you would use to shoot up, the
14 cocaine in syringes. In fact
15 I think there will be
16 extensive testimony of drug
17 use, your Honor.

18 THE COURT: Okay. And,
19 Mr. Bolus, are you and your
20 client amenable to discussing
21 a plea? The Court takes no
22 position, but I just want to
23 explore before I send this
24 jury home and have them come
25 back, and, and determine a

1 time to set trial, to begin
2 trial.

3 MR. BOLUS: He
4 mentioned to me that he simply
5 is not interested in
6 discussing any kind of deal or
7 plea because he understands it
8 probably will result in at
9 least twenty years, no matter
10 what happens.

11 THE COURT: Well, I
12 think the State said they were
13 ammenable to ten to twenty,
14 but after trial they would be
15 seeking the maximum sentence,
16 which would not be unusual.

17 MR. BOLUS: Ten to
18 twenty?

19 MR. WILLIAMS: Yes.

20 THE COURT: That's as
21 far as what Mr. Williams just
22 said to me.

23 MR. WILLIAMS: Your
24 Honor, I said that's upon
25 conviction. Whether that's by

1 trial or jury I can only -- he
2 has forty-four prior
3 convictions, your Honor. I
4 believe about nine of those
5 are felonies. He has an
6 extensive record and I really
7 have to ask for thirty years,
8 whether he be convicted by
9 plea or at trial.

10 MR. BOLUS: Yeah.
11 That's what I thought.

12 THE COURT: Oh, I'm
13 sorry. I misunderstood. Do
14 you plan to call all these
15 witnesses, Mr. Williams? I'm
16 just -- I'm just asking for
17 scheduling purposes.
18 Sometimes you all put a bunch
19 of people on there and then
20 you only call five or six out
21 of there.

22 MR. WILLIAMS: I don't,
23 your Honor. I expect probably
24 ten of them, maybe twelve,
25 because certainly I think I

1 can - -

2 THE COURT: We can
3 really just start on Wednesday
4 and be done in time to finish
5 this by Thursday.

6 MR. WILLIAMS: A lot of
7 them are police witnesses,
8 your Honor.

9 MR. BOLUS: Does your
10 Honor have a problem with me
11 trying to make a little money
12 tomorrow at the office and be
13 available all day long - -

14 THE COURT: Not at all.
15 Not at all. No. No. No.
16 You're always free to make
17 some money. You're not going
18 to have to be here tomorrow.
19 I'm going to try another case
20 tomorrow.

21 MR. BOLUS: And I've
22 got your phone number so - -

23 THE COURT: So we would
24 anticipate beginning this case
25 on Wednesday and concluding it

1 on Thursday.

2 **MR. BOLUS:** And I'll
3 call -- and if you don't mind,
4 Sam, I'll call and just check
5 with you tomorrow.

6 **THE COURT:** All right.
7 Are there any pretrial motions
8 that we're going to have to
9 entertain?

10 **MR. BOLUS:** I don't
11 think so, except that, you
12 know, I think the one --

13 **MR. WILLIAMS:** There
14 was a search warrant executed.
15 There was also a consent to
16 search form that was filled
17 out that may result in that
18 issue.

19 **THE COURT:** Are there
20 any statements? Any I. D.
21 issues? Anything like that?

22 **MR. WILLIAMS:** There,
23 there was a, a statement made
24 by the defendant to the
25 initial officer about sort of

1 a defense and I intend to
2 introduce that. I think the
3 crux of it was that he
4 immediately said that she's
5 bi-polar and the next thing he
6 said was that as a result, the
7 crux of it was that it was a
8 consensual situation. I don't
9 know the exact content of that
10 statement, but I have to ask
11 the officer.

12 THE COURT: Okay. You
13 don't intend to use the
14 statement except just so that
15 --

16 MR. WILLIAMS: I do,
17 your Honor.

18 THE COURT: Oh. Oh.
19 Okay.

20 MR. WILLIAMS: I just
21 didn't know if Mr. Bolus
22 wanted to --

23 THE COURT: Do we need
24 to have a Jackson versus
25 Denno?

1 MR. BOLUS: For that
2 statement there?

3 THE COURT: Uh-huh.

4 MR. BOLUS: Oh, I like
5 that statement.

6 THE COURT: Okay. I
7 thought you would think it was
8 inculpatory -- exculpatory.
9 So we don't have to have a
10 Jackson versus Denno.
11 Correct?

12 MR. BOLUS: Correct.

13 THE COURT: There are
14 no Neal versus Biggers issues.
15 Correct?

16 MR. WILLIAMS: None.

17 MR. BOLUS: No, your
18 Honor.

19 THE COURT: And what
20 else would there be? I would
21 imagine, is there any request
22 to sequester witnesses?

23 MR. WILLIAMS: Your
24 Honor, I would, I would ask
25 that they be sequestered. The

1 defendant's daughter, I
2 believe --

3 **MR. BOLUS:** Basically
4 she's going to be a witness to
5 say that they were living
6 together. She lived with them
7 for six months and --

8 **THE COURT:** I don't
9 think there's any question --
10 is there -- is she going to
11 deny she was leaving with him?

12 **MR. WILLIAMS:** I think
13 she will deny she was living
14 with him at the time.

15 **THE COURT:** Oh, okay.

16 **MR. WILLIAMS:** She had
17 moved out but she had some
18 items there.

19 **MR. BOLUS:** His
20 daughter lived there. I don't
21 know why that would be a
22 sequester problem. She knows
23 nothing about the facts of the
24 case. It's just a question of
25 testifying that she lived with

1 her daddy and his wife, who's
2 the victim, certain period of
3 time to establish dates that
4 they were living together
5 rather than just this thing
6 that they were living
7 separated and this happened
8 out of the blue.

9 THE COURT: Is there
10 still a request to sequester
11 witnesses?

12 MR. WILLIAMS: Your
13 Honor, I think that if she is
14 privy to other testimony, that
15 certainly would be a problem
16 as to --

17 THE COURT: Well, it's
18 a two-way street. So if
19 you're asking me to sequester
20 Mr. Bolus's witness, I'm going
21 to sequester yours as well.

22 MR. WILLIAMS: I have
23 no problem with that, your
24 Honor. I just would ask the
25 victim be allowed to remain.

1 THE COURT: Well, under
2 state law the victim's always
3 allowed to be present as well
4 as your case agent, so
5 everyone will be sequestered
6 with the exception of the case
7 agent and the victim.

8 MR. WILLIAMS: Your
9 Honor, there may be a prior
10 act, if something's mentioned
11 Mr. Bolus probably needs to
12 review some of those letters.
13 I think I can take that up
14 with Mr. Bolus --

15 MR. BOLUS: There are
16 letters --

17 THE COURT: You're
18 talking about the emails?

19 MR. WILLIAMS: That
20 and, your Honor, he, he had a
21 prior CDVHAN against this
22 victim where it was almost the
23 exact same facts. She jumped
24 out of a moving vehicle, and I
25 can give that to Mr. Bolus.

1 That's a separate file.

2 THE COURT: Are you
3 seeking to introduce that?

4 MR. WILLIAMS: I'm
5 going to, your Honor.

6 THE COURT: How long
7 ago was it?

8 MR. WILLIAMS: It was
9 in 2003. About three years
10 prior to this incident.

11 THE COURT: Anything
12 that could potentially be
13 objectionable such as a prior
14 bad act or anything like that,
15 we need to take it up in
16 camera and then I'll make a
17 decision after I've heard it
18 and then that way we'll have a
19 proffer in the event that the
20 Court determines that it is
21 not admissible.

22 MR. BOLUS: Obviously I
23 would be arguing a line of
24 cases that say it's so close,
25 that's exactly when you don't

1 let it in. I would make my
2 objections and let your
3 Honor --

4 THE COURT: And when
5 you do that, just don't --
6 I'll expect that it will not
7 be discussed in opening.

8 MR. WILLIAMS: Fine.

9 THE COURT: Okay.
10 Anything else we need to take
11 up?

12 MR. WILLIAMS: Not from
13 the State, your Honor.

14 THE COURT: Anything
15 further from the defense? Any
16 other pretrial motions or
17 matters?

18 MR. BOLUS: No, ma'am.

19 THE COURT: Okay. Why
20 don't I anticipate depending
21 on how long it takes us to try
22 Mr. Murray's case, I
23 anticipate we'll begin this
24 trial on Wednesday. We will
25 keep you all, we'll keep you

1 posted and then I'm going to
2 bring the jury back in and the
3 message that they will have
4 will be Judge Jefferson's
5 jury, that will be the message
6 that they will be given. I
7 think we'll probably be able
8 to finish -- we will start
9 your case on Wednesday because
10 this case ahead of you only
11 has six witnesses. It's
12 fairly short. And we'll start
13 it at ten in the morning.

14 MR. BOLUS: So I'm
15 looking at probably ten in the
16 morning Wednesday unless I
17 hear different?

18 THE COURT: 9:30
19 probably because I -- the only
20 reason we're starting at ten
21 on -- tomorrow is because I
22 have some -- actually, you
23 know what? Probably ten on
24 Wednesday, too, because I have
25 a hearing on at 9:30 on

1 Wednesday.

2 MR. BOLUS: Ten it is.
3 Your Honor, I want to give my
4 client -- I just received some
5 things that were taken off his
6 computer and I'd like to give
7 it to him, and if the jail
8 says that they, that they can
9 look at it, let him look at
10 it, I need him to look at
11 these because some of these
12 things might be -- I need him
13 to add his comments on. I
14 don't think there's any reason
15 why I can't and that's what
16 I'll do. Is there any reason
17 why --

18 THE COURT: Yeah. Will
19 they let him take that back to
20 the jail with him?

21 DEPUTY VINCE: Yes,
22 ma'am.

23 MR. BOLUS: Thank you.

24 THE COURT: You're
25 welcome. Okay. I'll see you

1 all on Wednesday, but if you
2 all would stay with me while I
3 excuse the jurors, the jury,
4 that would be fine.

5 Please bring in the
6 panel.

7 (Whereupon, the jury
8 enters the courtroom at
9 4:52 p.m.)

10 THE COURT: You may be
11 seated. Ladies and gentlemen,
12 we appreciate your patience.
13 I am going to try a case
14 tomorrow that is ahead of
15 yours, and I anticipate that
16 we will conclude that case on
17 tomorrow or early Wednesday
18 morning and then we will begin
19 the trial of this case. I
20 need for you all to call the
21 jury information line after
22 six o'clock this evening and
23 after six o'clock on Tuesday
24 evening and then each night we
25 will have a message.

1 Tonight's message will
2 probably just tell you to call
3 back tomorrow night after six.
4 Your message that's applicable
5 to you will be Judge
6 Jefferson's jury. That is the
7 only message that you need to
8 listen to. However, I'm going
9 to ask the bailiffs to have a
10 pad and as you exit I need an
11 up-to-date phone number where,
12 whether it be cell phone or
13 home phone where you can be
14 reached most efficiently in
15 the event that we have some
16 shift in the schedule that is
17 outside of the phone call-in
18 system. Okay? So as you
19 leave, if you could provide
20 them with your most up-to-date
21 phone number that will be
22 greatly appreciated. And also
23 during this break please do
24 not discuss this case among
25 yourselves or with anyone

1 else. Please don't speculate
2 about what you think it may or
3 could be about. Please don't
4 do any Internet searches of
5 any type regarding any issue
6 or matter involved in this
7 case such as Google or
8 otherwise. That would be
9 completely inappropriate.
10 Please don't allow yourselves
11 to be exposed to any media
12 coverage if there is any.
13 That includes anything that
14 would be on radio, television,
15 newspaper, Internet, or
16 otherwise.
17 When you return to
18 the courthouse on Wednesday
19 morning, please do not have
20 any contact with anyone in or
21 about the courthouse. I don't
22 want any innocent
23 conversations to be observed
24 by any third party and
25 miscontrued.

1 You're going to come
2 directly to your jury room and
3 the bailiffs are going to show
4 you how to do that because
5 you're going to come up the --
6 through that doorway that is
7 adjacent to the third floor
8 and then will come directly to
9 your jury room.

10 We appreciate your
11 patience and if you would call
12 the jury information line
13 after six o'clock this evening
14 there will be a message, and
15 then if you're to call back
16 the next night there'll be an
17 additional message. In the
18 interim if something in
19 schedule shifts we will call
20 each of you individually.

21 Appreciate your
22 patience. If you'll go with
23 the bailiffs.

24 (Whereupon, the jury
25 leaves the courtroom at

1 5:04 p.m.)

2 THE COURT: All right,
3 gentlemen. We'll be in touch.

4 (Whereupon, the
5 matter is adjourned at

6 5:05 p.m.)

7

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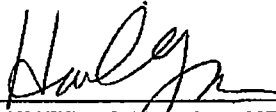
25

C E R T I F I C A T I O N

I, the undersigned HEATHER GAYLE BURNS, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the proceedings in the captioned case, relative to appeal, heard in the Court of General Sessions for Charleston County, South Carolina on the 7th day of July, 2008.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

DATED: 12-31-08



HEATHER GAYLE BURNS, R.D.R.
9TH CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
CASE NOS. 2006-GS-10-12295 & 12296

STATE OF SOUTH CAROLINA,

VS

CLARK DAVID THOMAS,

Defendant.

TRANSCRIPT OF PROCEEDINGS

July 9th, 2008

Charleston, South Carolina

(VOLUME 2, Pages 80 thru 428)

BEFORE:

THE HONORABLE DEADRA L. JEFFERSON, Judge

APPEARANCES:

NATHAN WILLIAMS, ESQ.
ASSISTANT SOLICITOR
ATTORNEY FOR STATE

MICHAEL T. BOLUS, ESQ.
ATTORNEY FOR DEFENDANT

HEATHER GAYLE BURNS, RDR
OFFICIAL COURT REPORTER
9TH JUDICIAL CIRCUIT

July 9, 2008

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WITNESSES

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
RACHEL CROWLEY				
by Mr. Williams	136		249	
by Mr. Bolus		215		254
KATHY LYNN MEREE				
by Mr. Williams	260		290	
by Mr. Bolus		282		293
CHRIS TALBOTT				
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ROBERT ANDREW COKER				
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JAMES WESSLEY ROWAN, II				
by Mr. Williams	395		416	
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EXHIBITS

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State's 2	Victim's clothes		156
State's 3	Photograph		165
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State's 25	Photograph	193	195
State's 26	Photograph	193	195
State's 27	Photograph	193	195
State's 28	Taser	203	203
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State's 30	Photograph	364	364
State's 31	Photograph	372	372
State's 32	Used electric ties	375	375
State's 33	Duct tape	378	379
State's 34	Used duct tape	378	379
State's 35	Leg irons	381	381
State's 36	Electrical ties	385	385

1 (Whereupon, the judge
2 enters the courtroom at 11:04
3 a.m.)

4 THE COURT: Mr.
5 Williams, from your list of
6 witnesses can you tell me who
7 you will not be calling?

8 MR. WILLIAMS: Your
9 Honor, I don't anticipate
10 calling Sergeant --

11 THE COURT: Well, I
12 mean I won't hold you to it.
13 I'm asking for scheduling
14 purposes.

15 MR. WILLIAMS: I don't
16 expect to call the seventh
17 witness, Sergeant Hallman.

18 THE COURT: Okay.

19 MR. WILLIAMS: I don't
20 expect to call Officer --
21 number nine through eleven,
22 which is Van Horn and Roberts,
23 and Van Horn is listed twice.

24 THE COURT: Okay.
25 Yeah. I saw that.

1 MR. WILLIAMS: I don't
2 expect to call number --

3 THE COURT: But you're
4 calling Van Horn, you just
5 struck him out -- oh, no.
6 He's listed twice. I see.

7 MR. WILLIAMS: Yeah. I
8 listed him twice.

9 THE COURT: Okay.

10 MR. WILLIAMS: I don't
11 expect to call witness twelve
12 and thirteen, Clark and
13 Dubois.

14 THE COURT: Okay. So
15 that then leaves us with six,
16 seven, eight, nine, ten
17 witnesses. You said some of
18 these witnesses would be
19 lengthy. Can you define
20 lengthy for me? Again I'm not
21 holding you to it. I just
22 need to know for scheduling
23 purposes because of course Mr.
24 Bolus is protected on Friday
25 and I need to gauge how late

1 we need to go tonight and how
2 early we need to start in the
3 morning so we can finish. And
4 I assume, Mr. Bolus, you said
5 you were only calling one
6 witness. Correct?

7 MR. BOLUS: One, one.
8 That's his daughter who will
9 only be five minutes.

10 THE COURT: Okay. And
11 do you anticipate your client
12 testifying?

13 MR. BOLUS: Yes, ma'am.

14 THE COURT: Okay. Who
15 else is -- yes?

16 MR. WILLIAMS: I'm
17 sorry.

18 THE COURT: No. That's
19 okay. I was thinking out
20 loud.

21 MR. WILLIAMS: I think
22 the first witness may be an
23 hour, the second maybe half an
24 hour. It's, it's the, the
25 third and the fifth who really

1 just processed a lot of the
2 evidence, but there's
3 photographs and items that
4 need to go into evidence. I
5 can always put up their
6 testimony up first because --

7 THE COURT: I figured
8 the rest of them were more
9 like crime scene people and
10 that --

11 MR. WILLIAMS: Right.
12 And they're --

13 THE COURT: -- and that
14 was pretty routine.

15 MR. WILLIAMS: Yeah.

16 THE COURT: Other than
17 the investigating officer and
18 the victim, and any other
19 witnesses.

20 MR. WILLIAMS: Right.
21 The --

22 THE COURT: How long do
23 you think it's going to take
24 you to finish your case in
25 chief?

1 MR. WILLIAMS: I hope
2 I'll be done by say noon
3 tomorrow.

4 THE COURT: That's what
5 I was counting on.

6 MR. WILLIAMS: Don't
7 hold me to that.

8 THE COURT: And then we
9 probably could finish
10 hopefully before lunch. We're
11 probably closing and charging
12 late.

13 MR. BOLUS: Your Honor,
14 I have something, something --
15 a matter for --

16 THE COURT: Sure.

17 MR. BOLUS: -- my
18 client. I've been looking for
19 a man named Keith Greenhill
20 throughout the duration of
21 this case, and I have numbers.
22 I tried reaching Mr.
23 Greenhill, he never called.
24 He is a witness in terms of
25 the parties living together at

1 the hotel room which would
2 bear significantly upon C. S.
3 C. first versus spousal
4 battery. The two aren't the
5 same. You have to live with
6 someone --

7 THE COURT: Well, he's
8 charged with CDVHAN.

9 MR. BOLUS: But he's --
10 they've raised the spousal
11 sexual battery, criminal
12 sexual conduct in the first
13 degree and you can't commit
14 that against a spouse if
15 you're living together. You
16 can only commit spousal.
17 One's thirty years and one's
18 ten. My client says that
19 Keith Greenhill now is in unit
20 one B at the Charleston County
21 Jail. That's the first time
22 I've ever heard that but I've
23 had my notes, I've been
24 looking for him for about a
25 year and a half. He's never

1 called me back and this
2 witness will testify that he
3 went to the hotel room that
4 this alleged action took place
5 and will testify the parties
6 were living together which
7 would mean obviously if the
8 jury found they were living
9 together could convict my
10 client of C. S. C. first. But
11 and my position is that a
12 spousal sexual battery is not
13 a lesser included so they,
14 they got to find he wasn't
15 living with my, with the
16 victim before they could
17 convict him of C. S. C. first.
18 He's the core witness, first
19 up, and my client is just
20 whispering in my ear while I'm
21 trying to listen to you.

22 **THE COURT:** Okay. Can
23 you find out --

24 **MR. BOLUS:** And that's
25 why --

1 THE COURT: Can you
2 find out if Mr. Greenhill is
3 in the county jail?

4 MR. BOLUS: Unit one B.
5 You've seen him in person?

6 THE DEFENDANT: He was
7 in court yesterday.

8 THE COURT: He may no
9 longer be at the detention
10 center.

11 MR. BOLUS: Keith
12 Greenhill. And I would
13 appreciate the Court's help on
14 that because there's no way
15 I. . .

16 THE DEFENDANT: White
17 male, approximately fifty-one
18 years old.

19 THE COURT: Did he
20 plead yesterday you're telling
21 me?

22 THE DEFENDANT: Yes,
23 ma'am.

24 THE COURT: If he plead
25 he's no longer in the

1 detention center.

2 MR. BOLUS: Sometimes
3 the people who --

4 THE COURT: If they, if
5 they get time they go straight
6 to R and E.

7 MR. BOLUS: Well,
8 whatever. I'd appreciate your
9 Honor --

10 THE COURT: I mean I
11 don't know whether he pled and
12 was released or whether he was
13 pled and sentenced or --

14 MR. BOLUS: He pled.

15 THE COURT: Then he's
16 already at R and E probably,
17 but we'll check.

18 MR. BOLUS: Okay.

19 Thank you.

20 THE COURT: All right.
21 As I understand it there were
22 no Jackson versus Denno
23 issues, no Neal versus Biggers
24 issues. The only was
25 sequestration which was

1 granted with the exception of
2 the victim by statute. Is
3 that correct?

4 MR. WILLIAMS: Yes,
5 your Honor. And the
6 investigating officer.

7 THE COURT: Yeah.

8 MR. WILLIAMS: Officer
9 Talbott who's at the counsel
10 table with me and I expect he
11 will be remaining throughout
12 the whole trial.

13 THE COURT: All right.
14 Is there anything else we need
15 to take up before we begin
16 with opening instructions and
17 the Court -- and opening
18 argument?

19 MR. WILLIAMS: Not by
20 the State, your Honor.

21 MR. BOLUS: Not by the
22 defense, Judge.

23 THE COURT: Please --
24 well, let's see here. Give me
25 one minute.

1 Okay. All right.

2 **MR. BOLUS:** Judge,
3 I've just been notified by
4 this deputy that Keith
5 Greenhill is a -- is still
6 there and I don't believe I
7 need him in an hour but --

8 **THE COURT:** Well, you
9 need to let us know when you
10 need him so that we can have
11 him transported and in all
12 likelihood we wouldn't need to
13 transport him until tomorrow.

14 **MR. BOLUS:** I would
15 need him after the State's
16 case is finished which is --

17 **THE COURT:** Then we --
18 what would we need to do have
19 him transported tomorrow?

20 **DEPUTY VINCE:** Well,
21 I'll call for him today so
22 that they'll bring him over in
23 the van.

24 **MR. BOLUS:** Well, I
25 wouldn't mind seeing him

1 downstairs.

2 THE COURT: Yeah. But
3 we don't need to transport him
4 today, do we? Is he going to
5 testify today?

6 DEPUTY VINCE: They're
7 still running them back and
8 forth so --

9 THE COURT: Oh. Okay.
10 So it wouldn't be an extra
11 trip for them. Okay. All
12 right.

13 MR. WILLIAMS: Judge,
14 you want this list names for
15 the jurors?

16 THE COURT: Sure.

17 MR. BOLUS: I have
18 narrowed this down for --

19 THE COURT: Is it Keith
20 Greenhill?

21 MR. BOLUS: Keith
22 Greenhill.

23 THE COURT: All right.
24 Is there anything else before
25 we bring in the jury and swear

1 them and get started?

2 MR. WILLIAMS: No.

3 THE COURT: From the
4 State?

5 MR. WILLIAMS: No,

6 ma'am.

7 THE COURT: From the
8 defense?

9 MR. BOLUS: No, ma'am.

10 THE COURT: Please
11 bring in the panel and have
12 number eighty-nine come in
13 last because he's going to be
14 the foreperson.

15 (Whereupon, the jury
16 enters the courtroom at
17 11:33 a.m.)

18 THE COURT: Ladies and
19 gentlemen, we appreciate your
20 patience and we apologize for
21 the delay. I was in the
22 process of trying the case
23 before you and we have just
24 completed those closing
25 arguments and the Court's

COURT'S OPENING

1 instructions on that case, so
2 please don't think that we
3 take your time for granted.

4 We're going to begin
5 the case of the State of South
6 Carolina versus Clark David
7 Thomas. If you would stand
8 for me, please, and raise your
9 right hand so that the
10 Court -- so that the clerk can
11 administer the oath to you.
12 You proceed.

13 (Whereupon, the jury
14 is sworn.)

15 THE COURT: Ladies and
16 gentlemen, I indicated the
17 case that we're about to try
18 is the State of South Carolina
19 versus Clark David Thomas.
20 What I will now say is
21 intended to serve as an
22 introduction to the trial of
23 this case. These remarks are
24 not an instruction on the law.
25 I will instruct you on the law

COURT'S OPENING

1 applicable to the case at the
2 end of the trial before you
3 retire to consider your
4 verdict. This is merely an
5 explanation of the procedure
6 that we will follow in the
7 trial of this case so that you
8 may better understand what may
9 be happening.

10 During the course of
11 this trial you will be given
12 the opportunity to take notes.
13 And the bailiff is going to
14 pass out note pads to you and
15 pens. There is a sticker on
16 the front of each note book.
17 If you would put your juror
18 number on that sticker so that
19 you will be able to readily
20 identify which notes belong to
21 you. And he will also give
22 you some pens to write with.

23 The defendant, the
24 defendant in this case is
25 charged by three indictments

COURT'S OPENING

1 with the charges of criminal
2 sexual conduct in the first
3 degree, criminal domestic
4 violence of a high and
5 aggravated nature, and
6 kidnapping, the elements of
7 which I will explain to you at
8 the conclusion of the case.
9 The, the indictments are
10 simply the charge by which the
11 case is brought into court and
12 they are not in any sense
13 evidence of any of the
14 allegations they contain.

15 The defendant has
16 pled not guilty to the
17 indictments. The State
18 therefore has the burden of
19 proving each of the elements
20 of the indictments beyond a
21 reasonable doubt, and it will
22 be your duty, ladies and
23 gentlemen, to decide and to
24 determine whether the State
25 has met that burden or not.

COURT'S OPENING

1 Your purpose as
2 jurors is to find and
3 determine the facts. You are
4 the sole judges of the facts
5 in this case. If at any time
6 I make any comment regarding
7 the facts, you must disregard
8 it. You are to determine the
9 facts from the testimony you
10 hear and the other evidence
11 introduced in court. Excuse
12 me.

13 It is up to you to
14 determine the inferences which
15 you feel may be properly drawn
16 from the evidence. It is
17 especially important that you
18 perform your duty of
19 determining the facts
20 diligently and conscientiously
21 because ordinarily there is no
22 way to correct an erroneous
23 determination of facts made by
24 a trial jury.

25 On the other hand and

COURT'S OPENING

1 with equal emphasis, the same
2 law that makes you the judges
3 of the facts makes me the
4 judge of the law. The law as
5 given by the Court is the only
6 law you may consider. You
7 must accept and follow it even
8 though you may disagree with
9 it.

10 I could not tell you
11 what the facts are and you
12 cannot disagree with the Court
13 about what the law is or what
14 the law should be. Your
15 responsibility is to take the
16 law as I instruct it and to
17 apply it to the facts as you
18 find them from the testimony
19 of the sworn witnesses and any
20 other evidence that is
21 introduced. After doing that
22 you will render your verdict,
23 a true and just verdict, under
24 the solemn oath that you have
25 just taken as jurors.

COURT'S OPENING

1 Until I advise you to
2 begin your deliberations you
3 must not discuss this case
4 with anyone, including your
5 fellow jurors, friends, family
6 members, and anyone involved
7 in this case. After the case
8 is submitted to you for
9 deliberation you must discuss
10 it only in the jury room among
11 your fellow jurors.

12 The attorneys and the
13 parties in this, in this case
14 have been advised not to speak
15 with you at all, so if you
16 should see them in the lobby
17 or in the garage or at a
18 restaurant and they don't
19 speak with you, please don't
20 think they're being
21 unfriendly. Just know that
22 they are strictly following
23 the Court's instructions.

24 During the trial do
25 not read, listen to, or watch

COURT'S OPENING

1 any news reports about this
2 case. This includes anything
3 that may be in the newspapers
4 or on the Internet, radio, or
5 television. You must not
6 consider anything you may have
7 read or heard about this case
8 outside the courtroom, whether
9 before or during the trial.
10 It is important and essential
11 that you keep an open mind and
12 not decide any issue in this
13 case until all of the evidence
14 has been presented, the
15 parties have made their
16 closing arguments, and I have
17 instructed you on the law
18 applicable to this case. It
19 is your solemn responsibility
20 to determine the guilt or
21 innocence of the defendant and
22 your verdict must be based
23 solely on the evidence as it
24 is presented to you in this
25 trial and on the law as I will

COURT'S OPENING

1 instruct you during and at the
2 close of the trial.

3 In just a moment the
4 solicitor will make what we
5 call an opening statement in
6 which he will explain to you
7 what he believes the issues to
8 be in this case. The attorney
9 for the defendant may also
10 make an opening statement,
11 although he is not required to
12 do so. What the attorneys
13 tell you during their opening
14 statements is not evidence in
15 this case. It is only their
16 contention as to what they
17 believe the issues to be.

18 The evidence in this
19 case will be presented to you
20 by the testimony of sworn
21 witnesses from the witness
22 stand and/or by exhibits that
23 may be induced into evidence.
24 From time-to-time during the
25 trial you may hear one of the

COURT'S OPENING

1 attorneys say something like,
2 your Honor, I object. Just as
3 in sports, business, or any
4 other structured activity we
5 have certain rules that we
6 must obey in the presentation
7 of evidence. These rules
8 insure that you receive the
9 most trustworthy and reliable
10 evidence available, and for
11 this reason you should not
12 hold an attorney's objection
13 against them, nor should you
14 conclude from the Court's
15 sustaining and overruling an
16 objection that I favor one
17 side or the other.

18 Also from
19 time-to-time may hear that
20 attorneys say something like,
21 your Honor, I believe we have
22 question of law or a matter of
23 law to discuss with you. Or
24 they may ask to approach the
25 bench. Or I may have them

COURT'S OPENING

1 approach the bench. Or I may
2 excuse you all from the
3 courtroom for a short while we
4 discuss matters of law. The
5 reason we do this is because,
6 as I've explained, you are the
7 finders of the facts and
8 sometimes when I'm discussing
9 matters of law with the
10 attorneys it might be
11 necessary for me to make some
12 comment about the facts in
13 connection with ruling whether
14 a statute or an evidentiary
15 rule or procedural rule
16 applies and for this reason we
17 exclude you from the courtroom
18 so that in no way will you be
19 influenced by anything that
20 the Court may say or do in
21 connection with the facts of
22 this case.

23 In determining what
24 the true facts are in this
25 case you must decide whether

COURT'S OPENING

1 or not the testimony of the
2 witnesses is believable. It
3 will be my responsibility to
4 rule as a matter of law as to
5 whether the testimony is
6 admissible at all or not. But
7 once it is admitted, whether
8 or not you believe it is
9 solely for you, the jury, to
10 determine.

11 In deciding whether
12 to believe a witness, you have
13 the right to consider the
14 interest of any witness, the
15 bias of any witness, the
16 prejudice of any witness, the
17 opportunity for the witness to
18 have seen the matters and
19 things about which the witness
20 may testify, and the way the
21 witness acts on the witness
22 stand or what we commonly
23 refer to as demeanor.

24 You have a right to
25 consider anything that is in

COURT'S OPENING

1 the record that will help you
2 evaluate the testimony of the
3 witnesses. That means that it
4 is your duty, ladies and
5 gentlemen, to pay close
6 attention to the witnesses, to
7 observe them, and to listen to
8 them and to pay close
9 attention to the attorneys and
10 the Court.

11 Although we know
12 sometimes it is very
13 difficult, please do not allow
14 your thoughts to wander, but
15 give strict attention to the
16 testimony so that at the end
17 of the testimony, after the
18 arguments of counsel and the
19 instructions on the law is
20 given by the Court, you will
21 then be in a position to
22 determine what the true facts
23 are and to apply the law to
24 those facts and thus render a
25 true and just verdict in this

COURT'S OPENING

1 case.

2 It is your added
3 duty, Mr. Foreman, to preside
4 in the jury room and to be the
5 jury spokesperson in court,
6 which means that if the jury
7 has any questions during
8 deliberations it is your
9 responsibility to write those
10 questions out.

11 Ladies and gentlemen,
12 I emphasize that the
13 foreperson's duty is
14 administrative and that that
15 person does not have any
16 greater vote or voice than you
17 do. It's simply that we must
18 have someone to communicate
19 with the Court for the jury
20 during deliberations and to
21 fill out the verdict form.
22 But, sir, I will give you
23 further instructions regarding
24 that at the conclusion of the
25 case.

COURT'S OPENING

1 As I indicated,
2 during the course of this
3 trial you will be given the
4 opportunity to take notes.
5 Please don't feel compelled to
6 take notes. Not everyone
7 finds note-taking helpful to
8 them. It is a privilege that
9 you may choose to exercise or
10 choose not to exercise. If
11 you should decide to take
12 notes, please don't allow
13 note-taking to become a
14 distraction to you because it
15 is essential that you rely on
16 your powers of observations in
17 observing the witnesses. You
18 may want to try to keep an
19 outline of the main points and
20 general arguments that are
21 being made to you. Once you
22 begin to deliberate you may
23 want to use your notes for the
24 purpose of refreshing your
25 memory. Please don't share

COURT'S OPENING

1 your notes with anyone. They
2 are for your specific and your
3 individual purposes. They're
4 to be used only to refresh
5 your own memory of what you
6 heard. Please be reminded
7 that juror notes should be
8 considered just as reliable as
9 the individual recollections
10 of other jurors.

11 Also during breaks
12 and recesses your notes will
13 have to be left in your seats.
14 Please rest assured that we
15 will secure your privacy and
16 that no one will read your
17 notes.

18 In order to preserve
19 everyone's rights, I will give
20 each party the opportunity to
21 take exception to anything
22 that the Court has said by way
23 of opening instruction. Are
24 there any exceptions from the
25 State?

COURT'S OPENING

1 MR. WILLIAMS: No, your
2 Honor.

3 THE COURT: From the
4 defense?

5 MR. BOLUS: None.

6 THE COURT: You may
7 proceed. I would ask that you
8 give the attorneys your
9 undivided attention and
10 actually one more thing before
11 I proceed, and I apologize.
12 We have had an addition to our
13 potential witness list, that
14 being a Mr. Keith Greenhill.
15 Is there any member of the
16 panel who is related by blood
17 or marriage to Keith
18 Greenhill?

19 (There is no
20 response.)

21 Is there any member
22 of the panel that has a close
23 personal, social, or business
24 relationship with Mr.
25 Greenhill?

COURT'S OPENING

1 (There is no
2 response.)

3 Let the record
4 reflect that the answer was no
5 to both questions.

6 You may proceed, Mr.
7 Williams.

8 MR. WILLIAMS: Thank
9 you, your Honor. May it
10 please the Court.

11 THE COURT: You're
12 welcome. Yes, sir, you may
13 proceed.

14 MR. WILLIAMS: This is
15 a case about control, about
16 force, about violence used to
17 maintain control. It's about
18 this defendant who took this
19 stun gun, put it against his
20 wife several times. Shocked
21 her. Binding her. Putting
22 tape over her mouth. Putting
23 cuffs on her feet. Forcing
24 his penis into her mouth,
25 forcing his penis into her

MR. WILLIAMS' OPENING

1 vagina. And he kept her for
2 at least a day under his
3 control.

4 This case started
5 back in June of 2006. The
6 victim in this case is the
7 defendant's wife, Rachel
8 Crowley. Back in June of 2006
9 Rachel was trying to turn her
10 back on this defendant. She
11 was trying to get away from a
12 lifestyle of drugs. She was
13 trying to get clean. And this
14 defendant wouldn't let her do
15 that. He was not going to let
16 her turn her back on him.

17 And back in June
18 she'd actually gotten away
19 from him, was staying with her
20 mother in a different
21 location. The defendant and
22 her had been staying together
23 at different times, and at one
24 point he had moved to the In
25 Towne Suites hotel and she had

MR. WILLIAMS' OPENING

1 some belongings there even
2 when she was staying with her
3 mom and she was turning her
4 back on him.

5 And that day was the
6 longest day of life. She
7 agreed to go to the hotel with
8 him to watch movies. She said
9 yeah, I'll come by there.
10 I'll watch some movies. I
11 need to get some things. And
12 she walked into the room, and
13 she'll tell you. He was
14 upset. He walked up to her,
15 she turned around, he stunned
16 her right on her stomach. And
17 that was the start of the
18 longest day of her life. From
19 that point she'll tell you, he
20 demeaned her. He spit on her.
21 He stunned her several times.
22 And you'll see. You'll see
23 photos of those burns from
24 that stun gun. You'll hear
25 the doctors say she had those

MR. WILLIAMS' OPENING

1 marks on her stomach.
2 You'll hear
3 detectives who will also talk
4 about the injuries she
5 sustained. But suffice it to
6 say it was a long day for
7 Rachel. She was held there
8 against her will, duct tape
9 put over her face, cuffs on
10 her feet. He tried to put
11 pills down her throat and he
12 continually stunned her with
13 this stun gun. You'll see
14 that some of them went so deep
15 that they'll leave scabs,
16 burns on the top of her skin.
17 You'll hear, you'll,
18 you'll hear, you will hear
19 from her that eventually the
20 defendant ran out of the room
21 and that when he left she went
22 with him. He brought her
23 along. He had torn her other
24 clothes off, cut them off.
25 She had some pajamas on. And

MR. WILLIAMS' OPENING

1 as they drove, she'll tell you
2 he started to nod off and she
3 made a desperate run for her
4 life. She jumped out of the
5 vehicle they were driving over
6 here on the north bridge, up
7 in North Charleston. She got
8 out and ran. She made it
9 under the bridge and at that
10 point an important person
11 comes into the picture. This
12 is Officer Chris Talbott
13 sitting right here, and when
14 people say North Charleston's
15 finest, you're going to hear
16 on that day he was North
17 Charleston's finest. He may
18 have saved somebody's life
19 because as Officer Talbott
20 pulled up the defendant is
21 carrying Rachel, he's getting
22 frustrated, upset, horrible
23 condition, and he's carrying
24 her up from the bridge, and
25 Office Talbott stops him and

MR. WILLIAMS' OPENING

1 stops what was the longest day
2 in Rachel's life. And what he
3 did then is nothing short of
4 investigation, investigation,
5 and you'll see why we have
6 respect for law enforcement.

7 Officer Talbott
8 immediately begins to talk
9 with Rachel about what
10 happened and she talks to him,
11 tells him what happened, and
12 then he realizes what he has.
13 He sees those injuries. He
14 goes over and is talking to
15 another officer, and as he's
16 talking to that officer about
17 what he just saw, the
18 defendant overhears it. And
19 what's the defendant say? He
20 yells out "that's the way she
21 likes it." That statement is
22 the best he can come up with.
23 Is this being what somebody
24 might like?

25 Officer Talbott sees

MR. WILLIAMS' OPENING

1 through that. He realizes
2 what was going on. He then
3 proceeds to do the
4 investigation, and I may have
5 summarized it, but you'll hear
6 about it. They go to the
7 hotel room. They go inside
8 the hotel room and what do
9 they find? They find the
10 taser. They find leg irons.
11 They find duct tape balled up
12 in the garbage can. There's
13 -- you'll see pictures.
14 There's actually still a piece
15 of it across Rachel's chin
16 where she's taped up. There's
17 still marks on her wrists
18 where she was bound with
19 zip-ties. They find zip-ties
20 in the trash. You'll see the
21 pictures of inside that room
22 that show the evidence of what
23 this defendant did.

24 Rachel goes to the
25 hospital, obviously, with the

MR. WILLIAMS' OPENING

1 injuries she has. Another
2 detective who works at the
3 hospital -- Officer Talbott
4 goes to the scene and he
5 processes that scene along
6 with Investigator Coker.
7 You'll hear from him. So
8 there're officers at the
9 scene, collecting the evidence
10 which you'll see.

11 Then there's
12 Investigator Rowan who goes to
13 the hospital and talks with
14 Rachel. She goes to the
15 hospital, she gives a
16 statement, she tells the
17 second detective what
18 happened. You'll hear from
19 the doctor, the one that
20 Rachel had talked to, and that
21 pretty much is the end of the
22 investigation, and there's
23 certainly evidence and you'll
24 hear a lot more about it. How
25 they got his computer, looked

MR. WILLIAMS' OPENING

1 at his computer, checked
2 everything. What they found
3 inside that room, drugs, they
4 found the taser, they found
5 leg irons, they found the
6 tape. There's a video camera
7 that the defendant had set up
8 that was monitoring the front
9 of the house or the front of
10 the apartment complex, or the
11 hotel, and you're going to
12 hear about the hidden camera
13 pointed out the front window.
14 When someone came to that
15 front door, he was videotaped.
16 You're going to see all that
17 evidence.

18 What you're going to
19 hear about is that the
20 defendant was exercising
21 control. Control over his
22 wife who trying to turn her
23 back on him. In the State of
24 South Carolina, forcible sex,
25 aggravated force, whether it's

MR. WILLIAMS' OPENING

1 oral or vaginal, is criminal
2 sexual conduct, and in this
3 case the defendant is charged
4 with criminal sexual conduct
5 in the first degree.

6 If you tase somebody
7 using a weapon such as this,
8 it's criminal domestic
9 violence of a high and
10 aggravated nature if that, if
11 that person is your spouse,
12 which Rachel was here, the
13 defendant's spouse at the
14 time.

15 And finally another
16 charge is being this
17 kidnapping, and at the end of
18 the case the judge will tell
19 you all the charges mean, but
20 kidnapping is really nothing
21 less than what Officer Talbott
22 saw. Certainly it's tying
23 somebody up, putting tape on
24 them, doing all those things.
25 But it's really nothing less

MR. WILLIAMS' OPENING

1 than carrying somebody from
2 under a bridge up to a car
3 against their will. And
4 that's what the defendant's
5 charged with in this case; the
6 confinement, the rape, and
7 finally the assault or
8 criminal domestic violence.

9 You'll hear from a
10 lot of witnesses. All of that
11 was one of the longest days in
12 Rachel Crowley's life. She's,
13 she's got her problems and
14 she'll tell you about that.
15 She was in a bad situation.
16 She knows better now. She'll
17 probably do better now. She
18 did use drugs at the time but
19 she was trying to get out of
20 that place but this defendant
21 wouldn't let her, but she was
22 trying to turn her back. And
23 she'll tell you now she's
24 cleaned up, but it will still
25 be a long afternoon for her,

MR. WILLIAMS' OPENING

1 sitting up here, telling you
2 all and all the other people
3 in this courtroom about what
4 might be the most horrible
5 thing that ever happened to
6 her. She'll tell you that.
7 You'll hear from her mother
8 who's going to talk about her
9 efforts in trying to get out
10 of this relationship. You're
11 going to hear from North
12 Charleston's finest, Officer
13 Talbott. You'll hear about
14 the detectives who
15 investigated the case, who
16 processed the scene, and
17 everybody that was involved.

18 At the end of this
19 case, after you've heard all
20 those witnesses, that's not a
21 toy. It's not a sex toy.
22 It's a weapon. At the end of
23 this case -- you're going to
24 hear how he used that weapon
25 to control his wife. At the

MR. BOLUS'S OPENING

1 end of this case I'm going to
2 ask that you find him guilty,
3 and hold him accountable for
4 that conduct.

5 THE COURT: Mr. Bolus.

6 MR. BOLUS: Ladies and
7 gentlemen, this case is about
8 degradation of these people,
9 degradation that began about
10 when they married, when they
11 became drug addicts. It's
12 about people, how low that
13 people can get when they're
14 under the influence of,
15 shooting heroin, shooting
16 crack cocaine, taking Xanaxes,
17 taking hydrocodone which is
18 Lortabs, shooting and taking
19 methadone. You put that stuff
20 together, let me tell you,
21 you're going to hear about
22 nasty sex. I don't who's
23 sexually adventuresome in this
24 courtroom and who isn't, but
25 there are some people that are

MR. BOLUS'S OPENING

1 deviants and they do it
2 together, and you may not like
3 me telling you this, but
4 that's what you're going to
5 hear for the next couple of
6 days. It's a whole lot of one
7 thing. Two people are
8 completely obliterated on
9 drugs, they do strange things
10 and I think you all read
11 newspapers and heard
12 incidences about how can
13 people be doing that? Well,
14 it happens.

15 First thing. I've
16 never been shocked by one of
17 those. I don't know what it
18 feels like. I don't want it
19 on me. But some people, they
20 may like it; they may not like
21 it. I don't know. But him,
22 it's like a dog and pony show.
23 He already -- he wants to get
24 you convinced by hearing that
25 thing, oh, my, God, somebody's

MR. BOLUS'S OPENING

1 getting it because somebody
2 has a taser. But you're going
3 to hear about their sexual
4 relationship throughout the
5 marriage and you're also going
6 to hear that they were living
7 together. No matter what
8 they're saying, they were
9 living together at Folly Beach
10 for about seven months
11 together, doing their drug
12 activity, their sexual
13 activities, and then they
14 moved together to the hotel.

15 Mr. Williams has
16 already admitted, quote in his
17 opening statement, she had her
18 things there. Well, if a
19 person has their things in a
20 hotel room and they've been
21 living with their husband, a
22 legally, legally married
23 husband, they're living in the
24 hotel room.

25 The officers's

MR. BOLUS'S OPENING

1 investigation established two
2 people living in the room.
3 Two people. Well, there's
4 only two people you're going
5 to really need to be concerned
6 about over this whole two
7 days, and that's the alleged
8 victim and my client. And why
9 does that matter? Well, it
10 matters a lot because in this
11 state a person cannot be
12 guilty of criminal sexual
13 conduct, which is what he'd
14 accused of doing. Cannot be
15 guilty of criminal sexual
16 conduct, 16-3-651, which is
17 the first degree, he's been
18 charged with first degree
19 criminal sexual conduct, like
20 you'd normally get if you're
21 charged with raping a stranger
22 or something like that, cannot
23 be convicted of criminal
24 sexual conduct if the victim
25 is the legally, legal spouse,

MR. BOLUS'S OPENING

1 if the victim is the legal
2 spouse, unless the couple is
3 living apart.

4 Now, going to bring
5 up the million dollar
6 question, and you have to find
7 beyond a reasonable doubt,
8 because this man here can't
9 just put on a machine and
10 think the lights are going to
11 go out and everybody's guilty.
12 He's got to prove something to
13 you. He's got to prove,
14 because he already knew her
15 things were still in there,
16 he's got to prove beyond a
17 reasonable doubt that this
18 woman was not living with my
19 client. Now that may sound
20 strange, to me it sounds
21 strange, but a lot of it stems
22 from the old common law.
23 Husbands and wives cannot rape
24 each other under the common
25 law. But the law has been

MR. BOLUS'S OPENING

1 changed. If they're not
2 living apart, you can rape
3 your wife. You can be guilty
4 of criminal sexual conduct.
5 But if they're living together
6 then the law is as plain as
7 day and the judge is going to
8 charge you that at the end of
9 the, at the end of the
10 evidence.

11 So it's not just a
12 simple question. I got
13 witnesses that will put them
14 living together. You've got
15 two people living in a hotel
16 room. Now just because she
17 may have stayed at her
18 mother's house a night here
19 and a night there, if you find
20 that they are married -- which
21 they are -- and they're living
22 together, no matter what they
23 ever do, no matter how
24 debauched, degraded,
25 sickening, and stupid it is,

MR. BOLUS'S OPENING

1 my client is not guilty of
2 criminal sexual conduct in the
3 first degree and you have to
4 acquit him.

5 He's accused of
6 kidnapping. You're going to
7 have to find that she was
8 there against her will. If
9 she's living in the hotel room
10 and she's there and they're
11 doing things to each other,
12 it's no kidnapping.

13 So I'm asking you,
14 ladies and gentlemen, it's
15 going to get nasty in here. I
16 don't make up the facts. I'm
17 sure Mr. Williams, he will do
18 his best to show that the
19 facts show that my client's
20 guilty, but when you go back
21 into the jury room the only
22 thing you have in your stomach
23 is a sense of revulsion and
24 like you don't want to hear no
25 more of this well, you know

MR. BOLUS'S OPENING

1 something? That doesn't
2 equate to guilt. That doesn't
3 mean my client's guilty of
4 anything. That just means
5 we're dealing with two people
6 that lost their morality, lost
7 their humanity, and degraded
8 themselves. It all stems from
9 drugs, and you will hear a lot
10 about that. Both these people
11 are drug addicts. Both have
12 cleaned up several times, and
13 she's been cleaned up. She
14 will testify to that and again
15 you've got a problem here
16 because if you don't like what
17 happened in that hotel room
18 that doesn't translate to
19 sending him -- finding him
20 guilty of the consequences of
21 kidnapping, rape, and
22 everything else he's facing.
23 You have to be convinced
24 beyond a shadow of a doubt of
25 everything that the State has

MR. BOLUS'S OPENING

1 proven, and my client will
2 testify and, and the end of
3 the day or tomorrow, you've
4 got to make the decision.

5 So keep an open mind.
6 People do strange things to
7 each other sexually these days
8 and times. And it doesn't
9 mean that this courtroom is
10 the place where ultimate
11 justice is going to be served.
12 It may be another place, but
13 people do a lot of strange
14 things to people in this
15 country and around the world.
16 I don't like some of those
17 things and I sit around
18 reading my newspapers saying
19 how can people, you know,
20 they're going to be judged and
21 all that, but I can't send
22 them to jail unless they
23 committed a crime. And that's
24 what you have to do today and
25 I appreciate your attention

1 today and tomorrow. Thank
2 you.

3 THE COURT: Mr.
4 Williams, you may proceed.

5 MR. WILLIAMS: Thank
6 you, your Honor.

7 THE COURT: You're
8 welcome.

9 MR. WILLIAMS: State
10 would call Rachel Crowley.

11 THE COURT: I'm sorry.
12 I couldn't hear you.

13 MR. WILLIAMS: Rachel
14 Crowley.

15 THE COURT: Ma'am, if
16 you would come to the witness
17 stand to be sworn.

18 COURT CLERK: This way,
19 ma'am.

20

21

22

23

24

25

Crowley - - Direct

1 RACHEL CROWLEY,
2 having been called as a
3 witness, is duly sworn and
4 testifies as follows:

5 THE COURT: You may
6 proceed.

7 MR. BOLUS: Your Honor,
8 I'm sorry but I can't see the
9 witness. I can either move
10 over there, but I can't see
11 the witness.

12 THE COURT: Oh, yeah.
13 We can't move it. If you'd
14 like to move you're welcome
15 to.

16 MR. BOLUS: Okay.

17 THE COURT: Or you can
18 move over to that end of the
19 table.

20 MR. BOLUS: That's
21 fine.

22 THE COURT: Is that
23 better for you?

24 MR. BOLUS: Yes, ma'am.
25 Thank you.

Crowley -- Direct

1 THE COURT: Mr.
2 Williams, you may proceed.

3 MR. WILLIAMS: Thank
4 you, your Honor. May it
5 please the Court.

6 THE COURT: Yes, sir.
7
8
9
10

11 DIRECT EXAMINATION BY
12 MR. WILLIAMS:

13 Q Your name is Rachel
14 Crowley?

15 A Yes, sir.

16 Q Rachel, you've been
17 in here during this whole opening?

18 A Yes, sir.

19 Q You heard what I said
20 and what the defense attorney
21 said?

22 A Yes, sir.

23 Q You doing okay?

24 A Yes. Yes, sir.

25 Q You nervous today?

Crowley -- Direct

1 A Just a little.

2 Q You, if you need some
3 time you tell me you need some
4 time. Okay? There's water there
5 for you if you need water. Just
6 you let me know, okay?

7 A I'm not really
8 nervous. I'm just a little
9 scared.

10 Q That's
11 understandable, but I want to let
12 you know if you need time, you
13 need anything, you just let me
14 know. Okay?

15 A Yes, sir.

16 Q You remember June of
17 2006?

18 A Yes.

19 Q And I'm going to make
20 sure that -- you know you got to
21 speak up and say yes or no so that
22 the court reporter can write down
23 what you're saying.

24 A Okay.

25 Q Okay. Is that, do

Crowley -- Direct

1 you remember June of 2006?

2 A Yes, sir, I do.

3 Q The were you married
4 at that time?

5 A Yes.

6 Q Are you still married
7 now?

8 A Yes, sir.

9 Q Who are you married
10 to?

11 A Clark David Thomas.

12 Q When did you first
13 get married to Mr. Thomas, to the
14 defendant in this case?

15 A Three, four years ago
16 I think.

17 Q And in June of '06
18 how long had you been married to
19 him?

20 A Two years I think.
21 I'm trying my best to remember
22 this.

23 Q Now I want to make
24 sure we're clear on this. What
25 happened then was a, something

Crowley - - Direct

1 horrible, fair to say?

2 A Yes.

3 Q You've been trying to
4 deal with that since then?

5 A Yes, sir. I've tried
6 my hardest to block this out of my
7 mind and now I have to relive this
8 all over again.

9 Q But you and I have
10 sat down and talked about that?

11 A Yes. Yes, sir.

12 Q And we've gone over
13 that incident and you're, you're
14 okay with talking about it now?

15 A Yes. Yes, sir.

16 Q When - - to the best
17 you can, what - - where were you
18 staying in June of 2006? Where
19 were you living?

20 A June, 2006. Well - -

21 Q Let me, let me ask
22 you, a couple weeks before this
23 incident where were you living?

24 A I was at In Towne
25 Suites with him and I was staying

Crowley -- Direct

1 at my mother's some and with him.

2 Q Now when you were
3 living with him at the In Towne
4 Suites --

5 A Yes.

6 Q -- what do you mean
7 by you were trying to stay with
8 your mother, you were staying at
9 your mother's house?

10 A I was talking about
11 leaving him, you know, and I just
12 couldn't take it any more.

13 Q When you say you
14 couldn't take it any more, what
15 couldn't you take?

16 A Well, the beatings,
17 you know, and the drugs, you know.
18 I was trying to get cleaned up.

19 Q And when you say you
20 went to stay with your mother or
21 live with your mother, what did
22 you do?

23 A I don't understand.

24 Q Did you stay at her
25 house?

Crowley - - Direct

1 A Yes, sir.

2 Q Did you sleep
3 overnight there?

4 A Yes, sir.

5 Q And that was in an
6 effort to get away from the
7 defendant?

8 A Yes, sir.

9 Q Do you remember the
10 day that this incident we're in
11 court over happened?

12 A Yes, I do.

13 Q Where were you at the
14 day before the incident happened?

15 A My mother's.

16 Q And how long had you
17 been at your mother's at the time
18 before this incident?

19 A Maybe just a day or
20 two.

21 Q And that was to live
22 with your mother?

23 A Yes, sir.

24 Q To get away from the
25 In Towne Suites?

Crowley - - Direct

1 A Uh-huh.

2 Q So when you were
3 living with your mother, what was
4 the defendant's reaction to that?

5 A Well, he seemed a
6 little - - he was upset at first
7 but then when I went back to get
8 my things he seemed really calm,
9 you know, at first, which
10 surprised me.

11 Q When you say he was
12 upset, how did you know if he was
13 upset?

14 A Because he didn't
15 want me to go.

16 Q What did he say if
17 anything?

18 A Please stay, you
19 know, I don't, I don't want to
20 really be without you.

21 Q Can you speak up a
22 little bit?

23 A I'm sorry. Is that
24 better?

25 Q I'm going to ask

Crowley -- Direct

1 that -- you know Annie Matticks of
2 our office?

3 A Yes.

4 Q Why don't you talk
5 loud enough so that Annie can hear
6 what you're saying. Okay?

7 A Okay.

8 Q Is that all right?

9 A All right.

10 Q And what was he
11 saying to the best of your
12 recollection?

13 A Just please stay. I
14 don't want you to leave, you know.

15 Q But you did anyway?

16 A Yes, sir.

17 Q When you say you
18 wanted to go back, what was the
19 reason?

20 A I'm sorry?

21 Q You said you were
22 going to go back to the In Towne
23 Suites.

24 A Yes. To get my
25 things and he said that would be

Crowley - - Direct

1 okay, you know. He seemed pretty
2 calm on the telephone, you know.
3 And then maybe we'd spend a little
4 bit of time together.

5 Q Did you talk to him
6 about maybe watching movies or
7 trying to I think you said spend
8 some time together?

9 A Yes, but he, he was
10 aware that I was not going to stay
11 that night.

12 Q You had told him
13 that?

14 A Yes.

15 Q And did you tell him
16 why?

17 A Yes, I did.

18 Q What were your
19 reasons for why you weren't going
20 to stay?

21 A Because I couldn't
22 live like that any more. I was, I
23 didn't know if he was going to hit
24 me again or explode or, you know,
25 just - - I was living a different

Crowley -- Direct

1 life.

2 Q When you went back
3 there, do you recall what clothes
4 you were wearing?

5 A Yes, I do. It was
6 a -- my favorite, actually.
7 Actually, my favorite pair of blue
8 Adidas pants and I think it was a
9 orange and black shirt my mother
10 had just bought me.

11 Q When you went to the
12 In Towne Suites, how did you get
13 there?

14 A He came and picked me
15 up from my mother's.

16 Q Was your mother there
17 when he picked you up?

18 A Yes, sir.

19 Q And he then took you
20 you to the In Towne Suites?

21 A Yes, sir.

22 Q When you got to the
23 In Towne Suites tell the jury what
24 happened when you went inside.

25 A I, I went inside and

Crowley -- Direct

1 I was standing beside the bed,
2 between the bed and the bathroom,
3 and I turned around to look at him
4 and raised my arms up. I was
5 going to give him a hug, you know.
6 I was trying to be cordial. And
7 he hit me in the ribs with a
8 taser.

9 Q Now when you say you
10 went in to get your things, what
11 things were you trying to get?

12 A I had a few pairs of
13 clothes there and things, you
14 know. It was a hotel so I didn't
15 have very many things there.

16 Q And when he -- you
17 say he hit you or let me ask you
18 this. When us you went to be
19 cordial, what do you mean by that?

20 A Just I was being, you
21 know, calm and, and I mean I just,
22 that I felt really bad about the
23 whole thing, but he knew and I
24 knew we couldn't be together. It
25 wasn't, it just wasn't working

Crowley -- Direct

1 out. I couldn't take being hit
2 any more.

3 Q And when he, when you
4 say he hit you with a stun gun,
5 tell the jury how that happened.

6 A I don't really -- I
7 just, I turned around and I had my
8 arms lifted up to give him a hug
9 and he hit me right here with the
10 . . .

11 Q Had you seen that
12 stun gun or taser before?

13 A No, sir. Never.

14 Q And when he did that
15 how did it feel? Was the -- how,
16 how did it feel to get the taser
17 to hit you?

18 A Excuse me.

19 Q Take your time.

20 A It was the most
21 terrifying thing that I've ever
22 been through.

23 Q What was the result?
24 What, what did that have as far as
25 a physical effect on you?

Crowley -- Direct

1 A As, as of now or?

2 Q No. At the time.

3 A At the time.

4 Q At the time. Did it

5 make you fall or what was the

6 result?

7 A All kind of things.

8 Q I want to, I want to

9 go over those slow. And if you

10 don't, you know, if, if it's hard

11 to explain, I understand. Did,

12 did it feel like an electric shock

13 or did it feel like a. . .

14 A It just -- my whole

15 body, I, I couldn't, at first I

16 couldn't believe what was

17 happening to me. I, I just

18 couldn't believe it. This was

19 supposed to be my husband. It

20 felt like I was being punched.

21 Felt like I was on fire.

22 Q After the, after he

23 did that and you explained you had

24 your arms up and he hit you with

25 the taser, what was the next thing

Crowley - - Direct

1 that happened?

2 A He tied, he tied me
3 up with zip-ties on the floor and
4 continued to shock me.

5 Q Did, did the
6 defendant have a profession, like
7 a job or like a work that he did?

8 A He was an
9 electrician.

10 Q Was that normal for
11 him to have like zip-ties around
12 for part of his job?

13 A I, I could say yes,
14 probably. I mean . . .

15 Q But when you say he
16 tied you up with those zip-ties,
17 what do you mean?

18 A I, he put my hands
19 behind my back and he tied my
20 ankles together.

21 Q Were you on the
22 ground, on the bed?

23 A Yes. I was on the
24 ground.

25 Q And that was after

Crowley -- Direct

1 you had been tased?

2 A (Whereupon, the
3 witness nods head.)

4 Q And you say he, when
5 he zip-tied your hands behind your
6 back or in front of you?

7 A Uh-huh.

8 Q Which, which was it,
9 if you recall?

10 A There was, there was
11 different times. He, he cut them
12 off and tied them in front or in
13 back, but the first time was
14 behind my back.

15 Q I want to, and I know
16 it's difficult. I want to go
17 through it as best you can
18 sequentially. So the first time
19 after you got tased and fell,
20 where do you recall him tying your
21 hands?

22 A In the, in the, at
23 the foot of the bed.

24 Q Was there any
25 conversation or any -- I want say,

Crowley - - Direct

1 use that term loosely, anything.
2 being said by you or by him at
3 this point?

4 A Well, he was spitting
5 on me and telling me, you know,
6 that I was worthless and a whore
7 for leaving him. He thought I was
8 leaving him for someone else, I
9 guess.

10 Q Did he tell you at
11 that point that he thought you
12 were leaving him for somebody else
13 or anything about that?

14 A Yes.

15 Q What, what was he
16 saying?

17 A That I was a slut and
18 I was worthless, that I was
19 cheating on him, and all these
20 things that - - I never left his
21 side. There, there wouldn't. . .

22 Q So as he's saying
23 these things to you and you were
24 on the ground, what happens next?

25 A He shocks me

Crowley -- Direct

1 repeatedly and there's duct tape,
2 he puts duct tape over my mouth.
3 I do remember that.

4 Q Where were you when
5 he put the duct tape over your
6 mouth?

7 A Still, still on the
8 floor.

9 Q How long does it go
10 on that you're, I want to just
11 kind of go through this as best we
12 can, but I want you to be able to
13 tell the jury everything. How
14 long is it that you're on the
15 floor with your hands tied and he,
16 he stuns you on the ground?

17 A Hours.

18 Q How many times would
19 you say he stunned you while you
20 were on the ground?

21 A Oh, my, gosh. I lost
22 count after -- I mean I, I don't
23 even know. Thirty, you know. I
24 just, I just kept counting. I
25 just thought I was going to black

Crowley -- Direct

1 out and I was trying to keep count
2 and I just, I was trying.

3 Q Where was he stunning
4 you at or shocking you at?

5 A All over. On my
6 neck. On the insides of my
7 thighs. On my ribs. On my
8 stomach. On my chest. Even on
9 my -- on the bottoms of my feet.

10 Q Did, did that, did
11 when he used the stun gun did it
12 leave little marks, little red
13 marks on where it was being
14 applied?

15 A Yes. Yes.

16 Q As you were on the
17 ground did you have your clothing
18 on?

19 A At, at -- sorry. At
20 this point yes, I did.

21 Q At some point did
22 something change as far as your
23 clothing?

24 A Yes.

25 Q When was that?

Crowley -- Direct

1 A He had put me on the
2 bed and he had already undone
3 zip-ties. Put me own the bed and
4 he ripped my pants off and ripped
5 my shirt and. . . I just --

6 Q Could you tell -- go
7 ahead.

8 A I said those, those
9 were my favorite pair of pants and
10 then he cut them up with scissors
11 and then he zip-tied me again and
12 put the duct tape back on my mouth
13 because I was talking to him and
14 started shocking me with the taser
15 again.

16 Q So at that point did
17 you have any clothing on when you
18 were on the bed?

19 A No, sir.

20 MR. WILLIAMS: I'm
21 going to have this marked
22 State's proposed one and two.

23 THE COURT: Have you
24 shown those to opposing
25 counsel?

Crowley -- Direct

1 MR. WILLIAMS: Is it
2 all right if I mark them
3 first?

4 THE COURT: See if he
5 has an objection to that.

6 MR. BOLUS: No
7 objection.

8 THE COURT: They'll be
9 marked and admitted without
10 objection.

11 (Whereupon, the
12 victim's clothing is received
13 and marked as State's Exhibit
14 Nos. 1 and 2 in evidence.)

15 Q Rachel, I'm going to
16 show you what's been marked
17 State's, and been admitted now as
18 State's Exhibit one and two. Do
19 you recognize those items?

20 A Yes. Yes, I do.

21 Q I'm going to show you
22 first of all State's one. Does
23 that show the tear you were
24 talking about on your shirt?

25 A Yes, it does.

Crowley - - Direct

- 1 Q It's going from the
2 arm, down to the, to the sleeve?
3 That's what the defendant did?
- 4 A Yes.
- 5 Q Showing you State's
6 two, these pants have like a, a
7 snap-off system?
- 8 A Yes. Yes, sir, they
9 do.
- 10 Q Did those, did those
11 snaps come undone?
- 12 A Yes, sir.
- 13 Q But you had said that
14 he just - - they came off that way
15 but then he damaged them
16 otherwise?
- 17 A Yes. Cut, cut them
18 with scissors.
- 19 Q And that cut is like
20 along the leg there?
- 21 A Yes.
- 22 Q Along the leg up
23 higher?
- 24 A Yes, sir.
- 25 Q And that was what he

Crowley -- Direct

1 did to spite you, I guess?

2 A Yes, sir.

3 Q And at his point,
4 Rachel, you had gone back to the
5 house, you'd been tased. Could
6 you keep count of how many times
7 you were tased?

8 A At first I tried, but
9 after that, no. I, I was trying
10 to focus on just breathing.

11 Q So you lost count of
12 the number of times you'd been
13 stunned?

14 A Yes, sir.

15 Q You'd been tied on
16 the ground and then brought up to
17 the bed?

18 A Yes, sir.

19 Q I want you to do your
20 best to give an approximation of
21 how much time went by in that
22 process?

23 A Hours. Few hours.

24 Q What was the
25 defendant doing during these

Crowley -- Direct

1 hours?

2 A Well, he, he would
3 talk to me and cuss me and spit on
4 me. Hit me a couple of times, and
5 I remember that. I had my eyes
6 closed a lot, you know.

7 Q What was he saying
8 or, or, when he was talking to
9 you?

10 A He, he just said he
11 wanted me dead, you know. That I
12 was worthless and that I was a, a
13 slut and different things because
14 he had thought I had cheated on
15 him or I was going to live with
16 someone else.

17 Q Did he make specific
18 accusations of that?

19 A Yes.

20 Q Did -- you said he
21 hit you. Where did he -- how did
22 he hit you?

23 A In my face. He
24 cracked a couple of my teeth, I've
25 fixed. And ribs and, and between

Crowley -- Direct

1 my, my legs a lot.

2 Q Once you were on the
3 bed and, and your clothes were
4 off, were you retied?

5 A Yes. Yes, sir.

6 Q How did he tie you
7 when you were up on the bed?

8 A With the zip-ties.

9 Q Was there any -- did
10 you see any drug use going on?

11 A Yes, I did.

12 Q When -- well, I guess
13 I should say had you seen any up
14 to this point?

15 A I don't -- no. No,
16 sir.

17 Q So you're, you're now
18 tied up on the bed and he's, he's
19 taking your clothes off. What,
20 what happens when you're on the
21 bed or what do you remember
22 happening?

23 A Well, he had tied me
24 up again and put the duct tape
25 back over my mouth and he kept

Crowley -- Direct

1 going into the bathroom, you know,
2 and I had my eyes shut a lot, you
3 know. I was, I was scared.

4 Q And what was going
5 on? What could you see going on
6 or hear going on?

7 A Just him. He'd stay
8 yelling at me. He got on the
9 phone a couple times and talked to
10 people.

11 Q And all this time you
12 were on the bed, tied?

13 A Yes, sir.

14 Q Were your feet tied?

15 A Yes, sir.

16 Q Were they the same
17 way, with the ties?

18 A Yes. Yes.

19 Q As that went on, what
20 happened next?

21 A He just, he kept
22 repeatedly tasing me. He, he
23 would cut my zip-ties, you know,
24 and then put more on. At one
25 point when I asked to use the

Crowley -- Direct

1 restroom and he picked me up and
2 threw me over his shoulder and
3 brought me in the, in the bathroom
4 and after that he had handcuffed
5 me and shackled, shackled me and
6 was tasing me repeatedly and I do
7 remember him threatening to throw
8 me in the bath tub with the water
9 running and shock me.

10 Q When you say he
11 shackled you, where was that?
12 What did he shackle you to if you
13 remember?

14 A A chair. He shackled
15 me and put me in the chair. Yeah.
16 He had shackled me to a chair.
17 He, he kept doing and undoing
18 them, zip-tying me and unzip-tying
19 me, switching back and forth.

20 Q Was he saying or,
21 anything about why he was doing
22 that or could you tell why he
23 would shackle you or unshackle
24 you?

25 A He didn't want me to

Crowley -- Direct

1 leave him. He said that he was
2 going to kill me.

3 Q I'm trying to figure
4 out why, when he unshackled you
5 would you do anything or was it --

6 A No. I would stay
7 perfectly -- I was terrified to
8 move.

9 Q And all he would
10 really say was he didn't want you
11 to leave him?

12 A Yes.

13 Q Approximately how
14 much time if you could tell had
15 gone by to this point? I mean how
16 many hours, approximately?

17 A I don't, I don't
18 know. It was, it was well after
19 dark. I mean I could barely see
20 because the windows were, were,
21 the curtains were taped shut
22 except for the camera.

23 Q Tell the jury about
24 the camera. What was the camera.

25 A It, it was a

Crowley - - Direct

1 surveillance set-up pointed
2 outside of the window and I laid
3 there all night, tied up, watching
4 these people walk by, knowing that
5 they couldn't help me.

6 Q Was the defendant
7 watching the camera as well?

8 A Yes.

9 Q Had you seen that
10 there before?

11 A No. I know that he
12 had had it, though, you know, but
13 I didn't know why, and it was
14 never set up before.

15 Q Was he watching that
16 camera?

17 A Yes, sir.

18 Q While you were inside
19 there?

20 A Yes.

21 Q Rachel, I'm going to
22 show you a series of photos and
23 then ask you to sort of identify
24 them, them for the jury, if you
25 could.

Crowley -- Direct

1 MR. WILLIAMS: Your
2 Honor, I'm going to show these
3 all to defense counsel for a
4 second.

5 THE COURT: And they'll
6 need to be marked
7 individually.

8 Any objection to the
9 photos?

10 MR. BOLUS: No
11 objection.

12 THE COURT: Marked and
13 admitted without objection. I
14 need you to mark each one of
15 them individually and make
16 sure that reference is made to
17 the appropriate number.

18 MR. WILLIAMS: Yes,
19 your Honor.

20 (Whereupon, the
21 photographs previously
22 referred to are received and
23 marked as State's Exhibit Nos.
24 3 through 12 in evidence.)

25 THE COURT: You may

Crowley -- Direct

1 proceed.

2 Q Rachel, I want to
3 show you the first, what's been
4 admitted now as State's exhibit
5 eight and State's exhibit nine.
6 I'll try to do it that way.
7 There's a little bit blocked out.
8 Does that show the camera you were
9 talking about?

10 A Yes. Yes, sir, it
11 does.

12 Q Now that would have
13 been, I'm going to show you
14 State's --

15 A But that's -- it
16 looks it might be from the
17 outside.

18 Q I show you State's
19 exhibit eight as well. That's
20 that same window from the front of
21 the hotel?

22 A Yes.

23 Q I'm going to show you
24 now State's four. Do you
25 recognize what that shows?

Crowley -- Direct

1 A Yes, sir, I do. That
2 shows the outside of the hotel
3 room.

4 Q What about the
5 television?

6 A It's where he had it
7 hooked up to.

8 Q Did that show the
9 camera with a, like sort of a
10 direct feed from the camera to the
11 T. V.

12 A Yes, sir.

13 Q So that's that T. V.
14 you would have been seeing?

15 A Yes, sir.

16 Q Is that the bathroom
17 you were talking about as well?

18 A Yes, sir.

19 Q I'll put up State's
20 five which shows that same
21 television.

22 A Yes.

23 Q I'm going to put up
24 State's exhibits ten and eleven.
25 Do you recognize what's in that

Crowley - - Direct

1 picture?

2 A That looks like the
3 duct tape that he was taping my
4 mouth with.

5 Q And eleven as well,
6 is that that same duct tape?

7 A Yes. Yes.

8 Q When you say he was
9 taping with, you with the duct
10 tape, how he was taping you?
11 Where, where was he taping?

12 A Well, he at one point
13 he used it on my hands and legs,
14 which I remember was extremely
15 painful. He just, he would tape,
16 put it over my mouth and rip it
17 off and put it on, rip it off,
18 he'd put it on, rip it off.

19 Q So it was on your
20 mouth as well?

21 A Yes.

22 Q Okay. I'm going to
23 show you State's three. You
24 recognize what that item is?

25 A Yes. Yes, I do.

Crowley -- Direct

1 Q Is that one of the
2 ties that was being used?

3 A Yes. Yes, it is.

4 Q I'm going to show you
5 State's twelve as well. You
6 recognize the, the item depicted
7 in that photograph?

8 A Yes, I do.

9 Q And those are the
10 shackles you talked about?

11 A Yes.

12 Q Now, Rachel, we're at
13 the point where you said you were
14 on the bed and you then went to
15 use the bathroom and then were
16 shackled to the chair. What
17 happened as you were shackled to
18 the chair to the best of your
19 recollection?

20 A Like -- I'm sorry
21 that I said, I'm trying hard to
22 block this out of my mind, so I'm
23 trying the best I can to remember
24 it.

25 Q What, what, just tell

Crowley -- Direct

1 the jury what you remember as best
2 you can.

3 A I just remember the
4 pain of him shocking me again and
5 again and again.

6 Q Did he shock you
7 other times while you were on the
8 bed?

9 A Yes.

10 Q I'm sorry. In the
11 chair?

12 A Yes.

13 Q Did he say anything
14 to you during that time?

15 A Just repeated the
16 same things that I've been saying.
17 Called me terrible names.

18 Q We asked, I asked you
19 earlier if you'd seen any drug use
20 up unto, up until the time you
21 were on the floor while you were
22 on the floor. Was -- did you see
23 any drug use up to this time?

24 A I know he kept going
25 in the bathroom, you know.

Crowley -- Direct

1 Q Do you know why?

2 A I'm sorry..

3 Q Go ahead.

4 A I, I mean we both
5 were drug users, you know, but I
6 was trying to get clean at this
7 time and I hadn't, I was sober at
8 this point. So I mean he said he
9 was. He kept going to the
10 bathroom and I was too scared to
11 do anything anyway because I was
12 afraid it would make my heart
13 stop, you know, with the taser
14 and. . .

15 Q Was the bathroom a
16 place that you knew him to use
17 drugs?

18 A Yes.

19 Q Had you used any
20 drugs that day?

21 A No.

22 Q Now you say, I want
23 to make sure we're clear on this,
24 you said that you had used drugs
25 before?

Crowley -- Direct

1 A Yes.

2 Q And you were trying
3 to get clean?

4 A Yes.

5 Q How long had it been
6 since you last used drugs?

7 A Just, just a few
8 days, you know.

9 Q I want to ask you now
10 as you sit here today
11 testifying --

12 A Yes, sir.

13 Q -- are you clean
14 today?

15 A Yes, sir. I'm
16 seventy days clean today.

17 Q Are you involved in
18 any kind of program?

19 A Yes. I actually go
20 to therapy for this now. We
21 talk -- I go four days a week for
22 this and my, my past drug
23 addiction, and I attend N. A.
24 meetings and A. A. meetings.

25 Q Did you get, did you

Crowley -- Direct

1 get a chip for --

2 A Yes, sir. I just
3 picked up my sixty-day chip ten
4 days ago.

5 Q So that sixty-day
6 chip is sixty days clean?

7 A Yes.

8 Q And you say you've
9 been going to counseling?

10 A Yes.

11 Q That's for, for the
12 trauma of what happened?

13 A Yes. Yes. That is,
14 this is addressed as well in
15 there. Yes. It's a big issue in
16 there.

17 Q So you hadn't been
18 using any drugs that day?

19 A No, sir.

20 Q Did you ever see the
21 defendant take drugs?

22 A I saw him with the
23 needles and things.

24 Q Were there needles
25 and things around --

Crowley -- Direct

1 A Yes.

2 Q -- the suite?

3 A He kept saying he was
4 going to, you know, stick me with
5 them and I was scared because I
6 was always real careful about
7 that, but they were everywhere,
8 you know. They were everywhere.

9 Q Were there -- I'm
10 going to go sequentially. So you
11 were on the bed at that point. He
12 had said some things to you on
13 the, on the bed, and had shocked
14 you some on the bed. What
15 happened next to the best of your
16 recollection?

17 A He, he said that I
18 was -- I don't remember the exact
19 words he used, but, but I was
20 going to have sex with him and I
21 told him I didn't want to, you
22 know. He said that I didn't have
23 any choice. I told him that he,
24 at this point he was my husband,
25 and it didn't have to be this way.

Crowley - - Direct

1 It didn't have to be that way.

2 Q Did he force sex upon
3 you?

4 A Yes. Yes.

5 Q I know it's hard to
6 talk about. If you can, tell the
7 jury what he did.

8 A When he, he took the
9 duct tape off of my mouth and he
10 kept calling me slut and he told
11 me I was worthless and nobody
12 would ever want me. I can't . . .

13 Q Take your time.

14 A He took the duct tape
15 off of my mouth and he put himself
16 inside of my mouth and I just kept
17 begging him to stop.

18 Q And you say he put
19 himself inside your mouth. His
20 penis in your mouth?

21 A Yes. Yes.

22 Q After he did that,
23 did he assault you sexually in any
24 other ways?

25 A Yes.

Crowley - - Direct

1 Q If you could, I know
2 it's hard, would you tell the jury
3 what other sexual assaults you
4 recall happening?

5 A And he was, he was
6 beating me during all this. And
7 he put the duct tape back over my
8 mouth so I couldn't scream and he
9 was then with that, then he kept
10 slapping me in between my thighs
11 and I just kept telling him he was
12 my husband and he didn't have to
13 do it like this.

14 Q Did, did he assault
15 you other times sexually?

16 A Yes.

17 Q What else did he do?
18 I know it's hard.

19 A He put himself inside
20 of me.

21 Q Put his penis in your
22 vagina?

23 A Yes. Yes.

24 Q How many times did he
25 do that or how many separate acts

Crowley -- Direct

1 would you say happened?

2 A Just, just that one
3 once. But with my mouth it was,
4 I, I don't remember how many
5 times. I just had my eyes closed.

6 Q Was it more than
7 once?

8 A Yes.

9 Q Did all of this occur
10 while you were in the chair?

11 A No. No, sir. I'm
12 sorry. He did put me back on the
13 bed at this point.

14 Q How long were you on
15 the, in the chair for?

16 A A hour. I don't
17 know. Different times on the
18 chair. On the floor. On the bed.
19 It was, seemed just -- in the
20 bathroom. He moved me around
21 wherever he saw fit, I guess.

22 Q And as he moved you
23 around was he saying anything to
24 you, doing anything?

25 A Yes. That I wasn't

Crowley -- Direct

1 going to go live through this.
2 You know, that I would never see
3 my family again.

4 Q At the -- Rachel, I
5 want to, I want to try to move
6 this along. You said that he
7 sexually assaulted you several
8 times putting his penis your
9 mouth?

10 A Yes.

11 Q Was that -- and that
12 was in different places?

13 A Yes. Most of the
14 time I remember I was on the bed.
15 It was on the bed.

16 Q Did he tape you other
17 times as well?

18 A Yes. All through
19 this. Yes. I remember --

20 Q And did -- go ahead.

21 A I remember him
22 changing the batteries three times
23 on the taser.

24 Q And at the end of
25 the -- well, how, how long did

Crowley -- Direct

1 this go on for? I mean how long
2 were you either tied up or sort of
3 at his disposition?

4 A At least a whole day.
5 It was going into dark when I had
6 gotten there. Daytime and dark
7 again, was all a blur.

8 Q Did you eat anything?

9 A No, sir.

10 Q Did he give you any
11 water or beer or anything like
12 that?

13 A No. At one point
14 when he was putting the pills in
15 my mouth he had given me something
16 to drink the pills with and I said
17 no. It was a bottle. I remember
18 it being a bottle and I said no, I
19 don't want the bottle. I want, I
20 want the can. And he did. He
21 gave me the can so I could spit
22 the pills back in the can and he
23 couldn't see it. I don't know
24 what they were.

25 Q Let me ask you about

Crowley -- Direct

1 the pills. Tell the jury what you
2 mean, what the, what is it when
3 you talk about with these pills.
4 I never heard that.

5 A He, he had kept -- he
6 had this baggie of pills and he
7 said that if I took enough of
8 these then he wouldn't have to
9 kill me himself and I would
10 overdose. And I was really
11 scared, so that's when I asked
12 him. And he put the can, he had
13 to put the can up to my mouth
14 after I --

15 Q Did he try to put the
16 pills in your mouth?

17 A Yes. Yes, he did put
18 the pills in my mouth then.

19 Q Did you swallow some
20 of them?

21 A I, probably one or
22 two. I was terrified. I remember
23 asking the doctor about them and
24 trying to describe them to him.
25 But I spit most of them back out

Crowley -- Direct

1 into the can because I was scared
2 to take them. And I was also
3 scared that if he caught me doing
4 that that I won't have a chance to
5 get out of there at all.

6 Q So approximately what
7 time in this, in this event did
8 that happen, do you recall?

9 A It was at night. I
10 know that. This is after the
11 first time he had taken the duct
12 tape off of my mouth.

13 Q During the evening he
14 sexually assaulted you several
15 times?

16 A Yes.

17 Q Picked you up, tied
18 you up? You say that lasted you
19 think about twenty-four hours?

20 A Yes. At least.

21 Q Apart from this
22 accusing you of cheating and
23 generally demeaning, did he say
24 anything else to you, that you
25 recall?

Crowley -- Direct

1 A No. That I wasn't
2 going to live through this. That
3 he was going to kill me and then
4 kill himself and leave town.

5 Q Did you see any other
6 drug use or did you see any drug
7 use apart from just the defendant
8 going to the bathroom?

9 A I mean I saw the
10 stuff around the room.

11 Q Could you, did you
12 have an opinion as to whether he
13 was using drugs based on his
14 demeanor?

15 A Yes. Yes.

16 Q Tell the jury about
17 that.

18 A He was very,
19 extremely paranoid. He'd go to
20 the window a lot and watch the
21 T. V. screen which would be the
22 only time I would have a break
23 because he would tase me
24 repeatedly with his taser.

25 Q Okay. Had you seen

Crowley -- Direct

1 him on drugs before?

2 A Yes.

3 Q Could you tell that
4 he was --

5 A Yes.

6 Q -- changing his
7 behavior during the evening?

8 A Yes.

9 Q And that was
10 consistent with drug use?

11 A Yes.

12 Q At some point after
13 all of this you were able to
14 leave. Correct?

15 A Yes.

16 Q Tell the jury how
17 that came about.

18 A Well, with the
19 history that I have with those
20 things, I knew that the types of
21 drugs, you know, he was using, the
22 heroin, that when it ran out he
23 would get sick, you know, or he'd
24 need more and he said he'd run out
25 and he was going to go get some

Crowley -- Direct

1 more and I thought to myself that
2 this was my chance, you know.
3 This was my chance.

4 Q When you say chance,
5 what do you mean?

6 A To get out. To
7 escape. And I thought he was
8 going to leave me there, but he
9 didn't. He put me in the car with
10 him. He had my hair wrapped
11 around his, his hands and walked
12 me to the car which was not in
13 front of the hotel. It's not far,
14 you know, where the car is.

15 Q So when you all got
16 to the hotel or, I'm sorry, when
17 you got to the car what happened?

18 A He pushed my face
19 into the floor board and told me
20 to stay down. He hit me a few
21 more times.

22 Q What -- go ahead.

23 A In the face and
24 busted my lip.

25 Q When that happened,

Crowley -- Direct

1 where did you go? What happened
2 once you were in the car?

3 A I, I couldn't really
4 tell where we were going because I
5 was on the floor board. I had
6 noticed -- I was trying to pay
7 attention to my surroundings. I
8 knew that this might be my last
9 chance. He started to nod off or
10 he had pulled off the side of the
11 road. I don't know where anything
12 is exact. I just remember him
13 stopping or slowing down and I
14 flipped the lock on the inside the
15 car.

16 Q Could you see outside
17 the car at that point?

18 A Yes. He had let me
19 up when he had started nodding off
20 to grab the wheel. I do remember
21 that. Then the --

22 Q When you say nodding
23 off, what does that mean?

24 A Just kind of falling
25 asleep and I guess he was tired.

Crowley - - Direct

1 I don't know how long he'd been
2 out before he picked me up but I
3 know that he didn't sleep when I
4 was there.

5 Q So as he seems like
6 he's nodding off, what happens?

7 A He lets me go to grab
8 the wheel and - -

9 Q So that he could grab
10 or the wheel or you could?

11 A Yes. So that he
12 could grab the wheel with both
13 hands because he was falling
14 asleep and he slowed down and.
15 Possibly stopped. I don't exactly
16 remember. I know he slowed down
17 enough for me to flip the lock and
18 open the door and run across the
19 highway.

20 Q What - - did you get
21 out of the car?

22 A Yes.

23 Q Was it still moving
24 do you remember when you got out?

25 A I, I'm sorry. I

Crowley -- Direct

1 don't exactly know. It was either
2 very slow or stopped.

3 Q When you were able to
4 get out of car what did you do?

5 A I ran across the
6 highway and I realized where I
7 was. I was on Cosgrove bridge.

8 Q So you ran across
9 the -- is there a median like?

10 A Yes.

11 Q Like a -- not grass,
12 though. It's a --

13 A It's --

14 Q It was just a
15 divider?

16 A Yes. It's -- yes.

17 Q Did you get across
18 the median?

19 A I did. And I went
20 the opposite way down the highway
21 because I figured he couldn't
22 follow me in the car and then I
23 ran underneath the bridge and I
24 turned around and there he was.
25 He had come across the median in

Crowley - - Direct

1 the car, parked it halfway on the
2 road and halfway off the road. I
3 remember that. I remember all
4 this. This is when things start
5 getting really vivid. And - -

6 Q So the car was half
7 on the road and half off?

8 A Yes.

9 Q What happens at that
10 point?

11 A He gets out and runs
12 after me and when he runs after me
13 and he catches me.

14 Q What happened when he
15 caught you?

16 A He told me that I was
17 going to die, that I, that I F.ed
18 up for trying to run, that he was
19 thinking about letting me live.

20 Q What - - did he catch
21 you at that point?

22 A Yes.

23 Q Did he pick you up?

24 A Yes, sir.

25 Q Where did he take

Crowley -- Direct

1 you?

2 A He, he was taking me
3 back up to the car.

4 Q And what happened as
5 he was taking back up to the car?

6 A I was trying to get
7 away.

8 Q And you say that.
9 Kicking? Scratching? What were
10 you doing?

11 A Yes. Yes. I was
12 kicking and trying to get away and
13 I was so wore out. I barely had
14 enough energy to do anything.

15 Q After you did that,
16 after you were trying to get away,
17 did you notice anything? What,
18 what happened next?

19 A When I, when he had
20 me picked up?

21 Q As he was carrying
22 you.

23 A I just -- we got
24 close to the car and then Officer
25 Talbott and a few other officers

Crowley - - Direct

1 pulled up and, and made him put me
2 down, and I just laid on the
3 ground and I couldn't believe that
4 it was over, that I was alive.

5 Q You recognize Officer
6 Talbott?

7 A Yes, I do.

8 Q Have you seen him
9 since that day? You just saw him
10 today in court?

11 A Today in court.

12 Q You hadn't seen him
13 since he was there?

14 A No, sir, I haven't.

15 Q Once Officer Talbott
16 got there, did he speak with you?

17 A Yes, he did.

18 Q Did you tell him what
19 happened?

20 A Yes, I did.

21 Q And I, when I say
22 that, as soon as he got there you
23 explained all these things you've
24 been telling the jury?

25 A Yes. I did.

Crowley -- Direct

1 Q And after I'm
2 guessing that took a little bit of
3 time, five, ten minutes to talk to
4 Officer Talbott?

5 A Yes.

6 Q After he spoke with
7 you, where did you go?

8 A They put me in the
9 back of the ambulance and brought
10 me to a hospital.

11 Q Did you see a doctor
12 at the hospital?

13 A Yes. Yes, sir. I
14 did.

15 Q Did you tell the
16 doctor what happened?

17 A Yes, sir, I did.

18 Q Was there a detective
19 at the hospital?

20 A Yes, sir. There was.

21 Q Do you remember his
22 name?

23 A Detective Rowan.

24 Q Did you speak with
25 Detective Rowan?

Crowley - - Direct

1 A Yes, I did.

2 Q Tell him what

3 happened?

4 A Yes, I did.

5 Q And at that, that

6 actually took two sections, you

7 told him, and then did you go for

8 care?

9 A Yes, sir.

10 Q But he came back and

11 got the rest of your statement?

12 A Yes, he did. The

13 very next day.

14 Q And you gave him

15 details, the same thing you told

16 this jury today?

17 A Yes, I did.

18 Q Once you got to the

19 hospital and talked with

20 Detective Rowan, did he take

21 photographs?

22 A Yes, sir, he did.

23 THE COURT: We'll take

24 a brief recess at this time.

25 I want to try to finish this

Crowley -- Direct

1 witness's testimony before we
2 take our luncheon recess.

3 (Whereupon, a recess
4 was called at 12:37 p.m.)

5 (At this time
6 photographs are received and
7 marked as State's Exhibit Nos.
8 13 through 27 for
9 identification.)

10 (Whereupon, the judge
11 enters the courtroom at 12:54
12 p.m.)

13 (Whereupon, the jury
14 enters the courtroom at 12:56
15 p.m.)

16 RACHEL CROWLEY,
17 previously sworn as a witness,
18 resumes the stand.

19 THE COURT: Mr.
20 Williams, you may proceed.

21 MR. WILLIAMS: Thank
22 you, your Honor.

23 THE COURT: You're
24 welcome.

25 CONTINUED DIRECT

Crowley -- Direct

1 EXAMINATION BY MR. WILLIAMS:

2 Q Rachel, I think
3 before the break we were talking
4 about how Detective Rowan was at
5 the hospital and had taken
6 photographs.

7 A Yes, sir.

8 Q Do you recall him
9 taking pictures of some of your
10 injuries?

11 A Yes, sir.

12 MR. WILLIAMS: Your
13 Honor, at this time I'll move
14 to admit State's exhibits
15 thirteen through twenty-seven
16 into evidence.

17 THE COURT: Any
18 objection?

19 MR. BOLUS: No, your
20 Honor.

21 THE COURT: Marked and
22 admitted without objection.

23 MR. WILLIAMS: Thank
24 you, your Honor.

25 THE COURT: You're

Crowley -- Direct

1 welcome.

2 (At this time
3 photographs are received and
4 marked as State's Exhibit Nos.
5 13 through 27 in evidence.)

6 Q Rachel, I first want
7 to ask you about those injuries.
8 I'm going to show you a series of
9 photographs and if you'll explain
10 to the jury what they depict.
11 First is State's twenty. Is that
12 what you were wearing at the time?

13 A Yes.

14 Q Where did those
15 clothes come from?

16 A He dressed, he
17 dressed me before I left out the
18 hotel room with him.

19 Q Those are basically
20 pajamas for lack of a better word?

21 A Yes.

22 Q I'm going to show you
23 State's twenty-five. That's a
24 more distant shot. Was that taken
25 to show, show some of the marks?

Crowley -- Direct

1 A Yes.

2 Q Those are the pajama
3 bottoms you were wearing?

4 A Yes.

5 Q I'm showing State's
6 twenty-six. Can you tell the jury
7 what, I know it's a little bit
8 bleached out, but tell the jury
9 what those marks are?

10 A Yes. He --

11 Q What were they caused
12 by?

13 A The taser.

14 Q Is that where the
15 prongs would touch?

16 A The prongs where he
17 would press it into my skin.

18 Q And it would leave a
19 burn mark for lack of a better
20 word?

21 A Yes.

22 Q So each of those
23 marks shows where a prong would
24 have hit you at different times?

25 A Yes.

Crowley -- Direct

1 Q Some were longer than
2 others. Is that fair to say?

3 A Yes.

4 Q Those look like some
5 of them actually had, were
6 actually scabbing over on it?

7 A Yes. Yes.

8 Q That was the same
9 thing, where this shock was going
10 through?

11 A Yes.

12 Q I'm going to show you
13 State's eighteen first. That
14 shows your chin?

15 A Yes.

16 Q And the black mark
17 there, what is that?

18 A That's from the duct
19 tape.

20 Q So that's adhesive
21 from where the duct tape was at?

22 A Yes. Yes. Or, or
23 possibly taser marks. There's
24 taser marks and duct tape right
25 there. I'm not exactly sure which

Crowley -- Direct

1 one was which.

2 Q And there are some
3 red marks, and do you know, can
4 you tell if that's a taser or what
5 that is, necessarily?

6 A That could have been
7 any, any of them.

8 Q I'm going to show you
9 State's twenty-three as well.
10 Zoom in if I can. You can faintly
11 see in this picture I believe that
12 there's some marking here. Is
13 that adhesive as well?

14 A Yes. Yes.

15 Q It's also upon your
16 lip, there was adhesive on your
17 mouth still?

18 A Yes.

19 Q That was from the
20 tape?

21 A Yes.

22 Q I'm going to show you
23 State's twenty-four. Do you know
24 what those marks on your hands
25 came from?

Crowley -- Direct

1 A I think those were
2 when he was picking me up on the
3 bridge. I don't -- I remember
4 using my hands trying to get away
5 and hitting the rocks. It could
6 have been from any time in, during
7 that, any time I was down there.
8 I don't, I don't know.

9 Q Was it basically you
10 got them either inside or while
11 you were trying to get away?

12 A I'm sorry?

13 Q So they either came
14 from inside or while you were
15 trying to get away?

16 A Yes. Yes.

17 Q I'm going to show you
18 State's seventeen. This is a
19 little bit washed out as well. Do
20 you recognize at least the red
21 mark that's on your wrist there?

22 A Well, I can't see any
23 in that picture but I know that
24 there was a, a bunch of red marks
25 up and down my arms.

Crowley -- Direct

1 Q And that was from
2 the, those --

3 A The zip-ties.

4 Q Zip-ties. I'm going
5 to show you twenty-one. This is
6 your other arm. You see the, the
7 red marks there?

8 A Yes. I do see it
9 there. Yes.

10 Q And that's where the
11 ties would have been?

12 A Yes, sir.

13 Q I show you State's
14 sixteen and fifteen. You
15 recognize the items that are in
16 that garbage?

17 A It, it looks like
18 duct tape.

19 Q I'm going to show you
20 State's sixteen as well. Is that
21 the type of duct tape that was
22 used similar to what was on the
23 roll to tie you up with, tape your
24 mouth?

25 A Yes. Yes. Yes, it

Crowley -- Direct

1 is.

2 Q I'm going to ask you
3 about several items that's shown
4 in State's thirteen. You
5 recognize those items?

6 A Yes.

7 Q And they weren't in
8 that order inside the house, were
9 they?

10 A No. No.

11 Q But did you see those
12 items or similar items inside
13 the --

14 A All around, around
15 the hotel room, yes.

16 Q What are they?

17 A Well, that was the,
18 the needles I had mentioned
19 earlier and I mean things, I
20 didn't pay so much attention to
21 those, you know.

22 Q Do those look like
23 they have a residue?

24 A Yes. I see that now
25 but I didn't see it then.

Crowley -- Direct

1 Q But you'd seen the
2 defendant use drugs before?

3 A Yes.

4 Q Is that common to --

5 A Yes.

6 Q -- crush up drugs and
7 then shoot it through the needle
8 after taking it out of the spoon?

9 A Yes.

10 Q He knew how to do
11 that?

12 A I'm sorry?

13 Q The defendant knew
14 how to do that?

15 A Yes.

16 Q I'm going to show you
17 State's exhibit fourteen. You
18 recognize the item that's depicted
19 in that photo?

20 A It, it looks like
21 zip-ties, the zip-ties.

22 Q Do you recognize the
23 item that's right next to them?

24 A Yes. Yes, I do.

25 Q What is that?

Crowley -- Direct

1 A That, that's, that's
2 the taser.

3 Q I'm going to show
4 what's been marked -- it's not
5 marked.

6 MR. WILLIAMS: I ask to
7 have this marked, your Honor.

8 (Whereupon, the taser
9 previously referred to is
10 received and marked as State's
11 Exhibit No. 28 for
12 identification.)

13 MR. WILLIAMS: I'm
14 going to show it to defense
15 counsel, your Honor.

16 THE COURT: Any
17 objection?

18 MR. BOLUS: None.

19 THE COURT: None.

20 Marked and admitted without
21 objection.

22 (Whereupon, the taser
23 previously referred to is
24 received and marked as State's
25 Exhibit No. 28 in evidence.)

Crowley -- Direct

1 Q Rachel, you okay?
2 A Uh-huh. (Crying.)
3 Q Take a breath for me,
4 okay? There's a tissue there.
5 Take a tissue again. We're almost
6 done.
7 A All right.
8 Q You okay?
9 A Uh-huh.
10 Q State's twenty-eight
11 is the taser that he used?
12 A Yes.
13 Q The same one that's
14 in the picture?
15 A Yes.
16 Q I want to ask you
17 about something totally different.
18 Not about the taser any more.
19 Okay?
20 A Okay.
21 Q I'm going to show you
22 what's been admitted as State's
23 twenty-seven. Do you recognize or
24 have any familiarity with the,
25 with the notebook that was in

Crowley -- Direct

1 there, or is that the notebook
2 that he kept inside, inside the
3 room?

4 A I know that he used
5 those notepads for his business.

6 (Whereupon, a notepad
7 is received and marked as
8 State's Exhibit No. 29 for
9 identification.)

10 MR. WILLIAMS: I'm
11 going to show it to defense
12 counsel, your Honor.

13 THE COURT: Any
14 objection?

15 MR. BOLUS: None.

16 THE COURT: Marked and
17 admitted without objection.

18 MR. WILLIAMS: Thank
19 you, your Honor.

20 THE COURT: You're
21 welcome.

22 (Whereupon, the
23 notepad is received and marked
24 as State's Exhibit No. 29 in
25 evidence.)

Crowley -- Direct

1 Q Rachel, I'm going to
2 show you what's been admitted in
3 as State's twenty-nine and what's
4 depicted in the picture behind
5 you. Do you recognize these, this
6 kind of what the notes on here
7 would talk about? Got a list
8 of --

9 A These were, these
10 were for his business.

11 Q That's, this is the
12 basic work that he would do?

13 A Yes, sir.

14 Q And this is his
15 handwriting that shows, talking
16 about things to do inside?

17 A Yes, sir.

18 Q Looking at that,
19 looking at what's marked page,
20 just on page -- just page one at
21 the top, I want to just point out
22 that you said that this is his
23 handwriting?

24 A Yes, sir.

25 Q And he has

Crowley -- Direct

1 distinctive "F"'s and when he puts
2 in the "and" mark it looks like he
3 has -- you know, his handwriting?

4 A Yes.

5 Q When he writes "of"
6 it's with a -- like this here?

7 A Yes.

8 Q When he puts an "and"
9 mark it has that particular, like
10 a backwards "T" with a line?

11 A Yes.

12 Q You're aware, in fact
13 we talked about a note that was
14 found in his notebook?

15 A Yes, sir, I am.

16 Q I'm going to put that
17 up there as well. This says:
18 "You son of a bitch. I found out
19 that pimping me out for crack and
20 I am going to have you put in
21 prison." Did you write that note?

22 A No, sir, I didn't.

23 Q And you talked to the
24 detectives and --

25 A Yes.

Crowley -- Direct

1 Q -- and showed them
2 what your handwriting was like?

3 A Yes, I have. I've
4 given handwriting samples and
5 talked to Detective Rowan.

6 Q And you don't, you
7 don't write "of" that way or
8 put --

9 A No, sir.

10 Q -- "and" backwards?

11 A No, sir.

12 Q That looks like what
13 we saw earlier?

14 A Yes, it does.

15 Q The way it's written
16 here. Written different parts, so
17 that's -- at least in your opinion
18 of knowing him --

19 A Yes.

20 Q -- and based on this
21 notebook it looks like the note
22 was in his handwriting?

23 A Yes. It does. Or
24 someone else's handwriting.

25 Q Not yours?

Crowley -- Direct

1 A Not mine. No, sir.

2 Q Let me ask you, did
3 you know if other people were
4 staying inside that room with him
5 that, when you weren't there?

6 A No, sir. I had hoped
7 before we separated that that,
8 nothing like that would be going
9 on.

10 Q So just to be clear,
11 you didn't write that note?

12 A No, sir.

13 Q And you talked to the
14 detectives about it when they were
15 there?

16 A Yes.

17 Q I asked you before.
18 I want to make sure I'm clear on
19 this, that the drugs that were
20 found in that room, you weren't --
21 were you shooting up any of those
22 drugs?

23 A No, sir.

24 Q Were you taking any
25 drugs apart from the, what you

Crowley -- Direct

1 said, he tried to put pills in
2 your mouth?

3 A No, sir. Not for
4 those three days. Not for the
5 prior three days. I was trying to
6 clean up.

7 Q The taser that you
8 identified earlier, and I don't
9 mean to be demeaning with these
10 questions, but I want to address
11 what was said in court earlier.

12 A Yes.

13 Q Did you ever use this
14 for any kind of games?

15 A Absolutely not.

16 Q Did you ever use this
17 for any kind of, any kind of sex
18 toy?

19 A No.

20 Q Did you ever use this
21 on the defendant for any kind
22 of --

23 A No.

24 Q -- debauched sex
25 things?

Crowley -- Direct

1 A No. No.

2 Q This was just used as
3 a weapon against you?

4 A Yes.

5 Q Did you ever consent
6 and tell him?

7 A Absolutely not.

8 Q You had said earlier
9 that you're now clean, not using
10 drugs. How long have you been in
11 counseling as a result of the, of
12 the trauma from this situation?

13 A Well, since this has
14 happened I've been in and out of
15 counseling, but I'm now in active
16 therapy which is four days a week,
17 three hours a day. I have
18 nightmares. I'm still
19 traumatized.

20 Q Approximately how
21 many times have you seen a
22 counselor, gone into a counselor's
23 office in order to talk about
24 this, would you say?

25 A Countless times. I

Crowley -- Direct

1 contacted all different kinds of
2 places. I --

3 MR. BOLUS: Your Honor,
4 I would object at this point.
5 I think that's enough.

6 THE COURT: Please
7 approach.

8 (Whereupon, there was
9 an off-the-record bench
10 conference.)

11 THE COURT: You may
12 proceed.

13 Q Rachel, you've gone
14 to counseling. You told the
15 police about this as well as your
16 family, I assume, all the things
17 that happened?

18 A Yes. Yes, sir. It
19 was hard to talk about for a long
20 time.

21 Q And it's obviously
22 still hard to talk about now?

23 A Yes.

24 Q We've been talking a
25 lot about where this occurred,

Crowley - - Direct

1 that was at the In Towne Suites

2 on, it's on Ashley Phosphate?

3 A Yes, sir.

4 Q It's in Charleston

5 County?

6 A Yes.

7 Q We've also talked a

8 lot about the person that did this

9 to you, your husband, who's

10 currently still your husband. Is

11 that right?

12 A Yes.

13 Q You see him in court

14 today?

15 A Yes, I do.

16 Q Can you point to him

17 for me, tell me what he's wearing?

18 A A white, a white

19 shirt and tie.

20 MR. WILLIAMS: Let the

21 record reflect that she's

22 identified the defendant.

23 THE COURT: The record

24 will so indicate.

25 MR. WILLIAMS: I have

Crowley -- Direct

1 no further questions. Thank
2 you, Rachel.

3 THE COURT: Any
4 cross-examination of the
5 witness?

6 MR. BOLUS: Yes, your
7 Honor.

8 THE COURT: You may
9 proceed.

10 MR. BOLUS: Excuse me.
11 Can I proceed?

12 THE COURT: Yes, sir.
13 You may.

14 Ladies and gentlemen,
15 we're going to break at 1:30
16 for lunch so don't panic. I'm
17 not going to make you work
18 through lunch.

19

20

21

22

23

24

25

CROSS-EXAMINATION BY

Crowley - - Cross

1 MR. BOLUS:

2 THE COURT: Could you
3 hand those things to the court
4 reporter, please. It
5 eliminates things getting
6 misplaced.

7 Thank you, Mr. Bolus.

8 Q You know what that
9 note is, don't you? "You son of a
10 bitch. I found out that they
11 were, that were pimping me out for
12 crack and I'm going to have you
13 put in prison." Wasn't he talking
14 about you?

15 A I'm sorry?

16 Q Wasn't he talking
17 about you in this note? He was
18 accusing someone of pimping you
19 out for crack and wanted to put
20 him in prison?

21 A I have no idea. I
22 had never seen that before the
23 officer showed it to me, when
24 Detective Rowan showed it to me.

25 Q Okay. And we just

Crowley -- Cross

1 put it in there just to, just for
2 fun? I mean you don't know what
3 this is about but it's into
4 evidence?

5 MR. WILLIAMS: Your
6 Honor, objection. Asked and
7 answered, your Honor.

8 THE COURT: Overruled.
9 I'm going to give him some
10 latitude. Ma'am, you may
11 answer the question.

12 A What was the
13 question?

14 Q Search your mind and
15 find -- you have any idea who he's
16 talking about here? Isn't he
17 talking about your father, your
18 real father?

19 MR. WILLIAMS: Objection
20 , your Honor. That's
21 speculative.

22 THE COURT: Overruled.
23 It goes to her knowledge.

24 Ma'am, you may -- do
25 you need him to restate the

Crowley -- Cross

1 question?

2 THE WITNESS: Yes, I

3 do.

4 THE COURT: Please

5 restate the question, Mr.

6 Bolus.

7 THE WITNESS: I don't

8 understand what he's asking

9 me.

10 Q You looked at this
11 and told the police this is not my
12 handwriting, this is my husband's
13 handwriting. Right?

14 A I never said it was
15 my husband's. I said it looked
16 like my husband's and it was not
17 mine.

18 Q Well, poor old Mr.
19 Williams just went through a
20 rig-a-ma-role with you --

21 A It does look like my
22 husband's handwriting. Yes, it
23 does.

24 Q Okay. Let's just
25 call it your husband's

Crowley -- Cross

1 handwriting. You and him had
2 conversations about your father
3 previously pimping you out for
4 crack. Isn't that -- that's the
5 truth and that happened before,
6 didn't it?

7 A That was my --
8 MR. WILLIAMS: Objection
9 n, your Honor. Object to the
10 relevance.

11 THE COURT: Overruled.

12 A That was my ex's
13 assumption, yes. He had
14 repeatedly told me my father had
15 done that to me but I had never
16 wanted to believe him. He had
17 some idea in his mind that my
18 father did these things but I
19 never believed him. He didn't
20 know my father. I knew my father
21 and he would never do those things
22 to me.

23 Q But you had a
24 knowledge what that was about
25 then?

Crowley -- Cross

1 A No.

2 Q Well, you just
3 admitted it. You said no and
4 after you admitted then now that
5 that's what it was about?

6 A I mean if that's what
7 it's about, then, yes, I do now.
8 I mean --

9 Q Okay. And that
10 shows, that's not accusing you,
11 threatening you of any, in any
12 manner. That's, that's a person's
13 mad statement about what he thinks
14 someone else did to you. Right?

15 A Why don't you read it
16 to me one more time.

17 Q Well, it says: "You
18 son of a bitch. I found out that
19 were pimping me out for crack and
20 I'm going to have you put in
21 prison." I mean here's the note.

22 A I've seen it. Thank
23 you.

24 Q Well, then why do I
25 have to read it?

Crowley -- Cross

1 MR. WILLIAMS: Your
2 Honor, I'm going to object.

3 THE COURT: Please
4 state a question, Mr. Bolus.

5 Q The point is I asked
6 you, did you have an idea what
7 that was about and you told the
8 jury no, and now you say, --

9 A No. I still don't.

10 Q Well, you gave a
11 reason. Is it about your, what he
12 thinks your father did to you?

13 A Your reason was it
14 may be about my father and I told
15 the jury that that was always his
16 assumption, that my father had
17 done these things to me and my
18 father never has. That is what I
19 told the jury.

20 Q Okay. So you know
21 why the note was written?

22 A No. I don't know why
23 you're saying the note was
24 written. I do not know why it was
25 written.

Crowley - - Cross

1 Q Okay. Can I just --
2 that's in evidence. And you just,
3 you got cleaned up at, say, Morris
4 Village what, a couple months ago?

5 A Yes, I did.

6 Q And that was for
7 what? Heroin, crack, and meth?

8 A Yes.

9 Q What, what else?
10 What was, was your list of -- was
11 it heroin, crack, Lortabs, and
12 Xanax?

13 A Yes.

14 Q Okay. And didn't you
15 and Dave have a little habit going
16 on together?

17 A Yes, we did.

18 Q You all did a heck of
19 a lot of drugs, didn't you?

20 A Yes, we did.

21 Q You sure did, didn't
22 you?

23 A Yes, I did.

24 Q And you all did a lot
25 of drugs in that hotel room before

Crowley -- Cross

1 this night happened?

2 A I had done some drugs
3 when I was with him, yes.

4 Q Yes, ma'am.

5 A Before I left him.

6 Yes..

7 Q Yes, ma'am. Because
8 you were living in that hotel room
9 with him right until the night
10 that you spent the night with your
11 mother. You were living in the
12 hotel room with him?

13 A I was staying there
14 with him, yes, some and mostly
15 with my mother. I was trying to
16 get away. I was there.

17 Q You were staying
18 there?

19 A For a period --

20 Q That is an admission?

21 A -- of time, yes.

22 Q Ma'am?

23 A For a period of time
24 I was staying there.

25 Q No. No. You said

Crowley - - Cross

1 what the first time?

2 A I just repeated what
3 I said.

4 Q You were staying
5 there?

6 A For a period of time,
7 yes.

8 Q Okay. Thank you.
9 Because in your first statement - -
10 may I approach?

11 THE COURT: You may.

12 Q You want to take a
13 look? You see where I marked in
14 red?

15 A Yes, I do. And it's
16 the same thing I just told you.

17 Q I know, but "when we
18 separated David got a room at In
19 Towne Suites off Ashley Phosphate
20 and I stayed some with my mom."

21 A Some with my mom.

22 Q Some with my mom.

23 A Yes.

24 Q But you admit to
25 living with him in the hotel room?

Crowley -- Cross

1 A The same thing that I
2 just told you. I stayed some
3 there and some with my mom. Right
4 there. Right there.

5 Q It doesn't say some
6 with Mr. Thomas. It says some
7 with your mom. As a matter of
8 fact, the some would be the night
9 before he picked you up because
10 prior to that you stayed a few
11 weeks with him in the hotel room,
12 didn't you?

13 A Not a few weeks, no.

14 Q I'm sorry. Not a few
15 weeks?

16 A Un-un.

17 Q Well, how long did
18 you stay with him?

19 A I do not remember.
20 I'm sorry. I told --

21 Q Oh.

22 A -- them the same
23 thing. I don't.

24 Q Well, ma'am, that's a
25 very important matter in this

Crowley -- Cross

1 case.

2 MR. WILLIAMS: Your
3 Honor, I'm going to object to
4 that, him making statements to
5 the witness while --

6 THE COURT: I'm sorry,
7 Mr. Williams. I didn't hear
8 you.

9 MR. WILLIAMS: I object
10 to him making statements to
11 the witness while --

12 THE COURT: Don't make
13 any editorial comments, Mr..
14 Bolus. Please ask questions.

15 A I mean I've done,
16 I've done mentioned that. I
17 don't, I mean I'll try hard to
18 block this out of my memory --

19 Q Okay?

20 A -- as fast as I
21 could, you know, and I, I'm still
22 struggling to remember these
23 things, so. . .

24 Q You remember what you
25 want to remember, is that what

Crowley -- Cross

1 you're saying?

2 A Excuse me? No.

3 Q Well, you remember
4 what you want to remember?

5 A I don't want to
6 remember being tased by my
7 husband. No, I don't.

8 Q Okay. But you all
9 made love in that hotel room and
10 did drugs many, many, many, many
11 nights --

12 A He was my husband.
13 Of course I made love with him.

14 Q Okay. Under the
15 influence of a lot of drugs?

16 A Actually when I was
17 under the influence of drugs I
18 didn't like people touching me.
19 But, yes, I did do drugs as well.

20 Q But you made love
21 with you husband under the
22 influence of a, a strong
23 intoxicant such as heroin,
24 methadone --

25 A I guess you could say

Crowley - - Cross

1 that. Yes.

2 Q You can't? Am I
3 right to say that? Is it true?

4 A Yes, it's true.

5 Q And you remember
6 living on Folly Beach?

7 A Yes, I do.

8 Q And you remember an
9 incident on Folly Beach?

10 A Yes, I do.

11 Q On March the second,
12 2000?

13 MR. WILLIAMS: Your
14 Honor, I'm going to object to
15 the relevance.

16 THE COURT: Basis?

17 MR. WILLIAMS: Your
18 Honor, relevance.

19 THE COURT: Please
20 approach.

21 (Whereupon, there was
22 an off-the-record bench
23 conference.)

24 THE COURT: You may
25 proceed.

Crowley -- Cross

1 Q You remember an
2 incident on Folly Beach on March
3 second, 2006?

4 A Yes, I do.

5 Q And without going
6 into a lot of details, the police
7 were called for that?

8 A Yes.

9 Q And it had to do with
10 you?

11 A Yes.

12 Q But it had nothing to
13 do with Mr. Thomas?

14 A No.

15 Q Okay. And you were
16 living with Mr. Thomas and his
17 daughter, CiCi, Kristan Thomas, at
18 that point in time, weren't you?

19 A Yes.

20 Q And you'd been living
21 with Mr. Thomas at Folly Beach for
22 about seven months from, October
23 of '05 through about April. This
24 thing happened March second, 2006?

25 A Yes.

Crowley -- Cross

1 Q And you lived with
2 him from October through April of
3 2006?

4 A To the best I can
5 remember, yes.

6 Q And then after this
7 and due to other things you all
8 still doing drugs at Folly Beach
9 at this point in time, weren't
10 you?

11 A Yes.

12 Q Okay. And then
13 you're not living with your momma
14 then, are you?

15 A No.

16 Q She's not know in
17 court. She's outside. But you
18 weren't living with her. Right?

19 A No.

20 Q And you and Dave
21 packed up your stuff and moved to
22 the hotel room?

23 A Yes. I helped him
24 move.

25 Q Yeah. And your stuff

Crowley -- Cross

1 was there. Right?

2 A My stuff was actually
3 in storage at my mother's, but I
4 did have some things at the hotel
5 room, yes.

6 Q Okay. And police
7 officer said his investigation
8 shows two people living there.
9 You're not going to deny that you
10 were living with Dave Thomas at
11 the hotel?

12 A I was in the process
13 of leaving him.

14 Q In the process, but
15 there was no family court order
16 you had filed, no family court
17 pleadings. You were his lawfully
18 wedded wife. You were still
19 allowed to live with him at the
20 hotel room and you're still making
21 love to him up at, up until at
22 least the night before this thing
23 occurred?

24 A No. I was gone about
25 a week before, a month before. I

Crowley -- Cross

1 wouldn't let him touch me.

2 Q And now your, now
3 your version is you were home with
4 your mother for a month?

5 A Excuse me? I'm
6 sorry. Why are you trying to trip
7 me up here? I done nothing wrong.

8 THE COURT: Ma'am, I
9 need you to answer the
10 questions yes or no.

11 THE WITNESS: I don't
12 know what the question is.

13 THE COURT: Your, your,
14 let me, let me set the ground
15 rules. You can have a seat,
16 Mr. Bolus.

17 Ma'am, the answer is
18 yes or no and then you may
19 explain your answer.

20 Mr. Bolus, please
21 limit the editorial comment
22 and ask the question. You may
23 proceed.

24 Q Your statement said
25 that you, we separated. David got

Crowley - - Cross

1 a room at the In Towne Suites off
2 of Ashley Phosphate and I stayed
3 some with my mom in Adams Run.

4 A Yes. Yes.

5 Q The fact of the
6 matter is the night before this
7 incident occurred you were at your
8 mother's house but the few nights
9 before that incident you were with
10 Dave Thomas at the hotel room?

11 A Yes.

12 Q Okay. No, are you
13 bipolar?

14 A No, I'm not.

15 Q You've never been
16 treated for mental problems of any
17 kind?

18 A No.

19 Q Okay. And you went
20 to Morris Village for how long?

21 A Thirty-five days.

22 Q Thirty-five days and
23 that was for, to clean you up with
24 the drugs?

25 A That was, I was

Crowley - - Cross

1 voluntarily put in there. Yes.

2 Q Okay. And after this
3 incident occurred, happened, and
4 Dave was let out of jail, didn't
5 you text message him a few times
6 on his phone and say let's get
7 back together?

8 A I don't recall that.
9 I don't remember.

10 Q You don't remember?

11 A I know he tried to
12 contact me many times.

13 Q Now you remember he
14 tried to contact you but you
15 don't --

16 A I don't remember.

17 Q But it could have
18 happened?

19 A Yes. It could have
20 happened.

21 Q Okay.

22 A I don't remember
23 these things. I mean I'm not
24 denying that it may have happened.

25 Q Thanks.

Crowley -- Cross

1 Mr. Williams asked
2 you that after all this happened
3 that you told everything that
4 happened to you, you said yes in
5 your testimony. You said you told
6 them everything. Right?

7 A Uh-huh.

8 THE COURT: I need you
9 to say yes or no, please.

10 A I said yes.

11 THE COURT: Thank you.

12 Q Okay. Now, I'm going
13 to give you back your first
14 statement again and where -- does
15 it say anywhere in that statement
16 that you had sex with him or were
17 forced to have sex in that
18 statement which you gave the same
19 day a few hours later to the
20 police?

21 MR. WILLIAMS: Your
22 Honor, I don't object. I
23 think he's showing her the
24 statement that was given to
25 Detective Rowan, not Officer

Crowley -- Cross

1 Talbott.

2 Q Okay. It's your
3 statement. Right?

4 THE COURT: It's her
5 statement.

6 MR. WILLIAMS: I
7 believe the question was in
8 the form of a statement, she
9 gave Officer Talbott, and I
10 think that's the statement
11 that was given to Detective
12 Rowan.

13 MR. BOLUS: We'll get
14 to Talbott later. But I'll
15 rephrase the question.

16 THE COURT: Ask the
17 question -- please rephrase
18 the question so that it
19 accurately reflects what she's
20 using to refresh her
21 recollection.

22 THE WITNESS: So you
23 said I can say my answer and
24 then I can explain my answer.
25 Right?

Crowley -- Cross

1 THE COURT: Yes, ma'am.

2 But you have to answer yes or

3 no.

4 THE WITNESS: Okay.

5 THE COURT: And please

6 wait for a question to be

7 posited to you.

8 Please restate your

9 question.

10 Q In your statement you

11 talk about being stunned in this

12 event, but you don't say a word

13 about the sexual assault and this

14 was made just a few hours later,

15 fresh in your mind I think, and

16 then you said nothing about that

17 statement.

18 A No. And if you look

19 at the very last line of this

20 statement, it says statement

21 stopped at five thirty or fifteen

22 thirty hours due to medical staff

23 at Saint Francis Hospital

24 administering medical treatment.

25 So there's a second part of my, of

Crowley -- Cross

1 this statement that I don't see
2 that you have here.

3 Q Well, I'm going to
4 show you that, too. But this is a
5 statement and, and, and throughout
6 the body of the statement, ma'am,
7 throughout the body of the
8 statement you talk about, quote,
9 when we walked in the room David
10 shocked me with a stun gun and
11 knocked me down. David held me
12 down for, continued to shock me
13 with the stun gun on my sides and
14 my stomach. He was spitting on me
15 and in my face. He was screaming
16 at me, calling me a slut and a
17 whore. He said he would kill me
18 and kill himself. He said that --
19 on and on and on. He kept
20 shocking you with a stun gun while
21 I was laying or down on the floor.
22 But you never got around to
23 telling them about I was raped?

24 MR. WILLIAMS: Your
25 Honor, I'm going to ask the

Crowley -- Cross

1 witness be allowed to see her
2 complete statement and not --

3 MR. BOLUS: This is her
4 statement.

5 THE COURT: You can do
6 that when you rehabilitate --
7 I'm not taking any speaking
8 objection. If there's an
9 objection, object. I will
10 limit --

11 A No.

12 THE COURT: -- the
13 basis -- ma'am, there's an
14 objection pending. You can
15 rehabilitate your witness, Mr.
16 Williams.

17 MR. WILLIAMS: Thank
18 you, your Honor.

19 THE COURT: You're
20 welcome. Overruled.

21 A No. I didn't.

22 Q Okay. But then two
23 weeks after this happened, this
24 alleged incident happened on six
25 six. The first statement you gave

Crowley -- Cross

1 was on six seven, you'd picked up.
2 No mention of the sex. But then
3 now I've given you another
4 statement you made on six sixteen,
5 ten days later, and that's when
6 you started mentioning the sex
7 business. Right?

8 A I was very -- right.
9 I was very ashamed. It's very
10 humiliating to say these things to
11 people and like I said earlier,
12 this statement was stopped because
13 of the staff administering medical
14 treatment to me in between my
15 statements. So I had no, no
16 opportunity to finish this, this
17 first statement then that Mr.
18 Bolus is showing me.

19 Q And, and in the, in
20 the second statement today in
21 court you said that he had regular
22 intercourse with you one time?

23 A I'm sorry. What was
24 the question?

25 Q You said that he had

Crowley -- Cross

1 regular intercourse with you one
2 time in your testimony?

3 A Yes.

4 Q Right?

5 A To the best that I
6 can remember is what I said, yes.

7 Q Okay. But in your
8 statement you're saying on the
9 third page I remember that David
10 had sex with me three times
11 overnight?

12 A That --

13 Q Look at --

14 A That included him
15 entering my mouth as well as me.
16 I wasn't too, you know, into
17 detail with these things. It's
18 still very humiliating.

19 Q Now on the second
20 page you said David took the duct
21 tape off my mouth at one point and
22 forced his penis into my mouth.
23 That was on the second page. But
24 then on the third page you said he
25 had sex with me three times. What

Crowley -- Cross

1 are you talking about there?

2 A I explained these
3 things to the best of my ability.
4 at the time being. Thank you very
5 much.

6 Q And none of this was
7 consent --

8 A And I'm still
9 extremely in shock, considering
10 the facts.

11 Q Well, yeah. But it
12 didn't keep you from text
13 messaging when he got out saying
14 let's get back together again, did
15 it?

16 MR. WILLIAMS: Your
17 Honor, objection. Asked and
18 answered.

19 A I didn't do that.
20 There was no way I could have done
21 it.

22 THE COURT: Is there
23 any objection, Mr. Williams?

24 MR. WILLIAMS: I'll
25 withdraw it, your Honor.

Crowley -- Cross

1 THE COURT: Objection

2 withdrawn.

3 Q Well, I asked you
4 just a while ago and you said
5 you --

6 A I just, I really
7 don't remember. I don't know. I
8 mean I don't remember. I don't
9 know why I would want to be with a
10 man that did this to me.

11 Q But the first time I
12 asked you, you said I don't
13 remember but --

14 A When you asked me
15 back then I said I don't see me
16 doing that.

17 Q Ma'am?

18 THE WITNESS: I don't
19 like the way he's talking to
20 me either.

21 THE COURT: Excuse me?

22 THE WITNESS: It's not
23 fair to me.

24 THE COURT: Ma'am, I
25 need you to answer the

Crowley -- Cross

1 questions yes or no and then
2 you'll be given the
3 opportunity to explain your
4 answer and I would ask you
5 both to refrain from any
6 further editorial comment.

7 Q I'll just ask you one
8 more time. The first time I asked
9 you, you said you don't remember
10 but you could have done those text
11 messages but then you said that he
12 was text messaging you. That was
13 your answer the first time. Now
14 what's your answer the second
15 time, is I don't remember or --

16 A I don't remember.

17 Q But you could have?

18 A You asked me already
19 once, so --

20 Q That's your answer?

21 A That's my answer.

22 Q That's your answer,
23 you could have?

24 A I highly doubt that.

25 Q Okay. Well, that's,

Crowley -- Cross

1 that's your answer now?

2 A That was the same
3 answer I had earlier.

4 Q Okay. Wasn't he
5 taking you to the methadone clinic
6 that morning after you all's night
7 of drug taking?

8 A No, he was not.

9 Q He was not?

10 A I was never on
11 methadone.

12 Q You never took
13 methadone?

14 A I've taken methadone,
15 you know, several times but I was
16 never on methadone. I never went
17 to the clinic on a day-by-day
18 basis.

19 Q But you did use --
20 shoot up --

21 A Yes. Use drugs.
22 Yes, I did.

23 Q You shot up heroin
24 and crack?

25 A Yes.

Crowley -- Cross

1 Q But you were careful
2 not to use his needles. Right?

3 A Yes.

4 Q But you used your own
5 needles?

6 A Yes.

7 Q And some of those
8 needles in the hotel room, were
9 they yours?

10 A No.

11 Q They weren't?

12 A No. Not the used
13 ones. I wasn't using any, any
14 dope in there at this time.

15 Q Now after --

16 A I, I never left my
17 used needles anywhere.

18 Q After this incident,
19 though, you continued to use heavy
20 drugs, didn't you, for about a
21 year?

22 A I was cleaned up for
23 a while, yes, and then I started
24 using again. I tried to clean up
25 but after this incident I was too,

Crowley - - Cross

1 I was just, I started using.

2 Q And did you blame the
3 incident and continue to use or
4 did you just keep using?

5 A No. No. I just kept
6 using, you know.

7 Q And you lived in a
8 camp ground I think for about six
9 months and using - -

10 MR. WILLIAMS: Your
11 Honor, object to relevance.

12 A In a camp ground?

13 Q Well, were you
14 homeless for a while?

15 A No. I've never been
16 homeless.

17 MR. WILLIAMS: Your
18 Honor, objection.

19 THE COURT: Overruled.
20 I'm going to give him a little
21 latitude. Would counsel
22 approach one moment, please.

23 (Whereupon, there was
24 an off-the-record bench
25 conference.)

Crowley -- Cross,

1 THE COURT: Any further
2 questions, Mr. Bolus?

3 MR. BOLUS: Just one.

4 Q After this incident
5 did you live in a camp ground
6 homeless for a while?

7 A No, sir. I did not.

8 Q You never lived in a
9 tent in a camp ground?

10 A No. I've gone
11 camping, but I've never lived in a
12 tent. I have my home. I live
13 with my mother on and off and my
14 father. No. I didn't.

15 MR. BOLUS: Okay.

16 That's all I have, Judge.

17 Thank you.

18 THE COURT: Any
19 redirect, Mr. Williams?

20 MR. WILLIAMS: Yes,
21 your Honor. Thank you.

22 THE COURT: Ladies and
23 gentlemen, Mr. Williams has
24 indicated he has two questions
25 and then I'm going to let you

Crowley -- Cross

1 call go to lunch.

2 MR. WILLIAMS: I've got
3 five minutes' worth, Judge.

4 THE COURT: Well, we'll
5 see. Five minutes.

6 MR. WILLIAMS: Thank
7 you, your Honor.

8 THE COURT: But I need
9 you to confine it that so that
10 I can let the jury go to
11 lunch.

12 MR. WILLIAMS: Five
13 minutes' time.

14 THE COURT: I didn't
15 want to fragment the testimony
16 and I appreciate you all being
17 so patient.

18 You may proceed.

19 MR. WILLIAMS: Thank
20 you, your Honor.

21 THE COURT: You're
22 welcome.

23

24

25

Crowley -- Redirect

1 REDIRECT EXAMINATION

2 BY MR. WILLIAMS:

3 Q Rachel, I want to
4 first ask you to just tell the
5 jury what was going on with where
6 you were living when this
7 happened?

8 A I was leaving him. I
9 was staying with my mother. I was
10 in the process of moving with the
11 rest of my things. I had moved
12 the stuff from his house on Folly
13 Beach to a storage unit on my
14 mother's property and I had a few
15 things in the hotel room.

16 Q So you had -- you had
17 lived in the hotel?

18 A Yes.

19 Q But you were moving
20 out?

21 A Yes.

22 Q You were trying to
23 leave him to live with your
24 mother?

25 A Yes.

Crowley - - Redirect

1 Q And you had basically
2 gone to your mother's the day
3 before?

4 A Yes.

5 Q So you were living
6 apart from him with your mother at
7 the time this happened?

8 A Yes.

9 Q I want to go over,
10 over the questions about the text
11 messages.

12 A Uh-huh.

13 Q Do you remember if
14 you gave, you sent text messages
15 or not?

16 A No, I don't.

17 Q But it's possible you
18 could have?

19 A I mean I don't see
20 where I could have done that, but
21 I'm going to say it's possible.

22 Q Well, if you don't
23 remember, then you could not have?

24 A No. Yeah. Right.
25 Because I was in really a lot of

Crowley - - Redirect

1 shock and maybe I wanted to ask
2 him why he did that to me, but I
3 really don't see myself doing
4 that, but. . .

5 Q And you've been with
6 him for a long time?

7 A Yes.

8 Q And made some
9 mistakes?

10 MR. BOLUS: Judge, he's
11 leading. I'm sorry. I
12 object.

13 THE COURT: Sustained.
14 Leading. Rephrase.

15 Q Would you say, is it
16 fair to say that you had made some
17 mistakes before - -

18 A Yes.

19 Q - - with this
20 defendant?

21 A Yes.

22 Q And finally I want to
23 ask you about the, the reports you
24 gave. You told Mr. Bolus between
25 his questions that you were

Crowley -- Redirect

1 ashamed or you didn't want to tell
2 certain things. Tell, tell the
3 jury what you mean by that.

4 A I was, I was
5 humiliated to, and above all like
6 I said, the first statement was
7 cut off when I was at the hospital
8 because they were giving me, you
9 know, all kinds of treatment.

10 Q Your, your first
11 statement was when you spoke with
12 Officer Talbott on the scene?

13 A All right. Yeah.
14 Okay.

15 Q So you didn't tell
16 him about it?

17 A No. No.

18 Q But when you were at
19 the hospital --

20 A I was still in shock.

21 Q That's fine. Why
22 didn't you tell Officer Talbott
23 when he first approached you out
24 there?

25 A I was really ashamed.

Crowley - - Redirect

1 I was, I was still in disbelief
2 that this was even happening.
3 I'm -- and now I have to relive
4 this all over again.

5 Q And now then
6 Detective Rowan came to the
7 hospital?

8 A Yes.

9 Q You started telling
10 him but you said it was cut short?

11 A Yes.

12 Q And then he came back
13 to you later?

14 A Yes.

15 Q And is that the time
16 you gave the second part of your
17 statement?

18 A Yes.

19 Q And that was when you
20 told Detective Rowan essentially
21 about the sexual assaults as well?

22 A Yes.

23 MR. WILLIAMS: Thank
24 you. I have nothing further.

25 MR. BOLUS: Judge, one

Crowley -- Recross

1 more.

2 THE COURT: Confined to
3 the questions Mr. Williams
4 just asked.

5 MR. BOLUS: That one or
6 one he asked before?

7 THE COURT: No. You
8 can only on re-re-cross,
9 although the rules do not
10 provide for it, it must be on
11 his last questions.

12

13

14

15

16

17 RECROSS-EXAMINATION

18 BY MR. BOLUS:

19 Q You had a key to the
20 hotel room while you were living
21 with him, with Dave, didn't you?

22 A I don't recall. No.

23 Q You don't recall?

24 A No.

25 Q What -- you were

Crowley -- Recross

1 living there?

2 A I'm sure I probably
3 did, but I mean I can't --

4 Q Well, when he'd go to
5 work did you have a, you had a key
6 to go in and out of the hotel
7 room?

8 A Yes. Yes.

9 MR. BOLUS: Okay.

10 Thank you very much.

11 Thank you, Judge.

12 THE COURT: Anything
13 further, Mr. Williams?

14 MR. WILLIAMS: No, your
15 Honor.

16 THE COURT: Ma'am, you
17 may step down.

18 Mr. Foreman, ladies
19 and gentlemen, I appreciate
20 your patience. It is often
21 difficult for a jury to hear
22 testimony in a fragmented
23 manner and so I know that we
24 have probably taxed your
25 patience a great deal going

1 beyond probably what many of
2 you would, would normally do
3 for a luncheon recess. We
4 will resume testimony, I would
5 ask that you return by quarter
6 of three, which gives you an
7 hour for lunch.

8 During the luncheon
9 recess, please do not discuss
10 this case among yourselves or
11 with anyone else. Please do
12 not allow yourselves to be
13 exposed to any media accounts
14 about the case. Actually I'm
15 going to give you till three
16 o'clock because with tourist
17 traffic you may have some
18 delay depending on where you
19 go to eat and having to get
20 back, in and out of the
21 building. So I'll give you an
22 hour and fifteen minutes.

23 You will return
24 directly to your jury room as
25 you did this morning and the

1 bailiffs will be there to
2 assist you. Again please
3 don't have contact with anyone
4 in or about the courthouse. I
5 would hate for an innocent
6 conversation to be observed
7 and misconstrued.

8 I anticipate that we
9 will go beyond five o'clock
10 this evening. We'll probably
11 go till about 5:30, so if any
12 of you need to make
13 arrangements or make any phone
14 calls, I would suggest that
15 you do that.

16 Again we appreciate
17 your patience. Have a good
18 lunch and we'll see you at
19 three o'clock.

20 (Whereupon, the jury
21 leaves the courtroom at
22 1:47 p.m.)

23 **THE COURT:** Anything
24 before we break for lunch from
25 the State?

1 MR. WILLIAMS: No, your
2 Honor.

3 THE COURT: From the
4 defense?

5 MR. BOLUS: No, ma'am.

6 THE COURT: Have a good
7 lunch. I'll see you all at
8 3:30 (sic).

9 (Whereupon, a
10 luncheon recess was called at
11 1:49 p.m.)

12 AFTERNOON SESSION.

13 (Whereupon, the Judge
14 enters the courtroom at
15 3:35 p.m.)

16 THE COURT: Anything
17 before we bring the jury in?
18 From the State?

19 MR. WILLIAMS: No, your
20 Honor.

21 THE COURT: From the
22 defense?

23 MR. BOLUS: No, ma'am.

24 THE COURT: Please
25 bring in the panel.

1 (Whereupon, the jury
2 enters the courtroom at
3 3:37 p.m.)

4 THE COURT: You all can
5 be seated. You can go ahead
6 and start passing them out.
7 Go ahead and pass down the
8 ones that aren't yours.

9 Ladies and gentlemen,
10 we apologize for the delay.
11 In the interim my other jury
12 came back with a verdict and I
13 needed to take that verdict
14 and complete the sentencing,
15 so we apologize for you all
16 having to wait. I hope that
17 it was pleasant for you and I
18 hope you know that we don't
19 take your time for granted.

20 We are now going to
21 resume the trial testimony in
22 the State versus Clark David
23 Thomas.

24 Mr. Williams, you may
25 proceed when you're ready.

1 MR. WILLIAMS: Thank
2 you, your Honor.

3 THE COURT: You're
4 welcome.

5 MR. WILLIAMS: The
6 State calls Kathy Meree.

7 THE COURT: Ma'am, if
8 you would come to the witness
9 stand and be sworn. Miss
10 Meree, if you would come
11 forward to be sworn.

12

13

14

15

16

17

18 KATHY LYNN MEREE,
19 having been called as a
20 witness, is duly sworn and
21 testifies as follows:

22 THE WITNESS: Kathy
23 Lynn Meree, M-e-r-e-e.

24 THE COURT: Ma'am,
25 you're a little soft spoken

Meree - - Direct

1 and I'm going to adjust the
2 mikes and if you could that
3 for me one time.

4 THE WITNESS: Kathy
5 Lynn Meree, M-e-r-e-e.

6 THE COURT: M-e-r-e-e.

7 THE WITNESS: Yes,
8 ma'am.

9 THE COURT: Okay. He
10 spelled it wrong. I
11 apologize. You may proceed,
12 Mr. Williams.

13 MR. WILLIAMS: Thank
14 you, your Honor.

15 THE COURT: You're
16 welcome.

17

18

19

20 DIRECT EXAMINATION BY

21 MR. WILLIAMS:

22 Q Miss Meree, do you
23 have a daughter?

24 A Yes, I do.

25 Q What's her name?

Meree -- Direct

1 A Rachel Marie Crowley.

2 Q And you raised her?

3 A Yes, I did.

4 Q She has lived with
5 you different times?

6 A Yes, she has.

7 Q Do you remember an
8 incident that happened back in
9 June of 2006?

10 A Yes, I do.

11 Q You had to go see
12 your daughter at the hospital?

13 A Yes.

14 Q I want to go back to
15 the time you saw her at the
16 hospital. When was the last time
17 you saw her before you saw her in
18 the hospital?

19 A Two days prior to
20 that.

21 Q And before then had
22 she been staying with you or
23 living with you?

24 A Off and on she had
25 been.

Meree -- Direct

1 Q And immediately prior
2 to the last time you saw her was
3 she staying or living with you?

4 A She had just come
5 back to stay with me.

6 Q I want to ask you a
7 little bit about those things.
8 Who was she staying with
9 otherwise?

10 A Her husband.

11 Q What's his name?

12 A Clark David Thomas.

13 Q How long they been
14 married for up to that point in
15 time?

16 A I believe
17 approximately two years.

18 Q You knew your
19 daughter like a mother, fair to
20 say?

21 A Yes.

22 Q Was it your
23 perception that she was having
24 problems with her marriage?

25 A Absolutely. Yes.

Meree -- Direct

1 Q What did you perceive
2 those problems to be?

3 A Well, there was a lot
4 of control issues.

5 MR. BOLUS: Objection.

6 THE COURT: I'm sorry.

7 Basis?

8 MR. BOLUS: No
9 foundation.

10 THE COURT: Please
11 approach.

12 (Whereupon, there was
13 an off-the-record bench
14 conference.)

15 THE COURT: You may
16 proceed.

17 MR. WILLIAMS: Thank
18 you, your Honor.

19 THE COURT: You're
20 welcome.

21 Q Miss Meree, you were,
22 before the objection you were
23 saying that you knew your daughter
24 like a mother. How long had she
25 been staying you with prior to

Meree -- Direct

1 this incident when you said she
2 came back?

3 A I'm sorry?

4 Q About how many days
5 before this incident was she
6 staying with you?

7 A Just a couple days.
8 Two days.

9 Q And was the defendant
10 staying somewhere else?

11 A Yes, he was.

12 Q Do you know where
13 that was?

14 A In Towne Suites.

15 Q That's in Charleston
16 County?

17 A Ashley Phosphate.
18 Yes.

19 Q It was on Ashley
20 Phosphate?

21 A Yes, it was.

22 Q When your daughter
23 came back did you she stay
24 overnight with you?

25 A Yes, she did.

Meree -- Direct

1 Q Was -- did you
2 witness anything? Did you see any
3 or have any for that matter
4 contact either with the defendant
5 or did you see any contact between
6 the defendant and your daughter?

7 A Other than David
8 calling.

9 Q David is the
10 defendant?

11 A Yes.

12 Q Who was he calling?

13 A Rachel and myself.

14 Q And when he was
15 calling you what did he say?

16 A He didn't believe
17 that Rachel was out there with me.
18 He thought that I was trying to
19 cover up a situation. He thought
20 that she was possibly, if she was
21 there, she had a man there with
22 her. He was constantly calling.
23 He said that he was going to come
24 out there. I told him not to call
25 any more. We turned our phones

Meree - - Direct

1 off and he left several messages
2 after that.

3 Q When you say he left
4 messages after that, was that on
5 your phone?

6 A On my voice mail,
7 yes.

8 Q And those messages,
9 were those left before your
10 daughter went back to the hotel?

11 A Yes, they were.

12 Q And what were those
13 messages?

14 A That he was -- he
15 didn't believe that she was out
16 there and that he was going to
17 come out there. Then he called
18 again and said won't come back,
19 come out there because he didn't
20 want me to have him arrested.

21 Q So he just kept
22 leaving sort of the same type of
23 messages?

24 A Yes.

25 Q Approximately how

Meree -- Direct

1 many of those phone calls do you
2 think were placed by the defendant
3 as recall?

4 A He probably called --
5 he only left four messages I
6 believe, but he probably called
7 about ten times.

8 Q And in how short of a
9 time period are we talking about?

10 A About an hour, two
11 hours.

12 Q And you also said
13 that he was calling your daughter?

14 A Yes, he was.

15 Q Do you know
16 approximately how many times he
17 would have called her that you
18 witnessed at least?

19 A Probably about the
20 same.

21 Q Did she stop -- did
22 she turn off her phone like you
23 did?

24 A Yes, she did.

25 Q And to your knowledge

Meree - - Direct

1 were there calls made after she
2 turned her phone off?

3 A I don't know. I
4 don't remember.

5 Q And somewhere along
6 in that process he actually did
7 come out to your house?

8 A Yes, he did.

9 Q About when, what time
10 of day was it that he came out?

11 A Well, I didn't find
12 out about that night until later,
13 but the very next day he came, he
14 showed up, and he'd already made
15 arrangements for them to talk and
16 he showed up at the house earlier.
17 He was supposed to be there around
18 two. He showed up at twelve. He
19 was in a very good mood. I was
20 rather surprised. And I asked
21 him, I said well, I thought you
22 weren't going to be here till two
23 and he said well, I wanted to
24 spend some time with my wife. And
25 he said that he had gotten a

Meree -- Direct

1 couple of jobs and he was hoping
2 that he could talk to her about
3 reconciling and getting them a
4 place to stay. And he said that
5 they were going to go back to the
6 room and discuss this and they
7 were going to be turning their
8 phones off.

9 Q And that was at about
10 twelve o'clock?

11 A It was about twelve
12 o'clock. Yes.

13 Q And did he then --
14 did your daughter go with him?

15 A She did.

16 Q And they -- they left
17 at that point?

18 A They left. They
19 stayed probably about half an hour
20 at the house and then they left.

21 Q Did them seem to be
22 getting along or at least
23 speaking?

24 A They were speaking
25 but Rachel's intent was that she

Meree - - Direct

1 had told me that she was just
2 going to go there and get the rest
3 of her things.

4 Q And then they left?

5 A Yes.

6 Q What was, what was
7 the next thing you did as far as
8 understanding what you daughter
9 may or may not do?

10 A Well, I tried calling
11 her later that night. I had
12 purchased her cell phone myself so
13 I'd be able to reach her and I
14 couldn't get through and I
15 remember well he that they were
16 going to be cutting the cell
17 phones off so that they could
18 talk. I tried the next day and
19 wasn't able to reach her at all.

20 Q And did you - - what
21 happened after that, if anything?

22 A The following morning
23 David, Clark David Thomas called
24 and he left a message on my cell
25 phone to - - he wanted me to call

Meree -- Direct

1 him. It was very incoherent. I
2 called him and he was asking me if
3 her father knew where their room
4 was, that he was going to move
5 rooms. And I told him I had no
6 idea. I wasn't able to make
7 much -- he wasn't talking
8 straight.

9 So I asked him, I
10 said where's Rachel? And he said
11 she's right here. And I said can
12 I speak to her, please? And he
13 said she's sleeping. And I asked
14 him to wake her up and he said
15 well, we stayed up late last night
16 watching movies and I will get her
17 to call you whenever she wakes up.
18 And I didn't -- the next phone
19 call I got was from the police
20 officer.

21 Q About how long after
22 that conversation did the police
23 officer call you?

24 A Probably about four
25 hours.

Meree -- Direct

1 Q And when the police
2 officer called you what did you
3 do? Where -- did you go anywhere
4 as a result of that phone call?

5 A The hospital.

6 Q What did you find
7 when you got to the hospital?

8 A Excuse me.

9 Q Take your time.

10 A The police officer
11 told me that when he called that
12 there had been an incident and
13 that Rachel was in the hospital.

14 Q Did you know when he
15 called what the incident was?

16 A No.

17 Q What did you find
18 when you got to the hospital?

19 A They took me in the
20 room and they wanted to prepare me
21 for what happened to Rachel. And
22 they came in and they talked to me
23 and they told me that she had been
24 tased and I don't remember the
25 numbers of times and they. . .

Meree -- Direct

1 (Crying.) And I don't remember
2 anything they told me.

3 That was. . .

4 (Crying.)

5 Q Okay. Well, if they
6 told you her condition.

7 A Yes.

8 Q Is that fair to say?

9 A Yes.

10 Q Did you see your
11 daughter at that point?

12 A Not right then.

13 Q Well, how long after?

14 A It was probably
15 around an hour later.

16 Q Were they treating
17 her when you got there?

18 A They had, they were.
19 They had I think finished treating
20 her when I probably saw her.

21 Q When you did see her
22 were you able to at least speak
23 with her?

24 A Yes, I was.

25 Q You know your

Meree - - Direct

1 daughter well?

2 A Yes.

3 Q You've seen her her
4 whole life. How would you
5 describe her condition when you
6 saw her at the hospital?

7 A I felt like she was
8 in shock.

9 Q What was it about her
10 that made you think you she was in
11 shock?

12 A She was just
13 different. She was - - disbelief.
14 It was like she was just somebody
15 else.

16 Q When you say, when
17 you say different about her, what
18 was it, what was it about her
19 behavior before she left that was
20 different now that you saw her in
21 the hospital? How had she
22 changed?

23 A She was quiet.
24 Scared.

25 Q Was that unusual for

Meree -- Direct

1 her?

2 A Yes.

3 Q Did you see the
4 injuries she had?

5 A Yes.

6 Q Did you see the --
7 any, any marks on her head, on her
8 arms?

9 A Yes.

10 Q Just tell the jury
11 briefly what it was that you saw,
12 what type of injuries?

13 A The burns. I believe
14 there was a cigarette burn, too,
15 but the taser burns on her stomach
16 and burns on her arm.

17 Q How long was Rachel
18 in the hospital before, before you
19 could take her?

20 A I, I don't remember.

21 Q Did you -- were you
22 allowed to take her home?

23 A Yes, I was.

24 Q That was the same
25 day, next day?

Meree - - Direct

1 A The same day.

2 Q Were the police there
3 talking with her?

4 A Yes, they were.

5 Q You remember
6 Detective Rowan being there?

7 A Yes, I do.

8 Q The - - did the
9 defendant ever speak to you after
10 this incident?

11 A No. He did not speak
12 to me.

13 Q Did he ever tell you
14 anything about being out there?

15 A He told me that
16 morning that - -

17 Q Well - -

18 A That I - -

19 Q Hold on. What,
20 what - -

21 A I'm sorry.

22 Q What morning?

23 A I'm sorry. The
24 morning that, that he left
25 messages on my voice mail and I

Meree - - Direct

1 called him.

2 Q Now, let's hold up a
3 second. When you say that
4 morning, what morning are we
5 talking about?

6 A The morning that the,
7 that the police officers were,
8 were able to - -

9 Q So the day you went
10 to the hospital?

11 A The day I went to the
12 hospital. He had, that morning
13 that I called him back he wanted
14 to apologize to me first for being
15 out there. He told me he did come
16 out there that night and sat in
17 the woods and watched Rachel going
18 outside, smoking her cigarettes.
19 And he told me he was sorry, that
20 he knew that he shouldn't have
21 done that.

22 Q So that was a message
23 he left the morning that you went
24 to the, the hospital?

25 A Yes. And he actually

Meree - - Direct

1 told me that on the phone.

2 Q After, after this
3 incident had you assisted Rachel
4 in getting counseling for it?

5 A Yes.

6 Q Has she gone to
7 counseling?

8 A Yes, she has.

9 Q I want to ask you
10 about her, her problems with
11 drugs?

12 A Yes.

13 Q Did she have problems
14 with drugs?

15 A Previous to the
16 situation with David?

17 Q Yes.

18 A With, with David,
19 yes, she did.

20 Q Had she even after
21 the incident, she still had some
22 relapses is it fair to say?

23 A Yes. She did. Yes.

24 Q She's clean now?

25 A Absolutely. Yes.

Meree - - Direct

1 Q You know or I should
2 say do you know her well enough to
3 tell when she is on drugs or not
4 on drugs?

5 A Yes, I do.

6 Q When you went to the
7 hospital did she appear to be on
8 drugs or did she appear to be what
9 you described as scared?

10 A She appeared to be
11 sedated and I believe they had
12 given her something to calm her,
13 and that's what it appeared to me
14 to be.

15 Q Which is different
16 than what she appeared to be on
17 other types of drugs?

18 A Yes.

19 Q As far as counseling
20 goes, has she seen people because
21 of the trauma of the incident?

22 MR. BOLUS: Objection.

23 THE COURT: Basis.

24 MR. BOLUS: No

25 foundation.

Meree - - Direct

1 THE COURT: Please

2 approach. No speaking

3 objections.

4 (Whereupon, there was

5 an off-the-record bench

6 conference.)

7 THE COURT: You may

8 proceed.

9 MR. WILLIAMS: Thank

10 you, your Honor.

11 THE COURT: You're

12 welcome.

13 Q Miss Meree, you said

14 you've known your daughter when

15 she has been using drugs and when

16 she's been clean.

17 A Yes.

18 Q Has she been living

19 with you for the last several

20 months?

21 A Yes, she has.

22 Q Has she been in your

23 opinion, your observation free of

24 drugs and clean?

25 A Yes.

Meree - - Direct

1 Q I want to ask you one
2 more thing. You saw the injuries
3 she had from the taser. Correct?

4 A Yes.

5 Q Had you ever seen her
6 with any kind of marks similar to
7 that in her entire life?

8 A No. None.

9 MR. WILLIAMS: Nothing
10 else, your Honor.

11 THE COURT: Any
12 cross-examination of the
13 witness?

14 MR. BOLUS: Yes.

15 THE COURT: You may
16 proceed.

17

18

19

20

21 CROSS-EXAMINATION BY

22 MR. BOLUS:

23 Q Ma'am, it's pretty
24 common in a marriage for sometimes
25 a person to come home and stay

Meree - - Cross

1 with their parents a night or two?

2 In your experience has that

3 happened?

4 A In normal marriages

5 or?

6 Q When - - well, let me

7 rephrase it. Your daughter come

8 and stay with you for a night or

9 two, you don't call that living

10 with you, do you?

11 A She was moving back

12 in with me.

13 Q But you said she said

14 she was living with, sometimes

15 with you and sometimes with her

16 husband?

17 A Yes.

18 Q But the fact of the

19 matter is for seven months at

20 Folly Beach and for months at the

21 hotel she was living with her

22 husband and she just came back one

23 night or two nights with you to

24 stay with you overnight. Right?

25 A She would stay longer

Meree -- Cross

1 than that.

2 Q I know. But you said
3 two nights. Right?

4 A That particular time,
5 yes.

6 Q If I come to your
7 house and spend two nights at
8 your -- let's say in a guest room,
9 I'm not living with you. I'm
10 spending the night at your house
11 for some reason or another, but
12 I'm not living with you, am I.

13 A Not really.

14 Q Okay. And during
15 these few months that she lives --
16 well, for two years she lived with
17 her husband. Did she come over
18 every week to show you, her belly
19 and body and say mom, look at
20 this, or mom, look at this? You
21 don't -- you never inspected her
22 body before, had you?

23 A No, I had not
24 inspected it, no.

25 Q Okay. So when you

Meree - - Cross

1 see these things for the first
2 time, they're shocking but you,
3 you wouldn't know for, as a fact,
4 whether she had marks before from
5 drugs, tasers, or anything, or
6 needle marks. You wouldn't really
7 know that unless you inspected her
8 body before. Right?

9 A Wearing a bathing
10 suit I had seen her body.

11 Q When was the last
12 time you saw her in a bathing
13 suit?

14 A Probably about a
15 month prior to that.

16 Q Okay. A month?

17 A Yes.

18 Q How about in the two
19 years she lived with, with, with
20 David? Had you - - I mean you did
21 see her on a regular basis, didn't
22 you?

23 A A regular basis, yes,
24 I did.

25 Q In a bathing suit?

Meree - - Cross

1 A No. Not in a bathing
2 suit.

3 Q Okay. And you knew
4 for a fact that she was what they
5 call running drugs, which is using
6 needles?

7 A Yes.

8 Q Now, you tell the
9 jury, did you ever see the marks
10 on her body from using drugs?

11 A No. I did not.

12 Q You didn't - - well,
13 you never saw marks on her veins
14 or stomach or anything else?

15 A No.

16 Q The fact of the
17 matter is you really didn't make
18 that close of inspection of her
19 body, did you?

20 A I looked at her when
21 she was at my house, yes. I
22 looked for signs.

23 Q And you knew for a
24 fact the way she looks, kind of
25 emaciated in the pictures and all

Meree -- Cross

1 that, that s he was a pretty bad
2 drug user. Right?

3 A I'd been told that.
4 Yes, I did.

5 Q And when a married
6 man and a married woman tell the
7 mother and mother-in-law we're
8 going to a hotel room and turn the
9 phones off, does that give rise to
10 maybe a feeling that maybe they're
11 going to be romantic in your mind?

12 A David had told me
13 that he wanted to talk to Rachel
14 and see if they could work their
15 problems out.

16 Q I know. And she
17 stayed two nights with you but she
18 put on her favorite clothes, which
19 are her words, her favorite, those
20 were her favorite clothes. Do you
21 agree with that?

22 A Yes. She -- that was
23 her favorite shirt. Yes.

24 Q And they're both in a
25 good mood. She'd stayed a couple

Meree -- Cross

1 of nights with you although she'd
2 stayed a few months with David and
3 she says in your presence or he
4 says in your presence we're going
5 to the hotel where they'd been
6 living before and we're going to
7 turn off the phones, and she's
8 wearing her favorite clothes.
9 Does that sound like romance to
10 you or just picking up a few
11 little odds and ends at a hotel
12 room?

13 A Rachel, when she
14 would like -- she wore those
15 clothes a lot and she didn't just
16 put them on because David was
17 coming to pick her up.

18 Q But it's uncommon and
19 you see kids and teenagers and
20 she's a young girl, when someone
21 says we're turning the phones off,
22 does that mean they want you to
23 contact them or not contact them?

24 A She didn't tell me
25 she was turning the phones off.

Meree - - Cross

1 David did.

2 Q Oh, but they did,
3 though. Right?

4 A No.

5 Q Well, did she have
6 her phone on?

7 A David smashed her
8 phone.

9 Q When?

10 A When he took her to
11 the hotel room.

12 Q Okay. Well, how do
13 you - - you don't know when.

14 A Well, I know the
15 phone was smashed because I - -

16 Q Hold it now. I move
17 to - - I move to strike that,
18 Judge. What she just said, it's
19 completely off the wall.

20 THE COURT: No
21 editorial comment. It's
22 the - - it would be subject to
23 hearsay. I'll sustain it.
24 But you can't make your own
25 objection because you elicited

Meree -- Redirect

1 the testimony here. I just
2 ask that you move on.

3 MR. BOLUS: That's all
4 I have. Thank you.

5 MR. WILLIAMS: Your
6 Honor, I --

7 THE COURT: Any
8 redirect of the witness?

9 MR. WILLIAMS: Your
10 Honor, I do want to follow up
11 on that.

12

13

14

15 REDIRECT EXAMINATION

16 BY MR. WILLIAMS:

17 Q Miss Meree, Mr. Bolus
18 just asked you about getting --
19 about Rachel's phone being
20 smashed. Is that something you
21 were told or something you saw?

22 A I saw it.

23 MR. BOLUS: Objection.

24 THE COURT: You can --

25 I'll allow you a follow-up

Meree -- Redirect

1 question.

2 Q I want to ask you
3 about that whole process. I don't
4 think I got it, but Mr. Bolus did.

5 You went back to the
6 hotel room?

7 A Yes, I did.

8 Q And when was that?

9 A That was the day of
10 his bond hearing. The hotel --
11 well, actually the day that this
12 happened to Rachel, she wanted to
13 get her things and she wasn't able
14 to get them and the hotel would
15 not let us get them, her personal
16 property. They said that we had
17 to have a statement signed by
18 David. So the next morning in
19 court I took a statement to David
20 and got him to sign it. So I went
21 to the hotel room to pick up her
22 things.

23 Q And you went inside
24 the hotel room?

25 A I did.

Meree -- Redirect

1 Q You actually got the
2 clothing that's State's one and
3 two, these two items of clothing?

4 A Yes, I did.

5 Q Later turned them
6 over to police?

7 A Yes.

8 Q As well as a computer
9 that you turned over to the
10 police?

11 A Yes.

12 Q And you told Mr.
13 Bolus that you saw the smashed
14 cell phone?

15 A Yes, I did.

16 Q Rachel's phone?

17 A Yes.

18 Q So nobody told you
19 that. You actually saw her phone
20 smashed?

21 A I saw it and I
22 personally had to turn into
23 Verizon to give her a new phone.

24 Q Because it was
25 destroyed?

Meree -- Redirect

1 A Right.

2 MR. WILLIAMS: Nothing
3 else, your Honor.

4 THE COURT: Any further
5 questions?
6
7
8
9

10 RECROSS-EXAMINATION

11 BY MR. BOLUS:

12 Q You don't know how.
13 You just conjectured that for the
14 jury's sake, that David destroyed
15 that phone. Isn't that correct?
16 You don't know anything about how
17 that phone got destroyed. You
18 just saw it broke. Right?

19 A I didn't see it
20 broken personally, that I was just
21 told that he did this.

22 MR. BOLUS: That's
23 exactly the point. Judge, I
24 move to strike the conclusion
25 on the part of the witness she

1 first made.

2 THE COURT: Any
3 references to personal
4 knowledge of the phone being
5 broken are stricken, stricken
6 from the record as they are
7 the subject of hearsay and not
8 the basis of personal
9 knowledge. The rest of the
10 testimony will stand.

11 Any further
12 questions?

13 MR. BOLUS: No, your
14 Honor.

15 THE COURT: Mr.
16 Williams?

17 MR. WILLIAMS: No, your
18 Honor.

19 THE COURT: Any
20 objection to the witness being
21 excused? From the State?

22 MR. WILLIAMS: None,
23 your Honor.

24 THE COURT: From the
25 defense?

1 MR. BOLUS: None.

2 THE COURT: Ma'am,
3 you're excused.

4 You may call your
5 next witness.

6 MR. WILLIAMS: Thank
7 you, your Honor. The State
8 calls Officer Chris Talbott.

9 MR. BOLUS: Your Honor,
10 may I make a point?

11 THE COURT: I'm sorry.

12 MR. BOLUS: May I make
13 a point?

14 THE COURT: Please
15 approach.

16 (Whereupon, there was
17 an off-the-record bench
18 conference.)

19

20

21

22

23

24

25 CHRIS TALBOTT, having

Talbott -- Direct

1 been called as a witness, is
2 duly sworn and testifies as
3 follows:

4 THE COURT: Thank you.
5 You may proceed, Mr. Williams,
6 when you're ready.

7 MR. WILLIAMS: Thank
8 you, your Honor.

9

10

11

12

13

14 DIRECT EXAMINATION BY

15 MR. WILLIAMS:

16 Q Sir, where do you
17 work?

18 A North Charleston
19 Police Department.

20 Q What do you do for
21 the North Charleston Police
22 Department?

23 A I'm a patrolman.

24 Q How long have you
25 been working in law enforcement?

Talbott -- Direct

1 How many years?

2 A Approximately four
3 years.

4 Q When you first
5 started did you go to school to
6 become a police officer?

7 A Yes.

8 Q Do you get a degree?

9 A Well, I graduated
10 from Clemson in '98.

11 Q So you have a
12 four-year degree in criminal
13 justice?

14 A Well, no.

15 Q What, what year
16 degree and --

17 A Recreational therapy.

18 Q And then you went to
19 the Law Enforcement Academy?

20 A Yes.

21 Q Where was your first
22 job out of college in law
23 enforcement?

24 A In law enforcement,
25 North Charleston Police

Talbott -- Direct

1 Department.

2 Q And did you -- how
3 long did you work in North
4 Charleston the first time?

5 A Three years.

6 Q Did you go then work
7 somewhere else?

8 A Yes. I went to the
9 Sheriff's Office.

10 Q And after working
11 with the Sheriff's Office you came
12 back to North Charleston?

13 A Yes.

14 Q So you've been a
15 police officer for you said four
16 years?

17 A Approximately.

18 Q You said you worked
19 as and you currently work as a
20 road patrol officer?

21 A Yes, sir.

22 Q What's that mean?

23 A I patrol the streets
24 that, that I'm assigned for my
25 shift period.

Talbott -- Direct

1 Q Do you drive around
2 in a marked car?

3 A Yes.

4 Q Wear the same uniform
5 you're wearing today?

6 A Yes.

7 Q Take basically any
8 type of call that comes out?

9 A Yes.

10 Q Whether it's a car
11 crash or an armed robbery?

12 A Yes, sir.

13 Q And when you say
14 you're doing that now, were you
15 doing that back in 2006 as well?

16 A Yes, sir.

17 Q And did you get call
18 on I believe it was June sixth,
19 June seventh of 2006 with the case
20 that we're in court today on?

21 A Yes, sir. It was
22 June seventh.

23 Q June seventh. What
24 was -- how do you generally get
25 notified where to go or what to

Talbott -- Direct

1 do?

2 A Direct dispatch.

3 Q Did you receive a
4 dispatch call regarding this case?

5 A Yes, sir.

6 Q And what was the
7 dispatch call that, that caused
8 you to respond?

9 A It came out as an
10 unknown situation and a concerned
11 citizen stated a vehicle or they,
12 they observed a van driving down
13 the road and it was still moving
14 and a female jumped out and a
15 white male went running after her.

16 Q So dispatch had told
17 you that there was somebody
18 jumping out of a car and being
19 pursued?

20 A Correct.

21 Q That give you some
22 idea of what you needed to do.
23 Correct?

24 A Correct.

25 Q What did you do at

Talbott -- Direct

1 that point?

2 A I responded with --
3 it's an unknown situation, respond
4 pretty quickly, and upon my
5 arrival I observed a van, looked
6 like a blue in color van,
7 partially blocking the far
8 right-hand lane of the road.

9 Q Which road are we
10 talking about.

11 A It was at the base of
12 the north bridge.

13 Q That's in Charleston
14 County?

15 A Yes.

16 Q When you say base of
17 the bridge, was it in the part
18 that's like raised above the road
19 or was it even with the land?
20 What are you talking about?

21 A It was just on the
22 other side of the bridge, a little
23 bit pulled off onto the, onto the,
24 the side.

25 Q When you said it was

Talbott -- Direct

1 partially blocking traffic, what
2 do you mean?

3 A It was, it was
4 blocking I would say fifty per
5 cent of what we call lane three,
6 the furthest lane to the right.

7 Q And lane three is
8 basically the right lane, the slow
9 lane?

10 A Correct.

11 Q Not the shoulder but
12 the actual lane for traffic?

13 A Right.

14 Q When you say fifty
15 per cent blocking, were cars about
16 to get past it?

17 A No.

18 Q Had to go around,
19 stop, whatever?

20 A Correct.

21 Q Did you have lights
22 and sirens on?

23 A Not -- no. Not when
24 we were responding. No.

25 Q When you saw the van

Talbott -- Direct

1 blocking the roadway, what did you
2 do?

3 A I believe I pulled
4 my car in behind it and put on my
5 lights to warn other drivers of
6 the vehicle and then heard
7 dispatches, what they gave us.
8 There was, it occurred to me that
9 they probably ran under the bridge
10 and I started to walk around that
11 area to see if I could locate the
12 subjects that the call was about.

13 Q Did you notice if the
14 van had doors open or closed, if
15 it was running, any of those
16 things?

17 A The passenger's side
18 door was ajar.

19 Q When you got -- you
20 said you started going down under
21 the bridge. What did see, if
22 anything?

23 A I basically did a, a
24 one eighty going back under the
25 bridge, and as I start walking I

Talbott -- Direct

1 observed the defendant and the
2 victim walking, coming back
3 towards me, and the defendant was
4 carrying the victim and she was
5 kicking. I believe she was
6 screaming something. And she, she
7 appeared very frustrated.

8 Q Now when you say they
9 were walking back, how far from
10 the van where you parked your
11 patrol car, were the defendant and
12 the victim?

13 A I would say about two
14 hundred yards.

15 Q And you said that you
16 saw the defendant. Do you see him
17 in court today?

18 A Yes.

19 Q Would you point to
20 him for me. Describe what he's
21 wearing.

22 A A white shirt and
23 tie.

24 MR. WILLIAMS: Your
25 Honor, may the record reflect

Talbott -- Direct

1 identification?

2 THE COURT: The record
3 will so indicate. You may
4 proceed.

5 Q Now you had mentioned
6 that the victim in the case was, I
7 think you said appeared
8 frustrated, was kicking. What do
9 you mean by appeared frustrated?

10 A It appeared that she
11 did not want to be, she did not
12 want to be -- she did not wish to
13 be carried by the defendant at
14 that, at that moment.

15 Q When you say she was
16 kicking was she like kicking with
17 intention that you could tell?

18 A Yes.

19 Q What type of
20 intention did it appear to you
21 that she was kicking?

22 A She wanted to get
23 away.

24 Q What did you do when
25 you saw that happening?

Talbott -- Direct

1 A I believe we
2 instructed the defendant to, to
3 put her down and we separated the
4 two of them. That's a typical
5 procedure in any domestic type
6 situation, we separate them to
7 interview them. And I began to
8 interview the victim and another
9 officer was with the defendant.

10 Q Who was the officer
11 with the defendant?

12 A I believe it was
13 Officer Watson, David Watson.

14 Q When you separated
15 the defendant and the victim, were
16 you able to get a closer look at
17 the victim?

18 A Yes.

19 Q How would you
20 describe her condition?

21 A Well, she immediately
22 said, she immediately said that,
23 before I even, before I really
24 asked her what had happened, she
25 was shaking violently, and she

Talbott -- Direct

1 said the next, she said he said
2 the next time he'll kill me.

3 And she, then, then
4 she immediately just pulled up her
5 shirt and showed me the marks on
6 her stomach.

7 Q You said that she was
8 violently shaking. What do you
9 mean by that?

10 A She, she appeared to
11 be very, very nervous. Very
12 scared. In fear for her life.

13 Q When you spoke with
14 her, was, did she also seem
15 excited as far as her, her voice
16 and go, or was she -- well, what
17 was her demeanor I guess once she
18 started talking to you?

19 A Her demeanor really
20 just seemed to be relief and just
21 utter, utter disbelief.

22 Q When -- in your, in
23 your time in law enforcement you
24 come across people that are on
25 drugs?

Talbott -- Direct

1 A Yes. Every day.

2 Q You, you know what
3 somebody looks like when they're
4 high on drugs?

5 A Yes.

6 Q And you also know
7 what somebody looks like when
8 they're in distress?

9 A Correct.

10 Q In your experience
11 would you characterize the victim
12 in this case as being high on
13 drugs or in distress?

14 A No. She was
15 completely coherent. She was in,
16 very much in distress.

17 Q And that's -- how was
18 that different in your, in your
19 experience from being high on
20 drugs?

21 A She was able to tell
22 me everything that had happened.
23 She was able to give me her name.
24 She was able to give me the
25 defendant's name. She was able to

Talbott -- Direct

1 give me the location where it
2 happened.

3 Q So that type of
4 detail is important to you?

5 A Correct. Yes.

6 Q And that's, that's
7 not something you typically see
8 from somebody who's high on drugs
9 necessarily?

10 A Right.

11 Q I want to talk for a
12 minute about that. You had said
13 that before you asked her anything
14 she started saying that the next
15 time she would be killed or
16 something like that and she showed
17 you the injuries?

18 A Correct.

19 Q What injuries did you
20 see? What were the --

21 A I saw what I
22 estimated as twenty-five to forty
23 burn marks from what she described
24 as a taser to me. I saw residue
25 from, from duct tape on her chin.

Talbott - - Direct

1 I saw marks around her ankles and
2 wrists that had appeared to be
3 from some kind of restraint,
4 handcuffs or zip-ties. I think
5 she also had a busted lip.

6 Q I want to ask you
7 when, as a police officer you're
8 trained in basically
9 investigation, trying to find out
10 what happened.

11 A Correct.

12 Q She told you quite a
13 bit about what happened. Fair to
14 say?

15 A Yes.

16 Q How long were you
17 talking with her about or how long
18 did she account to you what had
19 happened? About how much time. I
20 don't want to get into - -

21 A I would say ten to,
22 ten to fifteen minutes. We
23 immediately realized that she was
24 going to need medical attention,
25 so called for E. M. S. so that

Talbott -- Direct

1 kind of limited my time.

2 Q Okay. I want to, I
3 want to ask you about that as
4 well. When you're getting an
5 initial account from somebody, you
6 obviously have other concerns as a
7 police officer beyond getting
8 every detail. Fair to say?

9 A Yes.

10 Q What, what is your
11 primary concern in a situation
12 where you respond to a call like
13 this one where it's unknown
14 exactly what's going on?

15 A Our primary concern?

16 Q Yeah. What's the
17 first thing you're worried about
18 when you, when you show up on a
19 scene like this?

20 A Safety.

21 Q So and I think you
22 said that you had put your patrol
23 car in the road obviously to keep
24 people from colliding --

25 A Right.

Talbott -- Direct

1 Q -- on Cosgrove. And
2 the safety of the victim is one of
3 your concerns?

4 A Correct.
5 Preservation of evidence.

6 Q So you, you tried to
7 make sure everybody stays safe and
8 that the evidence gets preserved?

9 A Correct.

10 Q If you're in a
11 situation where a conversation has
12 to be cut short or details have to
13 be lost in order to preserve
14 somebody's safety to get to the
15 doctor, you would do that?

16 A Yes.

17 Q But she did talk to
18 you for a, a good amount of time?

19 A Yes.

20 Q And you said she gave
21 you information about where it
22 occurred?

23 A Yes.

24 Q Who had done it?
25 Sort of what happened?

Talbott -- Direct

1 A Correct.

2 Q And you put as much
3 of those details as you reasonably
4 can in your report?

5 A Correct.

6 Q She didn't tell you
7 about any kind of sexual assault
8 at that point, did she?

9 A No. That would be --

10 Q Go ahead.

11 A That, that would be
12 expected. I mean I probably
13 wouldn't, I wouldn't expect
14 somebody to come forward with that
15 right away.

16 Q Did you press her on
17 anything like hey, look, did this
18 happen or did that happen?

19 A No.

20 Q As a road officer you
21 also work with other officers that
22 have specialization so-to-speak,
23 crime scene officers, detectives,
24 like when necessary?

25 A Right.

Talbott -- Direct

1 Q As a road officer is
2 it your job to sit down with a
3 witness, a victim, for that matter
4 a defendant and really get long
5 drawn-out written statements?

6 A Very rarely.

7 Q That's generally left
8 for a detective?

9 A Correct.

10 Q And there was a
11 detective involved in obtaining a
12 statement in this case?

13 A Correct.

14 Q That was Rowan?

15 A Detective Rowan.

16 That's correct.

17 Q So you got, you stood
18 there for about ten minutes and
19 got her account of what happened?

20 A Right.

21 THE COURT: Mr.

22 Williams, let me interrupt you
23 just one second. Ladies and
24 gentlemen, if you could
25 indulge me just one moment.

Talbott -- Direct

1 My secretary, I believe that
2 she needs me for something.
3 We'll just be one moment.

4 (Whereupon, a recess
5 was called at 4:14 p.m.)

6 (Whereupon, the judge
7 enters the courtroom at
8 4:24 p.m.)

9 (Whereupon, the jury
10 enters the courtroom at
11 4:25 p.m.)

12 THE COURT: You may be
13 seated, ladies and gentlemen.
14 I appreciate your patience. I
15 had to deal with an emergency
16 administrative matter separate
17 from this trial. I appreciate
18 your time.

19 Mr. Williams, you may
20 continue.

21 MR. WILLIAMS: Thank
22 you, your Honor.

23 THE COURT: You're
24 welcome.

25 Q Officer Talbott, I

Talbot - - Direct

1 believe you left off, you were
2 saying that you spent five or ten
3 minutes talking with the victim in
4 the case and I was going over some
5 of the -- I don't want to get into
6 what she said, but she did give
7 you details about what happened?

8 A Yes.

9 Q She gave you
10 locations, she gave you what
11 happened to her, how it happened,
12 pretty specific details?

13 A Yes.

14 Q But she didn't say
15 anything about sexual assaults?

16 A No.

17 Q And you didn't really
18 press her on any of those things?

19 A No.

20 Q And you didn't
21 interrogate her, question her, ask
22 her follow-up type stuff?

23 A No.

24 Q At some point during,
25 after she told you what had

Talbott -- Direct

1 happened, what did you do?

2 A After she, she left
3 with E. M. S. and the vehicle was
4 towed I responded to the actual
5 incident location. Well, the
6 other part of the incident
7 location.

8 Q While, while the
9 vehicle -- let me ask you this.
10 Was there -- once the victim had
11 told you these things, did you
12 have a conversation about those
13 things with other officers to sort
14 of debrief them?

15 A Right.

16 Q Is that normal?

17 A Yes. Just a
18 conversation where like, well, you
19 know. Do we charge him with this
20 or do we charge him with this.

21 Q And you would have
22 told those officers what the
23 allegations were?

24 A Correct.

25 Q Did you do that in

Talbott -- Direct

1 this case?

2 A Yes.

3 Q Sort of give them a
4 debriefing?

5 A Yes.

6 Q Was the defendant
7 close enough to you where he would
8 have been able to hear those
9 things?

10 A Yes. I believe so.

11 Q How far -- how close
12 was he to you when you were
13 telling the other officers?

14 A What I, what I
15 vaguely remember, I mean it's been
16 two, two years, so what I, I
17 remember is he, he had been
18 handcuffed and was leaning up
19 against the car and we were maybe
20 ten feet away.

21 Q And you described to
22 them what her account was?

23 A Yes.

24 Q As you were
25 describing that account, did the

Talbott -- Direct

1 defendant say anything or make any
2 comment upon what you were saying?

3 A Something, something
4 like "she likes it like that" or,
5 or these are just sex toys. Some,
6 something to that, to that.

7 Q It wasn't in response
8 to any questioning by you but him
9 overhearing the allegations?

10 A Right. Yes, sir.

11 Q After you had those
12 conversations or after you talked
13 to the officers you said that the
14 victim was transported to the
15 hospital?

16 A Right.

17 Q And the defendant was
18 essentially arrested at that
19 point?

20 A Right.

21 Q What did you do after
22 you were -- well, let me, let me
23 ask you. Is there anything else
24 you had to do on the scene there?

25 A No.

Talbot - - Direct

1 Q You said the vehicle
2 was towed?

3 A The vehicle was towed
4 and the defendant was transported
5 back by an officer.

6 Q What did you do once
7 the defendant was transported and
8 the vehicle was towed from the
9 initial crime scene?

10 A I left and went to
11 the In Towne Suites, to room one
12 forty-five.

13 Q What did you do when
14 you got to the In Towne Suites?

15 A Two other officers
16 had already responded so, and we
17 had been given consent to enter
18 the room, so they had already
19 entered the room.

20 Q Well, let me back you
21 up there. I want to ask you about
22 that quickly. When you given
23 consent, what do you mean?

24 A He signed a form
25 stating that we could search the,

Talbot - - Direct

1 the room.

2 Q When would he have
3 been approached for that consent
4 or to, to say that you could
5 search the room?

6 A At the base of the
7 north bridge.

8 Q Would that have been
9 before he said the, that's how
10 she -- before he made those
11 comments?

12 A Yes. It was before.

13 Q So he said you could
14 go inside the room before he heard
15 the allegations?

16 A Right.

17 Q And the victim would
18 have also signed off on that
19 consent?

20 A Correct.

21 Q So they signed off on
22 the consent, you debriefed the
23 other officers, and that's when
24 the defendant made that statement?

25 A Correct.

Talbot - - Direct

1 Q So once you got the
2 consent you then went to the - -
3 basically the other crime scene
4 you said?

5 A Right.

6 Q What did you find
7 when you arrived?

8 A As I was walking up I
9 could see a - - when I looked in
10 the room and I could see a T. V.
11 monitor and I could see my cruiser
12 behind me and I could see myself
13 walking up to the room. And then
14 I walked in the room and I
15 observed the chair with leg irons,
16 we call them leg irons. Some
17 people call them shackles. Leg
18 irons attached to the, to the
19 base. Zip-ties in various
20 locations around the room. They
21 had located the, the stun gun or
22 taser. It was on one of the night
23 stands. Various syringes all over
24 the room.

25 Q When you - -

Talbott -- Direct

- 1 A It was pretty messy.
- 2 Q When you go to
- 3 respond to a scene like that, is
- 4 there somebody responsible for
- 5 actually processing that evidence?
- 6 A We make a
- 7 determination based on the, based
- 8 on the, on a case-by-case basis
- 9 and in this, in this instance we
- 10 did decide to call in crime scene.
- 11 Q Who was the crime
- 12 scene officer that responded?
- 13 A It was Corporal
- 14 Coker.
- 15 Q He would have -- was
- 16 he already there when you got
- 17 there?
- 18 A No.
- 19 Q He would have
- 20 preserved or that would have been
- 21 preserved for him to then --
- 22 A The scene is secured
- 23 until he arrives.
- 24 Q Then he collects
- 25 everything, puts it in a bag?

Talbott -- Direct

1 A Right.

2 Q So you saw the
3 camera. Did -- if you can,
4 explain to the jury, was that like
5 a live feed or was that recording?

6 A It was a live feed so
7 he could observe who was
8 approaching the, the front of the
9 room.

10 Q So if you're, as you
11 said, as you walked in you could
12 actually see yourself?

13 A I saw myself walking.
14 Right.

15 Q And it was pointed
16 out the window to the front door,
17 basically?

18 A Correct.

19 Q The -- you said there
20 were leg irons there?

21 A Yes.

22 Q Were there other
23 handcuffs found in there?

24 A There were other
25 handcuffs found in there, yes.

Talbott -- Direct

1 Q The taser, ties, do
2 you remember duct tape?

3 A Duct tape.
4 Industrial duct tape, not, not low
5 strength duct tape.

6 Q And the ties, did
7 you, do you remember if some of
8 those were cut, if they were all
9 loose, what the --

10 A No. There were some
11 of them, there were some in a
12 bundle and there were some that
13 had been used and, and cut.

14 Q And the duct tape,
15 was there any used duct tape
16 recovered, to your recollection?

17 A I believe there was
18 some located in the trash can that
19 was recovered that had been used.

20 Q And that again would
21 have been processed by Corporal
22 Coker?

23 A Yes.

24 Q Once you left sort of
25 the crime scene to be processed by

Talbot - - Direct

1 the crime scene officers, where
2 did you go?

3 A After that I
4 responded to the Saint Francis
5 Hospital emergency room.

6 Q What did you do when
7 you got to Saint Francis?

8 A We had to provide a
9 form to the victim, a notification
10 of protective measurements, a
11 victim's sheet advising them of
12 the bond hearing. Then I was also
13 going to follow up with a
14 statement but at that, but at that
15 point Detective Rowan had
16 responded.

17 Q He would have been,
18 been responsible for following up
19 with the statement with the
20 victim?

21 A Yes, sir.

22 Q And he did that?

23 A He did that.

24 Q So once you - - did
25 you provide the victim

Talbott -- Direct

1 notification paper work?

2 A Uh-huh.

3 Q Once you provided the
4 victim notification and Corporal
5 Coker and Detective Rowan had
6 handled the other parts of the
7 case, did you have any other
8 involvement with the
9 investigation, apart from coming
10 to court?

11 A Other than putting,
12 putting the affidavits and the
13 paperwork together, no.

14 Q So you would have,
15 like you wrote the reports in the
16 case, sworn out affidavits, did
17 the paperwork.

18 A Correct. Yes.

19 Q When you write a
20 report do you put in every single
21 possible detail that you can come
22 up with?

23 A No.

24 Q What is the purpose
25 of a report, in your profession at

Talbott -- Direct

1 least?

2 A I believe one of the,
3 one of the most important parts of
4 a report is, is kind of indicating
5 your probable cause and reasoning
6 for arresting the person and
7 giving just the, the facts of the,
8 of the case.

9 Q And that's basically
10 submitted to your supervisor?

11 A Right.

12 Q They would review it
13 and it's also so that when you,
14 when you show up in the court like
15 now you got something to refresh
16 your memory?

17 A Correct.

18 Q But it's certainly
19 not the be all and end all of
20 every detail in the case?

21 A No.

22 Q So you could leave
23 some things out or you could
24 summarize some things without
25 putting in the details?

Talbott -- Direct

1 A Right.

2 Q I want to ask you
3 about all the evidence that was
4 seized in this case. Once the
5 case was made you got a call from
6 our office, talked to me? Is that
7 yes?

8 A Yes. Sorry.

9 Q You brought all the
10 evidence from the evidence room
11 over?

12 A Yes.

13 Q It's all here in
14 court today?

15 A Yes.

16 Q Everything that was
17 seized out of that room is
18 available for the defense attorney
19 and for whoever wants to see it?

20 A Yes.

21 Q The attorneys. Yes?

22 A Yes.

23 Q I want to ask you
24 about your department issued
25 taser. You carry one with you?

Talbott -- Direct

- 1 A Yes.
- 2 Q Is it here?
- 3 A No. I can't --
- 4 Q It's not?
- 5 A No. They didn't let
- 6 me bring it up.
- 7 Q You can't bring it up
- 8 to the courtroom?
- 9 A Right.
- 10 Q Did you have training
- 11 in how to handle that taser?
- 12 A Yes.
- 13 Q As part of that
- 14 training do you, have you ever
- 15 been tased by one?
- 16 A Yes.
- 17 Q And when I'm talking
- 18 about a taser I'm talking about
- 19 your department issued taser, your
- 20 standard police issued taser.
- 21 A Correct.
- 22 Q Have you, have you
- 23 ever had to, to use that on other
- 24 people?
- 25 A Yes.

Talbott -- Direct

1 Q When you were tased
2 with your department taser, what
3 effect did it have on you?

4 A The department issued
5 taser also has the ability along
6 with the drive stun similar to
7 that one where you actually make
8 contact with prongs. It also has
9 two probes that can shoot out and
10 I was actually shot with that
11 taser in that manner and it
12 completed incapacitated me.

13 Q Basically put you
14 down on the ground?

15 A Yeah. I had got
16 people, people dropped me to the
17 ground in five seconds.

18 Q Does it -- did you
19 seize up so-to-speak?

20 A Yes. All your
21 muscles contract and you can't
22 breathe.

23 Q You saw the taser in
24 this case?

25 A Yes.

Talbott -- Direct

1 Q It's different than
2 your department issued taser?

3 A Yes.

4 Q You were over with me
5 the other day, you actually tased
6 yourself with that taser?

7 A Yes.

8 Q Okay. Maybe against
9 other people's advice, but --

10 A Yes.

11 Q But you wanted to do
12 that to see, and that's the one we
13 have in court today, State's
14 exhibit, exhibit twenty-eight.

15 A Yes.

16 Q With the battery
17 that's in there and you turned it
18 on and I think just put it to your
19 leg?

20 A Right. Yes, sir.

21 Q How long of a, how
22 long did you put it on your leg
23 for?

24 A Just a half a second
25 to a second.

Talbott -- Direct

1 Q How did that taser
2 feel when you put it on your leg?

3 A It felt similar to
4 the, to the one that I got, just
5 in a more localized area.

6 Q And when you say
7 similar, what do you mean? What
8 is the feeling that this taser
9 gave you, explain to the jury how
10 that --

11 A It causes, it cause
12 your muscle to tense up. If that
13 had been applied to my chest I
14 would have, it would have, it
15 would have, I would have felt like
16 I couldn't breathe and then it
17 gives you a tingling sensation
18 afterwards for probably a good ten
19 minutes and it hurts very bad.

20 Q When you say, when
21 you say it hurts very bad, it, I
22 guess I want to -- can you explain
23 that any better? Make your eyes
24 water kind of hurt?

25 A Yeah. Kind of feels

Talbot - - Direct

1 like, maybe similar to like a
2 knife going, going in. If you've
3 ever been like just had a static
4 electricity shock you could, you
5 know, multiply that exponentially
6 and, and then put it, put it over
7 a lot more locations. When you,
8 when you get it, it, it doesn't,
9 it, it, like one like that would
10 cover an area maybe that, maybe
11 that big, so it's not just
12 localized to one area. It's
13 covering a larger area.

14 Q And that was with a,
15 a short duration?

16 A Correct.

17 Q And in your
18 experience if it's held longer
19 would it be, cause more injury or
20 more pain?

21 A Absolutely.

22 Q When your tased your
23 leg with that, did it leave, left
24 you a mark?

25 A Yes.

Talbott -- Direct

1 Q What was it similar
2 in nature to some of the ones that
3 the victim had --

4 A Yes.

5 Q -- that you saw?

6 A Yes.

7 Q And some of hers
8 actually had some blood. Did you
9 get that much exposure?

10 A No. It looked like a
11 little blood blister but it didn't
12 break the skin.

13 Q And in your opinion
14 is there any kind of pleasure or
15 anything other than pain that you
16 experienced?

17 MR. BOLUS: Objection,
18 your Honor.

19 THE COURT: Basis?

20 MR. BOLUS: No
21 foundation. It's opinion. If
22 it hurts him --

23 THE COURT: Well, it's
24 actually leading. You need to
25 rephrase the question. You

Talbott -- Direct

1 confine it to his experience.

2 Q In your experience in
3 putting that taser on your leg,
4 what kind of sensations would you
5 get from it?

6 A It was, it was
7 painful. Taser, tasers, our
8 tasers are used to subdue
9 subjects. That's why they're
10 issued to us. And, and that felt
11 similar to a drive stun from my
12 taser.

13 MR. WILLIAMS: Nothing
14 else, your Honor. Thank you.

15 THE COURT: Any
16 questions for the witness?

17 MR. BOLUS: Yes, ma'am.

18 THE COURT: You may
19 proceed.

20

21

22

23

24

25

Talbott -- Cross

1 CROSS-EXAMINATION BY

2 MR. BOLUS:

3 Q Officer, but as a
4 matter of fact, that's a low
5 powered taser compared to what
6 you're using. Right?

7 A No. I believe that
8 the batteries are pretty similar.

9 Q Yeah. But you're not
10 carrying that for obvious
11 purposes. It doesn't incapacitate
12 people. That one does not
13 incapacitate anybody.

14 A A, a drive stun from
15 my taser doesn't incapacitate
16 people either.

17 Q But if you shoot
18 prongs into people and you see
19 it --

20 A Correct.

21 Q -- on T. V. when
22 people flop down like pieces of
23 salmon, flopping --

24 A Yeah. That's
25 different from a drive stun.

Talbot - - Cross

1 Q Okay. But that's
2 what you're using. Right?

3 A My taser can do
4 either.

5 Q Okay. You've got
6 shooting prongs and you got that
7 thing, too?

8 A Correct.

9 Q Okay. But when you
10 really want to -- if someone is
11 giving you a problem, you shoot
12 him with the prongs?

13 A It depends on your,
14 where you are. If I'm, if I'm, if
15 I'm in close proximity then you're
16 going to get a drive stun like
17 that one.

18 Q Okay. And you wrote
19 a one, two, a lengthy report and
20 you said that you don't catch all
21 the little small details in the,
22 in every report you do. Right?

23 A Yes.

24 Q And a small detail is
25 criminal sexual conduct in the

Talbot - - Cross

1 first degree as described by this
2 witness is a small detail that you
3 didn't put in your report and she
4 didn't tell you about even though
5 you got about two and a half pages
6 of single-spaced typed stuff, that
7 was not a detail that concerned
8 you?

9 A I had kidnapping and
10 criminal domestic violence high
11 and aggravated and I wasn't, I, I
12 hate to say it, but the thought
13 C. S. C. or something like that
14 didn't cross my mind at the time.

15 Q But you - -

16 A Had I followed up
17 with her more, it, it would have
18 come up.

19 Q And your position is
20 when a, when a women is claiming
21 rape or something and you contact
22 her, she talks about everything
23 but a rape, that's just kind of
24 commonly known, that's not
25 commonly known to me but it's

Talbott - - Cross

1 commonly known to you?

2 A I, I don't understand
3 the question.

4 Q She didn't make a
5 statement about a rape till ten
6 days later to your detective?

7 A Correct.

8 Q And you took a long,
9 lengthy report. There's nothing
10 in there about sex or anything
11 being a nonconsensual one way or
12 another? It's not even mentioned
13 and you all call it a small detail
14 that maybe skipped her mind and
15 skipped your mind. He's being
16 tried for a very serious criminal
17 sexual battery.

18 A Correct.

19 MR. WILLIAMS: Your
20 Honor, objection.

21 Q What's the reason?

22 THE COURT: Is there an
23 objection?

24 MR. WILLIAMS: No, your
25 Honor.

Talbott -- Cross

1 A What's the reason why
2 it's not there?

3 Q Yeah.

4 A Because she didn't
5 tell me about it.

6 Q That's exactly --

7 A Because I didn't,
8 because I didn't press. Because
9 my time was limited. There were
10 factors, there were factors
11 limiting my time with her and I
12 had a kidnapping charge and a
13 C. D. V. HAN charge --

14 Q But --

15 A -- so I'm not going
16 to press any further. If, if,
17 if --

18 Q You don't, you don't
19 ask someone whether did he
20 sexually abuse you or that's
21 something that's just not in your
22 line of thinking?

23 A If I had had the
24 time, absolutely. Yes.

25 Q The time?

Talbott -- Cross

1 A Absolutely I would
2 have.

3 Q Were you sexually
4 abused takes three seconds. You
5 didn't have time for that?

6 A Not, not at the, not
7 at that moment, no.

8 Q And she didn't say,
9 ah, sir, he raped me also and
10 sexually abused me. You didn't --
11 five more seconds. I mean I'm not
12 getting it. It's you didn't have
13 the time for that but everything
14 else about zip-ties and all that
15 other stuff's in there but never
16 crossed your mind to even ask her
17 the million dollar question?

18 A At the time I believe
19 I was thinking they're spouses.

20 Q That's right.

21 A Beyond, beyond,
22 beyond that, I mean I wasn't, I
23 wasn't aware of the law that, that
24 if they aren't living together you
25 can still charge them with that so

Talbot - - Cross

1 maybe that's why I didn't follow
2 up.

3 Q You didn't - -

4 A In my four years of
5 experience I have talked about
6 C. S. C.'s, I've had a C. S. C.
7 case before, but it's still an
8 uncomfortable topic to talk about.

9 Q I know. But you
10 established the two people in your
11 investigation that's in your
12 report, two people were living in
13 room one forty-five for some
14 period of time?

15 A No. I didn't
16 establish that.

17 Q It's in your report.

18 A No. It's not in my
19 report.

20 Q Yes, it is?

21 A No, it's not.

22 Q Okay.

23 A It might be in a
24 supplement that somebody else
25 wrote. It's not in my report.

Talbott - - Cross

1 Q Did you establish it?

2 A Did I establish that
3 they were living there?

4 Q Yes.

5 A Together?

6 Q Yes.

7 A No.

8 Q You have no reason to
9 doubt that they weren't living
10 there?

11 A I established that
12 she was living with her mom.

13 Q You didn't establish
14 that.

15 A That's what I, that's
16 what the, that's, that's my
17 knowledge.

18 Q From her?

19 A Correct.

20 Q When did she tell
21 that?

22 A At the scene. You
23 can read it in my report.

24 Q She had been
25 separated recently. That's what

Talbot - - Cross

1 she said?

2 A And were staying, and
3 she was staying with her mother.
4 That's what my report says.

5 Q And that's, that's
6 how you established that?

7 A I mean I don't know.
8 Established is a funny word I
9 guess. I mean that's, that's what
10 I came to know.

11 Q And she told you the
12 victim had been staying with her
13 mother for some time to get away
14 from the suspect. She said for
15 some period of time?

16 A Yes.

17 Q Okay. So you don't
18 know what their situation was,
19 living together, not living
20 together?

21 A She -- what I, what
22 I, what I was able to gain was
23 that she was trying to get away
24 from her husband so she had been
25 staying with her mother. That's

Talbott - - Cross

1 what I was able to gain at the
2 scene.

3 Q Okay. From her,
4 that, that one statement that she
5 made to you?

6 A I believe she was the
7 only one. I don't, I don't, I
8 don't recall speaking with her
9 mother about that at the hospital.

10 Q But you got her
11 consent to search the hotel room.

12 A Just as a precaution.

13 Q That's right. Just
14 in case she was living there, huh?
15 You got her consent along with my
16 client's consent, just to make
17 sure that - -

18 A That's just good
19 police work.

20 Q That is good police
21 work. But that shows that you,
22 you might have thought she might
23 be living with the man. Right?
24 Right?

25 A It's, it wasn't going

Talbott -- Cross

1 to hurt anything to get it.

2 Q No. It sure didn't.

3 A Okay.

4 MR. BOLUS: Thank you
5 very much.

6 THE COURT: Any
7 redirect of the witness?

8 MR. WILLIAMS: Yes,
9 your Honor.

10 THE COURT: You may
11 proceed.

12

13

14

15

16

REDIRECT EXAMINATION.

17

BY MR. WILLIAMS:

18

Q Officer Talbott, I

19

want to ask you about what you

20

said about precautions and good

21

police work and always making

22

sure. There was also a search

23

warrant done in this case, right,

24

on a computer?

25

A Yes.

Talbott -- Redirect

1 MR. BOLUS: Objection.

2 THE COURT: Basis?

3 MR. BOLUS: There's
4 nothing about search warrants
5 in the previous --

6 THE COURT: Please
7 approach. Needs to be
8 confined to cross, Mr.
9 Williams. Is the question
10 confined to cross examination?

11 (Whereupon, there was
12 an off-the-record bench
13 conference.)

14 THE COURT: You may
15 proceed. Your objection is
16 overruled.

17 Q Officer, all of
18 that -- there was -- later a
19 search warrant was obtained to
20 look at the computer, too, right?

21 A Correct.

22 Q Even though you might
23 have consent from both parties
24 sometimes you also do search
25 warrants just to be sure?

Talbott -- Redirect

1 A Correct.

2 Q And that's nothing
3 more than good police work?

4 A Right.

5 Q Mr. Bolus, Mr. Bolus
6 asked you specifically about what
7 did the, what the victim didn't
8 say. I believe he pointed out one
9 thing she didn't say. In follow
10 up to that I want to ask you what
11 she did say. She told you a lot.
12 Right?

13 A Yes.

14 Q It's in your report.
15 She -- and I don't -- before I
16 establish those things she did
17 say, I want to get the context of
18 it. This was -- what was her
19 condition as she told you these
20 things?

21 A Extremely distraught.

22 Q This was probably --

23 A She --

24 Q -- seconds after
25 you'd seen her being carried by

Talbott -- Redirect

1 the defendant?

2 A Right. Right.

3 Q And you have your
4 report there with you?

5 A Yes.

6 Q You essentially --

7 MR. BOLUS: Your Honor,
8 he went over my --

9 THE COURT: Basis of
10 the objection.

11 MR. BOLUS: Asked and
12 on direct. If we're going to
13 go back over --

14 THE COURT: I'm going
15 to, I'm going to give him a
16 little latitude, subject to
17 connection, Mr. Williams.

18 MR. WILLIAMS: Thank
19 you.

20 THE COURT: Overruled.
21 It needs to relate to
22 cross-examination.

23 MR. WILLIAMS: Yes,
24 your Honor.

25 Q Officer, given the

Talbott -- Redirect

1 defense pointing out what she
2 didn't say, I want to get into
3 what she did say so we can know
4 those things that she talked about
5 so we know how much she did tell
6 you.

7 A Okay.

8 Q She talked about that
9 the defendant was her husband.
10 They had been married four years.
11 They've been separated recently
12 because of another incident. She
13 says that he was a heroin user and
14 she said that she'd been staying
15 with her mother for some time to
16 get away from the suspect.

17 A Correct.

18 Q She told you that.
19 Right?

20 A Correct. Yes.

21 Q You told Mr. Bolus --

22 A Yes.

23 Q -- that?

24 A Yes.

25 Q That he came to her

Talbott -- Redirect

1 mother's residence, that he would
2 take her to her hotel room, to his
3 hotel room so she could get some
4 of her belongings. He took her to
5 the hotel in a van. When she went
6 in he pulled out a stun gun.
7 Subdued her by pushing the taser
8 into her back and pushing her onto
9 the floor. She said that he spat
10 on her, spit on her face, tied her
11 up with zip-ties, told you all
12 those things?

13 A Yes.

14 Q Accused him, he
15 accused her of cheating on him --
16 or, yeah. Cheating on him,
17 specifically with certain people.
18 She told you about the camera that
19 was in there.

20 A Yes.

21 Q How it was set up.
22 That it made her afraid. That for
23 thirty-six to forty hours she was
24 shackled to a chair. Her hands
25 bound with zip-ties. Her mouth

Talbott - - Redirect

1 was taped as they keep going
2 through this. That they were
3 going to go somewhere. She didn't
4 know where. He put her in the
5 car, holding her by her hair. He
6 made her stay on the floor board.
7 Got to the north bridge and then
8 she managed to jump out and then
9 basically told you at that, at
10 that point you came up?

11 A Right.

12 Q So when Mr. Bolus
13 asked you what she didn't say, she
14 told you a lot?

15 A A lot. And I'm
16 writing that down on a notepad
17 about that big, as fast as I can.

18 Q And she didn't tell
19 you about a C. S. C.?

20 A Correct.

21 Q Is that something you
22 would ordinarily press for,
23 personal sexual assault details on
24 the side of a road?

25 A No.

Talbott -- Redirect

1 Q What's the
2 appropriate way to ask those type
3 of questions?

4 A In a, in a, in a more
5 controlled environment.

6 Q And you actually went
7 to do that but Detective Rowan was
8 already there?

9 A Correct.

10 MR. WILLIAMS: Thank
11 you. Nothing else.

12 MR. BOLUS: No
13 questions.

14 THE COURT: Any
15 objection to the witness being
16 excused? From the State?

17 MR. WILLIAMS: No, your
18 Honor.

19 THE COURT: From the
20 defense?

21 MR. BOLUS: None.

22 THE COURT: Sir, you're
23 excused subject to recall I
24 would imagine.

25 You may call your

1 next witness.

2 MR. WILLIAMS: Thank
3 you, your Honor.

4 The State calls
5 Detective Andy Coker.

6 THE COURT: Ladies and
7 gentlemen, we're going to take
8 a brief restroom break.
9 Please do not discuss the case
10 and please leave your notepads
11 in your seats. As soon as
12 you're done, please knock on
13 the door and I will
14 immediately bring you back
15 into court for the next
16 witness's testimony.

17 (Whereupon, a recess
18 was called at 4:48 p.m.)

19 (Whereupon, the judge
20 enters the courtroom at
21 5:05 p.m.)

22 THE COURT: Do you have
23 your next witness ready, Mr.
24 Williams.

25 MR. WILLIAMS: He's

1 right here.

2 THE COURT: And is the
3 defense ready to proceed?

4 MR. BOLUS: Yes.

5 THE COURT: Please
6 bring in the panel.

7 (Whereupon, the jury
8 enters the courtroom at
9 5:08 p.m.)

10 MR. BOLUS: Your Honor,
11 may we approach.

12 THE COURT: Yes.

13 (Whereupon, there was
14 an off-the-record bench
15 conference.)

16 THE COURT: Ladies and
17 gentlemen, I hope you enjoyed
18 your break. We'll now resume
19 with the testimony.

20 Mr. Williams, you may
21 call your next witness.

22 MR. WILLIAMS: Thank
23 you, your Honor.

24 THE COURT: You're
25 welcome.

Coker -- Direct

1 MR. WILLIAMS: The
2 State calls Corporal Andy
3 Coker.

4

5

6

7

8

9

10 THE COURT: You may
11 proceed.

12 MR. WILLIAMS: Thank
13 you, your Honor.

14 THE COURT: You're
15 welcome.

16 DIRECT EXAMINATION BY
17 MR. WILLIAMS:

18 Q Sir, where do you
19 work?

20 A I work for the City
21 of North Charleston Police
22 Department.

23 Q What do you do for
24 the North Charleston Police
25 Department?

Coker - - Direct

1 A I'm a crime scene
2 investigator.

3 Q What's that mean?

4 A I am tasked with
5 responding to and investigating
6 crime scenes to, to include
7 collecting any evidence,
8 photographing such, photographing
9 the scene itself, processing for
10 latent prints, looking for trace
11 evidence and such.

12 Q How long have you
13 worked in law enforcement, law
14 enforcement previously?

15 A Over seventeen years.

16 Q How much long have
17 you worked in, in crime scenes?

18 A Just over two years
19 now.

20 Q Approximately how
21 many crime scenes would you say
22 you processed as a crime scene
23 officer?

24 A I, I really don't
25 know. It's in excess of four

Coker -- Direct

1 hundred.

2 Q And as an officer,
3 not necessarily as a crime scene
4 officer, but how many crime scenes
5 would you say you've been involved
6 with?

7 A Oh, I would have no
8 idea. I don't keep numbers like
9 that.

10 Q In the thousands,
11 probably?

12 A In the thousands.
13 Yes.

14 Q You were involved in
15 a case that happened back in June
16 of 2006 that you're here for
17 today?

18 A Yes. That's correct.

19 Q What was your
20 involvement in the case? How did
21 you get involved?

22 A I was summoned to the
23 scene per request of patrol
24 officers and supervisors to
25 conduct a crime scene

Coker -- Direct

1 investigation of a, of a reported
2 kidnapping and assault.

3 Q Where did you go or
4 where did you respond to?

5 A I responded to Mazyck
6 Road, the In Towne Suits I believe
7 is the name of the hotel now.

8 Q That's in a
9 Charleston County?

10 A Yes. In Charleston
11 County. Room one oh -- room
12 number one forty-five.
13 Seventy-three seventy-one Mazyck
14 Road.

15 Q What is your job when
16 you respond as a crime scene
17 officer? What do you do?

18 A The first thing I do
19 when I arrive is to speak with the
20 officers at the scene to hear from
21 them what they've learned as far
22 as their investigation of the
23 scene, what they've gathered,
24 information from witnesses,
25 victims, and any other persons

Coker - - Direct

1 around. What they've observed in
2 the scene. And to get the exact
3 location of the scene itself so
4 that I may start my investigation.

5 Q That's just so you
6 have a general idea of what to do?

7 A That's correct.

8 Q Did you talk to the
9 officers involved in the case?

10 A Yes, I did.

11 Q One of them, one of
12 them was Officer Talbott who's
13 seated next to me?

14 A That's correct. He
15 was the primary officer.

16 Q After you got an idea
17 from Officer Talbott and the other
18 people involved, what did you do
19 or how did you proceed as far as
20 processing the crime scene?

21 A First thing I did as
22 far as processing the, processing
23 the scene was to retrieve my
24 digital camera from the car and I
25 started photographing the scene.

Coker -- Direct

1 I started from the exterior of the
2 hotel room as it was photographed,
3 the entry points. Then started
4 photographing the specific items
5 of, of evidence within the
6 apartment as well as or, excuse
7 me, the hotel room, as well as
8 general overall photos of the
9 interior of that hotel room.

10 Q When you process
11 crime scene is there a general
12 pattern you follow or do you
13 start -- would you describe --

14 A I usually try to do
15 overall photos of the scene and
16 then go back and do specific
17 photos of items of evidentiary
18 value.

19 Q And after you
20 photographed items, do you then
21 seize them as well or collect
22 them?

23 A Yes. I start
24 collecting them after I've, after
25 they've been photographed.

Coker -- Direct

1 Q And once you've
2 collected them you bag them and
3 store them in evidence?

4 A That's correct.

5 Q And they can later be
6 used in trial like we're doing
7 today or sent to S. L. E. D. for
8 testing?

9 A That's correct.

10 Q So I want to go
11 through your -- you started saying
12 that you did an overall
13 photographing of the scene. You
14 would have taken pictures of
15 everything that you would have
16 seen, essentially. Is that
17 correct?

18 A That's correct. I
19 tried to photograph the scene from
20 various angles so as to encompass
21 every item of evidentiary value in
22 the, in the room itself, or
23 multiple rooms if they're
24 involved.

25 Q And as far as the

Coker -- Direct

1 outside of the building, was there
2 anything that you recall
3 collecting in the outside?

4 A The one thing that I
5 noticed from the exterior of the
6 room is that you could see a small
7 item in the window of the room
8 which upon closer inspection is,
9 was revealed to be a, a camera, a
10 remote camera. A video camera to
11 be specific.

12 (Whereupon, a
13 photograph is received and
14 marked as State's Exhibit No.
15 30 for identification.)

16 MR. WILLIAMS: I'll
17 show it to defense counsel.

18 MR. BOLUS: No
19 objection.

20 THE COURT: Marked and
21 admitted without objection.

22 (Whereupon, the
23 photograph previously referred
24 to is received and marked as
25 State's Exhibit No. 30 in

Coker -- Direct

1 evidence.)

2 Q Corporal Coker, I'm
3 going to show you the exhibit now
4 marked and admitted as State's
5 thirty. Does that show the area
6 you responded to?

7 A Yes. That would be
8 the first photo I took of the
9 scene.

10 Q Now you said that you
11 noticed a camera in the window?

12 A Yes.

13 Q You photographed that
14 as well?

15 A Yes, I did. I took
16 several photos upon my approach to
17 the room, one being of the entry
18 way and one being of the window
19 and then a couple of closer photos
20 of the camera in the window
21 itself.

22 Q I'm going to show you
23 State's eight and nine. That's
24 another picture of that scene but
25 a little bit closer up and then

Coker -- Direct

1 does nine show where the camera is
2 there?

3 A Yes, it does. That's
4 very specifically focused on the
5 camera.

6 Q I think these are
7 pictures you would have taken. I
8 want to talk first of all about
9 and then I want to go piece by
10 piece through the room.

11 A Yes, sir.

12 Q Let's start with that
13 camera since we've got that
14 picture up there. Did you make an
15 inspection of the camera, what it
16 was doing as far as feeding
17 anywhere?

18 A I looked in the room
19 to determine, from the doorway, to
20 determine if it was actually
21 feeding onto a monitor of some
22 sort. And upon looking into the
23 room from the doorway on the
24 television itself you could see
25 what was a live picture of what

Coker -- Direct

1 was taking place outside. In
2 other words, a picture of the
3 parking lot showing the police
4 cruisers parked there.

5 Q And I'll put up
6 State's exhibit four. Does that
7 show the camera that would have --
8 does that depict the television
9 that was showing what the camera
10 was picking up?

11 A Yes, sir, it does.

12 Q And that was a live
13 feed?

14 A That's a live feed.

15 Yes, sir.

16 Q And as you went
17 through, after you photographed
18 everything, what items of, of
19 interest did you collect or did
20 you find?

21 A There was a large
22 number of items of evidence that
23 were collected from this scene, to
24 include medical syringes. Spoons
25 with unknown substances on them.

Coker - - Direct

1 A set of handcuffs. A of set of
2 leg irons. Multiple cable ties
3 that were together. Other bags of
4 cable ties which had not been used
5 yet.

6 Q And when you, when
7 you document this you actually
8 write a report?

9 A That's correct.

10 Q And report retails of
11 all of these items?

12 A Yes.

13 Q I want to go through
14 that quickly because - - well, let
15 me ask you this first. When you
16 go in and, and seize items, do you
17 seize anything that could
18 potentially be important?

19 A That's correct. I
20 search for items that may have
21 evidentiary value in the case.

22 Q It's not your job at
23 that point to determine the value
24 of the items. You just basically
25 take everything just to be safe?

Coker -- Direct

- 1 A Correct.
- 2 Q Is that correct?
- 3 A That's correct.
- 4 Q You found some drug
- 5 paraphernalia inside? And do you
- 6 have your report with you?
- 7 A Yes, I do.
- 8 Q Feel free to
- 9 reference it if you need to.
- 10 A Yes.
- 11 Q You found some drug
- 12 paraphernalia in the, in the lamp
- 13 about the bed and the kitchen
- 14 cabinets, that was crack pipes is
- 15 what you called them?
- 16 A Yes.
- 17 Q A metal spoon with a
- 18 white substance in the kitchen
- 19 freezer as well as a syringe in
- 20 that freezer?
- 21 A Yes.
- 22 Q And I believe some of
- 23 that was actually sent to the
- 24 State Laws Enforcement Division --
- 25 A Yes, sir.

Coker -- Direct

1 Q -- for testing?

2 A Most of the items
3 there had some form of substance
4 with them, were, I believe all of
5 the items actually were sent to
6 S. L. E. D. for testing to
7 determine what their value or
8 their content was.

9 Q And that would have
10 been an uncapped syringe as well
11 as looks like two metal spoons and
12 a contact lens container with pink
13 liquid was everything that you
14 would have sent to S. L. E. D. as
15 far as the best kit?

16 A There were I believe
17 four best kits in total, so four.
18 Yes. Four of them.

19 Q And one would have
20 been a, a syringe with some
21 unknown liquid, you would have
22 sent two metal spoons in one best
23 kit. A plastic container with
24 some pills. And then the fourth
25 kit would have been a contact lens

Coker -- Direct

1 container?

2 A With a pink liquid.

3 Yes, sir.

4 Q So anything that
5 looked like drugs you sent to
6 S. L. E. D.?

7 A Yes, sir.

8 Q The rest of the
9 syringes, they may have been empty
10 or what not?

11 A Yes. There was --
12 the rest of the syringes listed
13 in, on my evidence sheet were
14 empty. Several of them were, just
15 appeared to be just sitting
16 loosely.

17 Q And you detailed in
18 your report that there was a
19 container with I believe you
20 counted out forty-five white
21 pills?

22 A That's correct.

23 Q And those pills went
24 to S. L. E. D. as well?

25 A Yes, they did.

Coker - - Direct

1 (Whereupon, a
2 photograph is received and
3 marked as State's Exhibit No.
4 31 for identification.)

5 MR. WILLIAMS: I'll
6 show it to defense counsel,
7 your Honor.

8 MR. BOLUS: No
9 objection.

10 THE COURT: Marked and
11 admitted without objection.

12 (Whereupon, the
13 photograph previously referred
14 to is received and marked as
15 State's Exhibit No. 31 in
16 evidence.)

17 MR. WILLIAMS: Thank
18 you.

19 Q Corporal, I'm going
20 to show you State's thirty-one.
21 Those are the white pills you all
22 found?

23 A Yes, sir.

24 Q And I, I mentioned a
25 couple times best kits. Can you

Coker -- Direct

1 tell the jury what a best kit is
2 or how you about processing
3 potential drugs?

4 A A best kit is a, it's
5 a plastic bag with several
6 particular forms that are filled
7 out. Best is the initials for
8 Best Evidence Sampling Kit. It's
9 something that's required,
10 protocol we follow with the
11 S. L. E. D. lab. We collect the
12 items, specifically describe them,
13 and send them in to be tested in
14 this kit. It has to be sealed
15 prior to being submitted to the
16 evidence locker. It remains
17 sealed until opened by the
18 S. L. E. D. laboratory technician.

19 Q So a best kit is
20 basically the bag you put
21 something in --

22 A That's correct.

23 Q -- so the drugs can
24 be transported safely?

25 A Yes.

Coker -- Direct

1 Q Going through the
2 items that you found, we talked
3 about a bunch of syringes, the
4 metal spoons. There was some
5 Tylenol. Some had Lexapro which
6 are basically prescription-type
7 drugs?

8 A That's correct.

9 Q Nonprescription. A
10 contact lens kit that you found.
11 There was one pair of silver
12 handcuffs that were recovered. Do
13 you recall where those were
14 recovered, were recovered from
15 based on your report?

16 A They were recovered
17 in a drawer. I remember finding
18 them in a drawer. Let me locate
19 them on my list. In a top drawer
20 of the bureau which I believe is
21 where the television was sitting,
22 was on top of that bureau.

23 Q And you also had
24 found some cable ties, I believe
25 there were, there were two sets of

Coker -- Direct

1 four cable ties, three sets of two
2 cable ties, then you had three
3 sets of three cable ties connected
4 and cut?

5 A That's correct.

6 Q And those were all on
7 the floor near the bed or on the
8 floor and bed?

9 A That's correct.

10 (Whereupon, a bag
11 with cable ties is received
12 and marked as State's Exhibit
13 No. 32 for identification.)

14 MR. WILLIAMS: I'll
15 show it to defense counsel.

16 MR. BOLUS: No
17 objection.

18 THE COURT: Marked and
19 admitted without objection.

20 (Whereupon, the bag
21 with cable ties is received
22 and marked as State's Exhibit
23 No. 32 in evidence.)

24 Q Corporal, looking at
25 State's thirty-two, without

Coker -- Direct

1 pulling all those out, these are
2 the cable ties that were found --

3 A Yes.

4 Q -- inside the --

5 A They are.

6 Q You remember those,
7 are they the same as what you saw
8 that day?

9 A Yes. They are.

10 Q Some of them were cut
11 but some were not cut?

12 A Some were still fully
13 connected.

14 Q And although those
15 all have been bagged separately
16 your report indicates that you
17 found them actually in separate
18 places?

19 A That's correct.

20 Q On the floor near the
21 bed or on the bed and that kind of
22 thing?

23 A Yes.

24 Q And there are other
25 syringes you found, a wire

Coker -- Direct

1 scrubber, drug paraphernalia?

2 A Yes.

3 Q There was a stun gun
4 found, a taser. Do you recall
5 that?

6 A Yes, I do.

7 Q Do you recall where
8 that was found?

9 A The stun gun was
10 located in the night, night stand
11 drawer on the left side of the
12 bed. Left side as you're facing
13 the bed, from the foot of the bed
14 towards the head. Left, left
15 would have been closer to the
16 window.

17 Q You would have seized
18 that as well?

19 A Yes. That's correct.

20 Q There was some tape
21 found in the case. You would have
22 seized pretty much all tape that
23 was found?

24 A Yes.

25 Q There was some

Coker -- Direct

1 perfree (phonetic) tape or medical
2 tape that was found.

3 A Yes, there was.

4 Q Was there also some
5 duct tape found?

6 A Yes.

7 Q Where was that
8 located?

9 A It was just inside
10 the door sitting on top of a box.

11 Q Did you find other
12 tape that corresponded or that
13 looked similar in the garbage can?

14 A Yes. There was some
15 segments and papers that was
16 balled up in the trash can in the
17 bathroom.

18 (Whereupon, a bag
19 containing tape is received
20 and marked as State's Exhibit
21 No. 33 for identification.)

22 (Whereupon, a bag
23 containing wadded-up tape is
24 received and marked as State's
25 Exhibit No. 34 for

Coker -- Direct

1 identification.)

2 MR. WILLIAMS: Your
3 Honor, I'll show these two
4 items to defense counsel.

5 MR. BOLUS: No
6 objection.

7 THE COURT: Marked and
8 admitted without objection.

9 (Whereupon, a bag
10 containing tape is received
11 and marked as State's Exhibit
12 No. 33 in evidence.)

13 (Whereupon, a bag
14 containing wadded-up tape is
15 received and marked as State's
16 Exhibit No. 34 in evidence.)

17 Q I'm going to remove
18 the item out of State's, State's
19 exhibit thirty-three. Is the duct
20 tape that was found inside?

21 A Yes. That's correct.

22 Q As well as some of
23 the other tape that you had seized
24 just for precaution?

25 A Yes.

Coker -- Direct

1 Q I'm going to open
2 State's thirty-four. This is the
3 tape that you would have recovered
4 from inside the --

5 A Yes. That's the one.

6 Q -- garbage as well as
7 the fresh?

8 A Yes. That was in the
9 garbage.

10 Q And this looks like
11 there's two pieces.

12 A Yes.

13 Q And this is the two
14 pieces that you would have taken
15 out of the trash can and put in
16 this bag?

17 A Correct.

18 Q There was I think a
19 furry set of, something that was
20 labeled a furry set of handcuffs
21 that were found?

22 A That's correct.

23 Q Where was that found?

24 A It's actually Fureeze
25 (phonetic) is the brand.

Coker - - Direct

1 Q I'm sorry. Fureeze?
2 A Yes.
3 Q Those were leg irons?
4 A Leg irons. They were
5 on the floor of the room. Right
6 inside the door there's a table
7 and a set chairs at that table
8 like a dining table, and they were
9 affixed to the bottom of one of
10 the chairs.
11 (Whereupon, a set of
12 leg irons is received and
13 marked as State's Exhibit No.
14 35 for identification.)
15 MR. WILLIAMS: Your
16 Honor, I'll show these to Mr.
17 Bolus.
18 MR. BOLUS: What is it?
19 MR. WILLIAMS: Leg
20 irons.
21 MR. BOLUS: No
22 objection.
23 THE COURT: Marked and
24 admitted without objection.
25 (Whereupon, a set of

Coker -- Direct

1 leg irons is received and
2 marked as State's Exhibit No.
3 35 in evidence.)

4 Q Corporal, I'm going
5 to take out what's State's
6 thirty-five in evidence. This set
7 of cuffs was I believe on, you
8 said were found inside the drawer
9 of the bureau?

10 A Yes.

11 Q And this is what
12 you'd call leg irons?

13 A That's correct.

14 Q And those items, item
15 thirty-five is also depicted in
16 State's twelve that is right
17 behind you, the leg irons?

18 A That's correct.
19 That's the leg irons.

20 Q You would have found
21 these attached to that chair?

22 A Yes.

23 Q Picked them up, put
24 them in this bag and brought them
25 in?

Coker -- Direct

- 1 A Yes. That's correct.
- 2 Q Photographed them
- 3 before you picked them up.
- 4 A Yes.
- 5 Q There were, there was
- 6 a sleep mask that you recovered,
- 7 you picked that up, I guess like a
- 8 standard sleep mask?
- 9 A Yes.
- 10 Q There was a wood
- 11 stick that was found in a sock?
- 12 A Yes.
- 13 Q Do you recall what
- 14 that was?
- 15 A We couldn't tell what
- 16 exactly it was when I first
- 17 encountered it. After I removed
- 18 it from the sock it appeared to be
- 19 a wooden stick or part of a, a
- 20 wooden handle. Some type of, some
- 21 type of dowel that had been
- 22 wrapped in tape.
- 23 Q And put in a sock?
- 24 A Yes.
- 25 Q Was the sock longer

Coker -- Direct

1 than the dowel?

2 A Yes.

3 Q Once -- or I'll keep
4 going through that and get to the
5 end of it. There was the, the
6 video camera and the receiver, you
7 seized those and they're actually
8 in court today? The video camera
9 and the --

10 A It was seized, yes.

11 Q Those, those were
12 seized as well?

13 A That's correct.

14 Q There was a bag of
15 catamount (phonetic) ties that
16 were seized?

17 A Yes.

18 Q Were those ties
19 similar to the ones that were
20 around the room?

21 A Yes. Visually they
22 appeared to be similar.

23 Q Those were, those
24 were brought in today? Those are
25 all in court if defense counsel

Coker -- Direct

1 wants to see them?

2 A I did not bring them.

3 Q Okay.

4 (Whereupon, a bag
5 containing electrical ties is
6 received and marked as State's
7 Exhibit No. 36 for
8 identification.)

9 MR. WILLIAMS: I'll
10 show these to defense counsel.

11 MR. BOLUS: No
12 objection.

13 THE COURT: Marked and
14 admitted without objection.

15 (Whereupon, a bag
16 containing electrical ties is
17 received and marked as State's
18 Exhibit No. 36 in evidence.)

19 Q Corporal, I want to
20 show you State's thirty-six.

21 These are the ties that were also
22 found in there?

23 A Yes. That's correct.

24 Q And as well there was
25 a yellow sized, yellow legal sized

Coker -- Direct

1 notepad that you collected?

2 A Yes.

3 Q Taken into evidence,
4 and finally a cooler that had some
5 electrical cords and some?

6 A Routers.

7 Q -- routers and line
8 filters and those kind of things?

9 A Yes. That's correct.

10 Q Those are all the
11 things that you would have
12 essentially just, that's what you
13 seized in the case. Correct?

14 A Yes.

15 Q There certainly were
16 things beyond that that you would
17 have photographed but not seized?

18 A That's correct.

19 Q Did you photograph
20 the victim in the case, do you
21 recall?

22 A Yes, I did.

23 Q So that was with
24 Detective Rowan?

25 A Yes.

Coker -- Direct

1 Q And you would have
2 basically photographed the rest of
3 the inside of the, the apartment
4 or the hotel room?

5 A Yes, sir.

6 MR. WILLIAMS: No
7 further questions for the
8 witness.

9 THE COURT: Any
10 questions for the witness?

11 MR. BOLUS: Yes. Your
12 Honor, may I approach the
13 witness?

14 THE COURT: You may.

15

16

17

18

19 CROSS-EXAMINATION BY

20 MR. BOLUS:

21 Q This is your list
22 that you gave Mr. Williams who
23 gave it to me?

24 A Yes, sir.

25 Q And that is your

Coker -- Cross

1 entire list? I mean that's your
2 list that he just went over?

3 A Yes, sir. This
4 appears to be everything. Yes,
5 sir.

6 MR. BOLUS: Okay.
7 Judge, I'd like that marked as
8 defendant's one.

9 THE COURT: Any
10 objection?

11 MR. WILLIAMS: I don't
12 see the relevance of his
13 bringing in his --

14 THE COURT: Please
15 approach. No speaking
16 objections.

17 (Whereupon, there was
18 an off-the-record bench
19 conference.)

20 THE COURT: You may
21 proceed.

22 Q Two glass crack
23 pipes. Right?

24 A Yes, sir.

25 Q Two -- one glass

Coker -- Cross

1 crack pipe. Right?

2 A Yes, sir.

3 Q You've seen crack

4 pipes. Right?

5 A Yes, sir.

6 Q People put it in

7 there, light it up, smoke it.

8 Right?

9 A That's correct.

10 Q Okay. Metal spoon

11 with white substance, crack and

12 what was that?

13 A I'm sorry?

14 Q Was it one metal

15 spoon with white substance, was

16 that crack, heroin, or what?

17 A I don't know. I

18 don't conduct that type of test.

19 Q Okay. But you found

20 a bunch of syringes commonly used

21 to inject people with drugs.

22 Right?

23 A Yes, sir.

24 Q Okay. And all kind

25 of syringes, I don't know if

Coker -- Cross

1 they're in here, but you found
2 pills, all kinds of drug
3 paraphernalia and all that sort of
4 thing. Right?

5 A Yes, sir.

6 Q Which would give you
7 as good officer the conclusion
8 there's a lot of drug activity
9 going on in this room. Right?

10 A Yes, sir. Very
11 possibly.

12 Q Okay. And there
13 would be nothing absolutely
14 unusual about people, people who
15 are buying, selling, and using
16 drugs in a hotel room setting up a
17 camera to watch if the cops are
18 going to show up from the outside?
19 Isn't that -- there's nothing
20 unusual about that?

21 A That's possible.

22 Q And you've seen that
23 happen in meth labs and every
24 place else? There's labs, there's
25 cameras and T. V.'s set up for all

Coker -- Cross

1 kinds of purposes. Isn't that
2 correct?

3 A Yes, sir.

4 Q And if a person
5 really wants to try to get away
6 with doing drugs and selling drugs
7 in a hotel room, they're probably
8 going to do exactly what happened
9 here. There's a surveillance
10 camera set up. Right?

11 A It's possible. Yes,
12 sir.

13 Q And looked like this
14 room had been lived in for a long
15 period of time?

16 A It appeared to be an
17 extended period of time. Yes,
18 sir.

19 Q Okay. And it looked
20 like a, a crack room. Right? I
21 mean a normal, every day, people
22 just doing drugs kind of hotel
23 room. Right?

24 A I don't know what an
25 every day room looks like, but

Coker -- Cross

1 I've seen several that could pass
2 for such.

3 Q You've seen some in
4 worse shape, some in better shape?

5 A Yes, sir.

6 Q And you've come
7 across cameras before,
8 surveillance cameras in drug
9 places --

10 A Yes.

11 Q -- haven't you?

12 A Yes, sir.

13 MR. BOLUS: That's all
14 I have. Thank you, sir.

15 MR. WILLIAMS: Brief
16 redirect, your Honor.

17 THE COURT: Is Mr.
18 Bolus finished with his cross?

19 MR. BOLUS: Yes.

20 THE COURT: You may go
21 ahead.

22

23

24

25

Coker -- Redirect

1 REDIRECT EXAMINATION

2 BY MR. WILLIAMS:

3 Q Corporal, how many
4 camera would you say like this one
5 set up with a live feed to the
6 front window have you come across
7 in your seventeen years?

8 A Probably two.

9 MR. WILLIAMS: Thank
10 you. Nothing else.

11 THE COURT: Any
12 objection to the witness being
13 excused? From the State?

14 MR. BOLUS: Could I ask
15 one more question?

16 THE COURT: Yes.
17 Certainly.

18

19

20

21 RECROSS EXAMINATION

22 BY MR. BOLUS:

23 Q But if it's set up
24 with a live feed, that's to let
25 people see who's coming through.

Coker - - Redirect

1 Right? If you've got the T. V. on
2 they don't have to get up from the
3 bed or anything, they can just
4 watch the T. V. Right?

5 A Yes, sir.

6 Q I mean that's just
7 perfectly normal. You set up a
8 camera, you set up the T. V.
9 Right?

10 A Yes, sir.

11 MR. BOLUS: Thank you.

12 That's all.

13 THE COURT: Any further
14 questions of the witness?

15 MR. WILLIAMS: No, your
16 Honor.

17 THE COURT: Any
18 objection to the witness being
19 excused? From the State?

20 MR. WILLIAMS: None,
21 your Honor.

22 THE COURT: From the
23 defense?

24 MR. BOLUS: No, your
25 Honor.

Coker -- Redirect

1 THE COURT: You may
2 step down.

3 THE WITNESS: Thank
4 you.

5 THE COURT: You're
6 excused, sir.

7 Please approach.

8 (Whereupon, there was
9 an off-the-record bench
10 conference.)

11 THE COURT: Ladies and
12 gentlemen, we're going to have
13 one more witness before we
14 break for the evening.

15 You may call your
16 witness.

17 MR. WILLIAMS: Thank
18 you, your Honor. The State
19 calls Detective Jim Rowan.

20

21

22

23

24

25

Rowan - - Direct

1 JAMES WESSLEY ROWAN,
2 II, having been called as a
3 witness, is duly sworn and
4 testifies as follows:

5 DIRECT EXAMINATION BY
6 MR. WILLIAMS:

7 THE COURT: You may
8 proceed, Mr. Williams.

9 MR. WILLIAMS: Thank
10 you, your Honor.

11 THE COURT: You're
12 welcome.

13 Q Sir, where do you
14 currently work?

15 A The SCANA
16 Corporation.

17 Q What do you do at the
18 SCANA Corporation?

19 A I'm an investigator
20 in the corporate security
21 division.

22 Q How long have you
23 worked as a corporate
24 investigator?

25 A About fifteen months.

Rowan -- Direct

1 Q Prior to working as a
2 corporate investigator, where did
3 you work?

4 A The North Charleston
5 Police Department.

6 Q How long did you work
7 at the North Charleston Police
8 Department for?

9 A Ten years.

10 Q Did you have any law
11 enforcement experience prior to
12 going to North Charleston?

13 A No.

14 Q So that was your
15 first job out of school?

16 A Yes.

17 Q When you worked at
18 North Charleston Police Department
19 did you work as a detective?

20 A For about half the
21 time I was there.

22 Q About five years as a
23 detective?

24 A Yes, sir.

25 Q And what is your

Rowan - - Direct

1 responsibilities as a detective,
2 what do detectives as opposed to
3 say a road officer or a crime
4 scene officer?

5 A Detectives are
6 officers that are usually tasked
7 with collecting information on
8 suspected crimes that are
9 committed. Usually looking at
10 things in greater detail than a
11 road officer is able to and taking
12 the time to collect detailed
13 information and evidence to
14 determine criminal activity and,
15 and suspects in crimes.

16 Q You talk to
17 witnesses?

18 A Yes.

19 Q You talk to victims?

20 A Yes.

21 Q Talk to defendants?

22 A Yes.

23 Q Fair to say the
24 ability to speak with somebody, at
25 least when you were a detective,

Rowan - - Direct

1 was a big part of your job?

2 A Very important.

3 Q Were you working a as
4 detective with the North
5 Charleston Police Department in
6 June of 2006?

7 A Yes, sir.

8 Q And did you handle a
9 case that was initiated by Officer
10 Chris Talbott?

11 A Yes, sir, I did.

12 Q What was your role in
13 that case or in that
14 investigation?

15 A I was the case
16 detective following up on Officer
17 Talbott's initial incident report
18 and charges relating to a case
19 with the young lady I could see in
20 the courtroom behind you.

21 Q As far as your
22 follow-up, where did you go?

23 A I went to the Roper
24 Hospital, or I'm sorry, it's the
25 Roper Saint Francis Hospital in

Rowan -- Direct

1 West Ashley.

2 Q And would you have
3 gotten a debriefing or had some
4 idea of what the case was about
5 when you got involved?

6 A Yes.

7 Q Who would you have
8 got that information from?

9 A Well, I got the
10 initial information from my
11 current supervisor at the time at
12 the police department that there
13 was a potential assault case and
14 that I needed to go to the
15 hospital emergency room to try and
16 locate the victim that Officer
17 Talbott had dealt with the initial
18 call.

19 Q In your experience as
20 a detective, when a road officer
21 responds to a call he'll do an
22 initial, if he can, an initial
23 statement with the, with the
24 witness, with the suspect, with
25 the defendant?

Rowan -- Direct

1 A Yes.

2 Q How is your job
3 different?

4 A The road officer
5 generally is going to take the
6 initial facts. He's going to take
7 whatever quick observations he
8 makes at the scene or whatever,
9 whatever evidence is right there
10 immediately in front of him. As a
11 detective, my job would have been
12 to go and take that information
13 and try and expand on it and get
14 more details about the history
15 that led up to the events and the
16 evidence that might be present
17 that would support the events that
18 the road officer encountered.

19 Q And what, what
20 tactics I should -- what methods
21 do you use to try to obtain that
22 information from, say, a victim or
23 a witness?

24 A Well, there's
25 observation, both of the scene

Rowan - - Direct

1 where you, you respond to if you
2 go to the crime scene. There's
3 the, there's the speaking to the
4 person that you're interviewing,
5 whether it's a, a witness, whether
6 it's a victim, whether it's a
7 potential suspect, looking at
8 their body language, looking at
9 any physical evidence you see on
10 their person or their effects that
11 are with them, and it's a lot of
12 careful observation and listening
13 and documenting everything.

14 Q And there is
15 certainly in your experience a
16 skill involved with being able to
17 talk to somebody?

18 A Yes, sir.

19 Q Had you had
20 experience working with victims of
21 assaults before?

22 A Yes, sir. Even, even
23 before I was a police officer I
24 was a counselor because I was a
25 paramedic before I was a police

Rowan -- Direct

1 officer, so I was a counselor for
2 assault victims some even before I
3 was a police officer and then I
4 dealt with victims on a daily
5 basis because when I first started
6 at the police department it was in
7 the capacity of a road officer and
8 then moving up to being an
9 investigator, always had to
10 interview victims of crimes I was
11 investigating.

12 Q When you first came
13 into contact with the victim in
14 this case, what was your first
15 impression of her?

16 A Well, she was
17 clearly -- to me she was clearly
18 distraught. Kind of disoriented
19 about what was going on.
20 Disheveled and upset.

21 Q She was in the
22 hospital at the time?

23 A She was in the
24 hospital room in the, in the
25 emergency room. Yes.

Rowan - - Direct

1 Q When you initially
2 spoke with her, were you able to
3 establish a rapport with her?

4 A Yeah. I felt like I
5 was. As I said, she seemed kind
6 of disoriented so at first I
7 wasn't sure that she connected
8 with me, but then we started
9 talking and I could tell that she
10 was focused on what I was saying
11 to her and what I was asking her,
12 and, and she, she seemed to be
13 willing to talk to me.

14 Q Were you able to
15 develop some kind of trust with
16 her, at least in a limited sense?

17 A Yes, sir.

18 Q Did she talk to you
19 about what happened?

20 A She did briefly talk
21 to me in, in the hospital room.
22 She told me that she had undergone
23 some bad circumstances with her
24 estranged husband in a hotel room,
25 that Officer Talbott had basically

Rowan - - Direct

1 come to her rescue when she was
2 trying to escape from him. And
3 then after just talking to her
4 briefly for a few minutes and
5 starting to take down some of the
6 things she told me, the hospital
7 staff initiated some medical
8 treatment for her and sedated her,
9 so our interview in the, in the
10 hospital room was cut pretty
11 short.

12 Q When you say take
13 down information, what is the
14 process by which you obtain a
15 written statement from someone,
16 especially someone who's
17 undergoing medical treatment or
18 about to?

19 A In certain cases we,
20 what we -- well, we try and get,
21 let people write their own
22 statement. It's better if a
23 witness or victim can write a
24 statement in their own words. But
25 in this circumstance she was

Rowan -- Direct

1 having such a hard time that day
2 and because she was sedated, I
3 made sure that she understood that
4 I was going to be writing things
5 that she said and got her
6 permission to do that, and
7 indicated that at the beginning of
8 the statement when I started
9 taking it that it was being
10 written by me in my hand at her
11 request.

12 Q And you did that --

13 A Yes, sir.

14 Q -- with Miss Crowley,
15 Rachel?

16 A Yes, sir, I did.

17 Q And you said that you
18 got to a certain point and that
19 medical treatment had to be
20 applied?

21 A Yeah. The, the
22 hospital staff, they try and
23 accommodate the police
24 investigating crimes but they're
25 business is taking care of the

Rowan - - Direct

1 patients that come in and in, and
2 in the state that the young lady
3 was in, clearly agitated and
4 upset, the doctor had ordered for
5 her to have some mild, mild
6 sedation to calm her nerves. Once
7 she had been administered the
8 sedation drugs, which I was
9 familiar with from my time as a
10 paramedic, I didn't want anything
11 that she said to tarnish the
12 statement so we just terminated
13 the interview at that time until a
14 later time.

15 Q At the point that the
16 sedative was administered, the
17 sedation had been administered,
18 had you had a chance to ask her
19 about a sexual assault?

20 A Yes.

21 Q And had she talked to
22 you about a sexual assault at that
23 point?

24 A Not in any detail.
25 She kind of alluded to the idea

Rowan - - Direct

1 that she had been held against her
2 will and that her estranged
3 husband had forced himself on her
4 to a degree.

5 MR. BOLUS: Objection.

6 THE COURT: Basis?

7 MR. BOLUS: He's, he's
8 making assumptions as to
9 estranged husband. That's,
10 that's a legal term. He can't
11 make that - -

12 THE COURT: Well,
13 actually, if you could
14 approach for me, both.

15 (Whereupon, there was
16 an off-the-record bench
17 conference.)

18 Q Detective, I want to
19 just get to the point of the
20 reporting the sexual assault. You
21 said that she had alluded to it?

22 A She did. She alluded
23 to, to being sexually assaulted.

24 Q But did it ever get
25 into the written part of the

Rowan -- Direct

1 statement at that point?

2 A I don't think the
3 initial part of the statement we
4 began had anything in it about
5 specific sexual assaultings, no.

6 Q But it was alluded to
7 but it didn't get reduced to
8 writing that point?

9 A Right.

10 Q You said that you
11 then came back and followed up at
12 a later date?

13 A Yes, sir. Actually
14 when -- after she had been sedated
15 in the hospital room that day I
16 came out of the hospital room and
17 I spoke to the nurse that, one of
18 the nurses that had been taking
19 care of her, and a little bit
20 about what she observed, just
21 trying to get a, a background for
22 anything else that might have been
23 said that would be useful in
24 investigating the case. I didn't
25 see anything in my notes when I

Rowan -- Direct

1 looked back, so I don't think I
2 got anything significant from the
3 nurse that I couldn't see myself.
4 I spoke to Officer Talbott and a
5 short time later while I was still
6 there at the hospital, kind of
7 investigating amongst the people
8 that were there, Rachel had been
9 discharged to go home and I told
10 her contact me at the police
11 department at a later time so that
12 we can talk some more.

13 Q Did she contact you
14 later?

15 A She did.

16 Q And did you speak
17 with her some more?

18 A She came into the
19 police department and we did speak
20 some more.

21 Q You know
22 approximately how much later that
23 was?

24 A It was within a week.
25 Just a matter of a few days I

Rowan -- Direct

1 believe.

2 Q And when she came to
3 talk with you at the police
4 department, did you then continue
5 the, the statement that she was
6 giving earlier?

7 A I did.

8 Q And did that then
9 detail the sexual assault?

10 A It did in fact.

11 Q So she alluded to it
12 before and then gave you the
13 details in the statement?

14 A Yes.

15 Q Approximately how
16 long was the total statement
17 between the two parts at the
18 hospital and at the, at the police
19 station? Total pages, not time?

20 A Four and a half, five
21 pages.

22 Q She gave you details
23 of what happened?

24 A She did.

25 Q Do you feel that she

Rowan -- Direct

1 opened up to you and trusted you
2 at that point?

3 A Yes, sir.

4 Q The -- when you
5 talked about seeing the injuries,
6 what injuries did you see on the
7 victim when you were at the
8 hospital?

9 A When I saw her in the
10 hospital room she had numerous
11 marks on her torso and her arms
12 that appeared to me to be contact
13 burns like from a, a hot piece of
14 metal or the probe of perhaps a
15 stun gun type thing.

16 Q She had talked to you
17 about that?

18 A She, she did talk to
19 me about that. And that's
20 immediately when she had said to
21 me in the hospital room "he used a
22 stun gun on me" and I saw the
23 marks on her body, from my
24 experience as a police officer and
25 a paramedic, they appeared to me

Rowan -- Direct

1 to be contact burns from the probe
2 of a stun gun.

3 Q What would you -- how
4 would you describe -- well, let me
5 ask you this. Do you, as a
6 detective you often judge people
7 based on their demeanor?

8 A Yes.

9 Q Was her demeanor --
10 what was your opinion of her
11 demeanor?

12 A From what I saw with
13 her injuries and the things that
14 she described to me, if, if those
15 things really happened she was
16 more calm probably than I would
17 have been able to be in her
18 circumstance. But she was clearly
19 very upset and very agitated and
20 she seemed very, very nervous and
21 unsure about what was going on.

22 Q When you say unsure
23 and nervous about what was going
24 on, what do you mean?

25 A She wasn't

Rowan -- Direct

1 comfortable. She wasn't
2 comfortable with me -- even though
3 she knew she was in a hospital
4 room at that point in time and she
5 was surrounded by people who
6 wanted to help her, you could tell
7 that she was still uncomfortable
8 with anyone being very close to
9 her at all. She seemed, for lack
10 of a better, I'm sorry, for lack
11 of a better expression, words, she
12 seemed uncomfortable in her own
13 skin, if that makes any sense.

14 Q Did she seem scared?

15 A Yes. She seemed very
16 scared and, and worried.

17 Q There were
18 photographs taken of, of Rachel
19 that day. Were you there when
20 that you happened?

21 A Yes.

22 Q And those were the
23 photographs taken of her stomach
24 and the injuries that were there?

25 A Yes.

Rowan -- Direct

1 Q Did you see any marks
2 on her wrists as well, from the
3 thighs, if you recall?

4 A I think I do recall
5 seeing what looks to be some
6 striated marks around her wrist.

7 Q Apart from seeing the
8 victim, talking to her, taking the
9 report, and then speaking to her a
10 second time, was there any other
11 involvement you had in the case?

12 A No.

13 MR. WILLIAMS: Thank
14 you, Detective. Nothing else.

15 THE COURT: Any
16 questions for the witness?

17

18

19

20

21 CROSS-EXAMINATION BY

22 MR. BOLUS:

23 Q Detective, have you
24 made contact with drug addicts in
25 your profession?

Rowan - - Cross

1 A I have.

2 Q And people that are
3 using and abusing crack cocaine,
4 Lortabs, heroin, Xanaxes, and
5 things like that, have you ever
6 notice that some of these people
7 have paranoia and are, quote, not
8 comfortable in their own skin?

9 A I have noticed that.
10 Yes, sir.

11 MR. BOLUS: Yes, sir.

12 Thank you very much.

13 THE COURT: Any
14 redirect of the witness?

15 MR. WILLIAMS: Thank
16 you.

17

18

19

20 REDIRECT EXAMINATION

21 BY MR. WILLIAMS:

22 Q On that same
23 question, Detective, in your
24 medical background as well as your
25 law enforcement background, was it

Rowan -- Redirect

1 your opinion from observing the
2 victim that she was under the
3 influence of drugs?

4 A It appeared to me as
5 though that she could have been,
6 but in a point of reference to
7 that, counselor, the, the
8 statement that she gave me that,
9 and, and I had reviewed it before
10 court started this week, that she
11 had been forced to take some pills
12 before she encountered the police
13 and got our assistance.

14 Q So you couldn't --
15 you don't have an opinion. She
16 could have been or maybe not been.

17 A She, she may have
18 been. She may not have been. I
19 can't say whether or not that she
20 was because I'm not a doctor. But
21 she may have been.

22 MR. WILLIAMS: Thank
23 you. Nothing else.

24 MR. BOLUS: One more,
25 Judge.

Rowan - - Recross

1

2

RECROSS - EXAMINATION

3

BY MR. BOLUS:

4

Q And in your

5

experience you've seen people that

6

may not even be doing the drugs

7

but after several days of not

8

having their regular fix of

9

cocaine, crack, heroin, or

10

whatever, being in terms of some

11

sort of semi-withdrawal symptoms

12

and, quote, not be happy in their

13

own skin? You've seen that,

14

haven't you?

15

A I have. Yes, sir.

16

MR. BOLUS: Thank you

17

very much.

18

THE COURT: Anything

19

further, Mr. Williams?

20

MR. WILLIAMS: No, your

21

Honor.

22

THE COURT: Any

23

objection to the witness being

24

excused? From the State?

25

MR. WILLIAMS: None,

1 your Honor.

2 THE COURT: From the
3 defense?

4 MR. BOLUS: No.

5 THE COURT: Sir, you're
6 excused.

7 THE WITNESS: Thank
8 you, ma'am.

9 THE COURT: Mr.
10 Foreman, ladies and gentlemen,
11 we're going to take advantage
12 of this break in testimony to
13 take our evening recess. You
14 all have been incredibly
15 patient with us and we
16 appreciate it. We will resume
17 in the morning with testimony
18 at nine o'clock. We would ask
19 that you return directly to
20 your jury room at that time,
21 and please leave your notepads
22 in your seats.

23 Again please don't
24 have any contact with anyone
25 in or about the courthouse.

1 I'm not aware of any media
2 reports about this case, but
3 if there are any, please take
4 special precaution not to
5 read, watch, or listen to any
6 media account. Also please
7 don't do any independent
8 research of any type regarding
9 any issue or matter that could
10 be found on the Internet.
11 That would be inappropriate.

12 I hope that you all
13 have a great evening and we'll
14 see you in the morning. If
15 you would go with the
16 bailiffs. And you'll return
17 directly to your jury room in
18 the morning.

19 (Whereupon, the jury
20 leaves the courtroom at
21 5:52 p.m.)

22 THE COURT: You may be
23 seated. Is there anything we
24 need to take up before we
25 break for the evening? From

1 the State?

2 MR. WILLIAMS: No, your
3 Honor. As far as time and
4 scheduling, I've got about
5 five witnesses.

6 THE COURT: That's what
7 I saw on the list. I wanted
8 to try to get through half of
9 them in an attempt to make
10 sure that we had adequate time
11 for Mr. Bolus to present any
12 witnesses that he may have,
13 and I appreciate you all
14 indulging us in going a little
15 bit longer today. I, I, I
16 knew that you may well finish,
17 but you can never anticipate
18 how long a jury may well
19 deliberate, so I wanted to
20 give us a little bit of a
21 cushion, because I understand
22 that you have the remaining
23 officers, Watson, Brandy
24 Paulson of the North
25 Charleston Police Department,

1 Sergeant William Roberts, the
2 medical personnel from Saint
3 Francis, and Jill Clark of
4 S. L. E. D.

5 MR. WILLIAMS: That
6 might be two hours of
7 testimony.

8 THE COURT: We'll start
9 at nine and we'll just, we'll
10 plug along.

11 MR. WILLIAMS: All
12 right. Thank you, your Honor.

13 THE COURT: Yes, sir?

14 MR. BOLUS: One issue,
15 Judge. And I, I hate to make
16 anyone mad about this but I'm
17 tired of hearing about a
18 shave. My lady brought a
19 electric shaver today. I
20 tried to get it in --

21 THE COURT: They don't
22 want to take it.

23 MR. BOLUS: Okay. He
24 wants a shave and I don't know
25 what's going on, but --

1 **THE COURT:** He has to
2 buy the stuff that's at the
3 jail. It's a matter of
4 security. They can't allow
5 contraband into the jail.
6 That's just -- it's a security
7 issue and if he were to hurt
8 himself or something it
9 creates liability for them, so
10 I have to defer to their
11 policies.

12 **MR. BOLUS:** I'm tired
13 of hearing about a shave.

14 **THE DEFENDANT:** I'm,
15 I'm locked up in the
16 disciplinary unit and --

17 **THE COURT:** Sir, it's
18 my understanding, and I've
19 spoken to the appropriate
20 personnel at the jail, that as
21 long as you buy what is
22 available in the canteen, that
23 they --

24 **THE DEFENDANT:** I'm in
25 the disciplinary --

1 THE COURT: That they,
2 they will allow him to shave
3 and the information that was
4 reported back to me is that
5 you did not want to buy what
6 was in the canteen, although
7 you had sufficient funds, but
8 that you bought a razor this
9 morning or did last night and
10 you were allowed to shave, so
11 as long as you buy, it, it
12 really is a security issue.
13 It isn't personal. They treat
14 everyone the same way. They
15 have to be able to control
16 that -- I mean a razor is a
17 sharp implement, so they have
18 to be able to control how that
19 is in the population, so
20 you'll have to buy that from
21 the jail canteen and they'll
22 allow you to shave in the
23 morning or this evening,
24 whichever you prefer. They're
25 not going to allow you to

1 bring an electric razor into
2 the jail.

3 Yes, sir?

4 THE DEFENDANT: What
5 I'm saying is they don't, they
6 don't sell razors on the
7 canteen to anybody in the
8 unit. In regular units when
9 you buy --

10 THE COURT: How were
11 you able to shave this
12 morning? That's not the
13 issue.

14 THE DEFENDANT: Two
15 days ago they had actually a
16 clipper in one A and --

17 THE COURT: Okay.

18 THE DEFENDANT: -- and
19 they let me knock off all of
20 that. That's two days ago.

21 THE COURT: Okay.

22 THE DEFENDANT: So I
23 just --

24 THE COURT: Well,
25 they'll follow the same

1 procedure. You just need to
2 make your request that you'd
3 like to be clean-shaven for
4 court and they'll accommodate
5 you.

6 THE DEFENDANT: Okay.

7 THE COURT: Whatever
8 they do is -- I -- they have
9 to control security and I
10 don't interfere with them
11 because by statute and
12 regulations they have the
13 ability to make those rules,
14 and there are reasons for the
15 rules.

16 THE DEFENDANT: I, I
17 apologize.

18 THE COURT: So I
19 generally don't interfere with
20 that. But if you make a
21 request they certainly will
22 accommodate you. They
23 understand that it is
24 important that you look well
25 kept in court.

1 MR. BOLUS: Thank you,
2 ma'am.

3 THE COURT: Thank you.
4 Okay. Is there anything
5 further before we break for
6 the evening?

7 MR. WILLIAMS: No, your
8 Honor.

9 MR. BOLUS: No, ma'am.

10 THE COURT: Thank you
11 very much. You all have a
12 good evening.

13 MR. BOLUS: Nine
14 o'clock?

15 THE COURT: Nine
16 o'clock. Yes, sir.

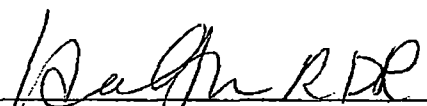
17 (Whereupon, the
18 matter was adjourned at
19 6:24 p.m.)
20
21
22
23
24
25

C E R T I F I C A T I O N

I, the undersigned HEATHER GAYLE BURNS, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the proceedings in the captioned case, relative to appeal, heard in the Court of General Sessions for Charleston County, South Carolina on the 9th day of July, 2008.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

DATED: 12-31-08


HEATHER GAYLE BURNS, R.D.R.
9TH CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
CASE NOS. 2006-GS-10-12295 & 12296

STATE OF SOUTH CAROLINA,

VS

TRANSCRIPT OF PROCEEDINGS

July 10th, 2008

Charleston, South Carolina

CLARK DAVID THOMAS,

Defendant.

(Volume 3, Page 429 thru 830)

BEFORE:

THE HONORABLE DEADRA L. JEFFERSON, Judge

APPEARANCES:

NATHAN WILLIAMS, ESQ.
ASSISTANT SOLICITOR
ATTORNEY FOR STATE

MICHAEL T. BOLUS, ESQ.
ATTORNEY FOR DEFENDANT

HEATHER GAYLE BURNS, RDR
OFFICIAL COURT REPORTER
9TH JUDICIAL CIRCUIT

July 10, 2008

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1 (Whereupon, the judge
2 enters the courtroom at
3 9:03 a.m.)

4 MR. WILLIAMS: Sorry.
5 We're waiting for the witness,
6 your Honor.

7 THE COURT: Okay. So
8 he still hasn't come?

9 MR. WILLIAMS: I don't
10 see him, Judge. I think he
11 may show up in a minute,
12 however I think our next
13 witness --

14 THE COURT: Okay. Do
15 you all have any objection to
16 me stepping in the jury room
17 and telling the jury what
18 happened, that we're having
19 some sort of technical
20 difficulties and we're not
21 going to be starting until
22 9:30?

23 MR. WILLIAMS: That's
24 fine, Judge.

25 THE COURT: Is that all

1 right? They have donuts. I
2 was justing telling Mr. Bolus
3 our last juror didn't come
4 until ten after nine, so they
5 have donuts so I would imagine
6 they've been socializing and
7 talking, but I, I wanted to
8 let them know why we're
9 delayed.

10 MR. WILLIAMS: I
11 apologize, your Honor.

12 THE COURT: That's
13 okay. We will be at ease then
14 until 9:30, unless your
15 witness gets here before then.

16 MR. WILLIAMS: I'll let
17 you know as soon as he comes.

18 (Whereupon, a recess
19 is called at 9:08 a.m.)

20 (Whereupon, the judge
21 enters the courtroom at
22 9:37 a.m.)

23 THE COURT: State ready
24 to proceed?

25 MR. WILLIAMS: Yes,

1 your Honor.

2 THE COURT: Defense
3 ready to proceed?

4 MR. BOLUS: Yes.

5 THE BAILIFF: Do you
6 need the jury?

7 THE COURT: Yes.

8 Mr. Bolus, I need
9 your client. The jury is
10 coming in.

11 (Whereupon, the jury
12 enters the courtroom at 9:40
13 a.m.)

14 THE COURT: Good
15 morning, ladies and gentlemen.
16 I hope that you all had a
17 restful evening. I apologize
18 for the delay. We had some
19 technical issues this morning
20 that we had to work through.
21 I hope that you enjoyed your
22 donuts and your fellowship.

23 We will now proceed
24 with the trial of the State
25 against Clark David Thomas.

1 Mr. Williams, you may
2 proceed when you're ready.

3 **MR. WILLIAMS:** Thank
4 you, your Honor. The State
5 calls Doctor Paraschos.

6
7
8
9
10
11

12 **THEODORE KEVIN**
13 **PARASCHOS,** having been called
14 as a witness, is duly sworn
15 and testifies as follows:

16 **COURT CLERK:** Sir, if
17 you will please speak into the
18 microphone and state your full
19 name and spell your last name.

20 **THE WITNESS:** My name
21 is Theodore Kevin Paraschos,
22 P-a-r-a-s-c-h-o-s.

23 **THE COURT:** You may
24 proceed.

25

PARASCHOS -- DIRECT

1 DIRECT EXAMINATION BY

2 MR. WILLIAMS:

3 Q Doctor Paraschos,
4 where do you work?

5 A I work at Saint
6 Francis Hospital in the emergency
7 room.

8 Q What do you do there?

9 A I'm an emergency
10 medicine physician.

11 Q What does that mean?

12 A It means that if you
13 present as a patient to the
14 emergency department at Saint
15 Francis I'm the treating physician
16 for the care rendered inside the
17 emergency.

18 Q And as a treating
19 physician when somebody comes in,
20 what do you ordinarily do as far
21 as treatment? What's your process
22 or your procedure, generally?

23 A That's broad. Well,
24 you know, you'd, you first
25 evaluate why the patient came to

PARASCHOS -- DIRECT

1 the emergency department. You'd
2 try and determine which tests,
3 which diagnostic tests, if any,
4 are necessary to, to evaluate the,
5 their complaint, their problem.
6 Then you'd try to help them;
7 through whatever therapeutic
8 measures you think might be
9 useful.

10 Q You see a lot of
11 patients?

12 A Yes, sir.

13 Q On, on average in a
14 given month about how many
15 patients would you see in the
16 emergency room?

17 A In a given month,
18 probably somewhere around four
19 hundred.

20 Q It's -- I mean I
21 assume it's probably difficult for
22 you to remember each individual
23 case?

24 A Indeed. It's
25 difficult.

PARASCHOS -- DIRECT

1 Q You received a
2 subpoena to be here in court
3 today?

4 A Yes, sir.

5 Q And you got -- you
6 reviewed the records for the case
7 that you're here for today.
8 Correct?

9 A Yes, sir, I have.

10 Q Do you have any
11 independent recollection
12 necessarily, apart from what your
13 records show?

14 A I can very vaguely
15 remember this patient encounter.
16 My, my memory about the specific
17 encounters is very faint and
18 vague. In fact I thought I
19 remembered seeing the patient in a
20 different room than what I noted
21 so --

22 Q This was about two
23 years ago, a little over two years
24 ago?

25 A The date on the chart

PARASCHOS -- DIRECT

1 says June seventh, 2006 so, yes,
2 sir. Little more than two years
3 ago.

4 Q So you would have
5 probably seen thousands of
6 patients since then?

7 A That's correct.

8 Q I want to ask you
9 first of all about the records.
10 Those are kept in the ordinary
11 course of business?

12 A Yes, sir, they are.

13 Q They're maintained by
14 yourself as well as other nurses
15 who have personal knowledge of
16 the, of the statements and the
17 observations at the time they
18 happen?

19 A Yes, sir. They're
20 maintained by us during the
21 patient's stay in the emergency
22 department. After that they're
23 moved down to medical records.

24 Q I want to ask you
25 about the case. You said that it

PARASCHOS -- DIRECT

1 happened on June seventh of 2006.

2 Who was your patient?

3 A The patient's name is
4 Rachel Crowley or Crowley,
5 perhaps. C-r-o-w-l-e-y.

6 Q And when, when Rachel
7 came in did she have a complaint
8 or was she complaining?

9 A Her chief complaint
10 to me was that she had sustained
11 injuries to her chest, abdomen,
12 and back.

13 Q And was there a
14 complaint about how those injuries
15 had occurred?

16 A What, what the
17 patient reported to me was that
18 she had been assaulted by her
19 spouse, had been bound with duct
20 tape, beaten with hands but not
21 with other objects, and been tased
22 multiple times.

23 Q And in your -- are
24 you familiar with that term
25 "tased"?

PARASCHOS -- DIRECT

1 A Yes, sir, I am.

2 Q In medical terms what
3 does that mean?

4 A Well, a taser is a
5 device that administers an
6 electric impulse via little probes
7 that lodge in the patient's skin,
8 in the person's skin, and that
9 electric impulse renders them
10 incapable of moving, usually.

11 Q Medically speaking,
12 how does it achieve that? How
13 does the electrical shock or
14 electric current render somebody
15 incapable of moving or cause pain
16 for them?

17 A Well, the electrical
18 current kind of overrides the
19 patient's -- skeletal muscle of
20 course works because nerves cause
21 it to -- nerves, you use nerves to
22 help derive muscular contraction
23 which is why you can move around.
24 The electrical impulse from a
25 taser overrides the impulse of

PARASCHOS -- DIRECT

1 those nerves and forces muscular
2 contraction at the sites where the
3 taser implants and the sites
4 around the sites around there, so
5 it renders the, the person struck
6 with the taser incapable of
7 fighting that impulse and that's,
8 that's how it renders them
9 incapable of moving.

10 Q Is it on -- do you
11 see cases like that where police
12 apprehend someone and perhaps tase
13 them as you talked about? You see
14 them in the emergency room?

15 A Very frequently.
16 Yes.

17 Q As far as tasers go,
18 are there also -- you could also
19 have an external, what they call a
20 dry stun or a dry stun where it's
21 not with the prongs. Are you
22 familiar with that type of stun as
23 well?

24 A I'm not quite as
25 familiar with, with that type.

PARASCHOS -- DIRECT

1 The type that I'm more familiar
2 with is the, the type of taser
3 that the local law enforcement
4 agencies use.

5 Q There was in your
6 reports, in your records there was
7 indication of pain that was being
8 complained of?

9 A I'm sorry, sir.
10 There was a comp --

11 Q There was, as far as
12 your reports go, there was a
13 section about the type of pain
14 that the patient was feeling?

15 A Yes, sir.

16 Q Are you -- do you see
17 that in the reports?

18 A I think that's -- I
19 think that's more thoroughly
20 documented by the nurse in terms
21 of severity of pain.

22 Q So, so the nurses
23 would have kept that, but were
24 they part of your records as well?

25 A Yes, sir. It's, it's

PARASCHOS -- DIRECT

1 part of both of our records. They
2 nurses's documentation at the time
3 of triage, we try, when a
4 patient's triaged, to, to quantify
5 somehow a patient's degree of
6 pain. We use a pain scale. Ask
7 the patient from zero to ten how
8 badly they hurt. This patient was
9 noted, instead of responding
10 quantitatively, the nurse just
11 wrote in quotes hurts all over.

12 Q Was there areas where
13 there was pain noted as far as
14 like the abdomen or different
15 parts of the body?

16 A Yes, sir. My, my
17 notes suggest that the patient was
18 complaining of pain in her chest
19 and abdomen. She was also
20 complaining about a headache
21 occipitally, which means in the
22 back of the head which she said
23 was secondary to having her hair
24 pulled.

25 Q Were there injuries

PARASCHOS -- DIRECT

1 to her stomach and back, external
2 injuries?

3 A Yes, sir, there were.

4 Q What type of -- I
5 believe your report indicates
6 multiple small circular marks and
7 I believe superficial electrical
8 burns was, was noted and that may
9 have been through the nurse or
10 yourself.

11 A I did note on my, my
12 record that the patient sustained
13 multiple small circular marks on
14 her torso more so on her abdomen
15 than on her back. The nurse made
16 several notations that state that
17 the patient was tasered multiple
18 times and that there were multiple
19 taser marks. That of course is,
20 is at least possibly consistent
21 with the injuries I noted, but
22 that's, it's a little bit of a
23 leap to go from one to the next.

24 Q Do you have your
25 report with you there?

PARASCHOS -- DIRECT

1 A I do.

2 Q Can I take a look at
3 it quick?

4 A Of course.

5 Q I'm going to --
6 under, under the clinical
7 impression, and maybe I'm just
8 reading the handwriting wrong,
9 does that say multiple superficial
10 electrical burns? Is that what it
11 is?

12 A Yes, sir. That's,
13 that's the final clinical
14 impression. I thought you were
15 referring to the physical exam.

16 Q I apologize. I may
17 have been ahead of myself.

18 Tell us -- let's take
19 it in order then. As far as the
20 clinical exam, what was noted?
21 Just that there were multiple
22 singular marks basically?

23 A Correct.

24 Q And then you would
25 have come up with a final

PARASCHOS -- DIRECT

1 analysis?

2 A Well, based on the
3 patient's history as it's provided
4 to me and the physical exam, my
5 clinical impression then is meant
6 to be my best interpretation about
7 the injuries the patient
8 sustained.

9 Q And that was where
10 you came up with superficial
11 electrical burns?

12 A My final clinical
13 diagnoses were alleged assault,
14 multiple superficial electrical --
15 I'm sorry. I think that actually
16 says electrode burns and abrasions
17 to both hands and to the back.

18 Q When we talk about
19 superficial electrode burns, what,
20 what do you mean by that?

21 A Well, the patient's
22 injuries on her torso and back
23 were consistent with multiple
24 areas of burns sustained from
25 electrode like you'd see on a

PARASCHOS -- DIRECT

1 taser.

2 Q Would an electrode
3 cause -- does it generate heat?
4 How does it result in a burn?

5 A It can generate heat.
6 Yes.

7 Q And it's the
8 conduction of the electricity
9 through the skin that leaves the,
10 the burn so-to-speak?

11 A Correct.

12 Q The nurses's record
13 would have been a record that was
14 kept semi-independently from your
15 report, meaning she would have
16 talked to you as well as the
17 nurses?

18 A Most of the nurses's
19 record is -- most of the nurses's
20 record is completed before my
21 initial evaluation of the patient
22 takes place.

23 Q Is it something where
24 take the nurses's notes and
25 incorporate them into your opinion

PARASCHOS -- DIRECT

1 or is it something where you would
2 ask independently the victim what
3 happened?

4 A My note is based upon
5 my evaluation of the patient.

6 Q So the nurses also
7 had information that said the
8 victim was assaulted by spouse and
9 tasered multiple times?

10 A Yes, sir. That's
11 correct.

12 Q And they also noted
13 multiple --

14 MR. BOLUS: Object.
15 Your Honor, at this point I'm
16 going to object.

17 THE COURT: Basis?

18 MR. BOLUS: Hearsay.
19 It's the wrong -- I think this
20 is a continuation of --

21 THE COURT: Please
22 approach. No speaking
23 objections.

24 (Whereupon, there was
25 an off-the-record bench

PARASCHOS -- DIRECT

1 conference.)

2 THE COURT: You may
3 proceed.

4 MR. WILLIAMS: Thank
5 you, your Honor.

6 THE COURT: You're
7 welcome.

8 Q Doctor, I want to
9 kind of keep it to the statements
10 that she would have made for
11 purposes of treatment and the
12 information that would have been
13 put into the actual reports that
14 were, were made part of the
15 records?

16 A Sure.

17 Q Did they -- was
18 there -- I think we had left with
19 she had told the nurses that she
20 was assaulted by her spouse,
21 tasered multiple times like she
22 told you.

23 A Yes, sir. The
24 nurses's record reflects those
25 statements.

PARASCHOS - - DIRECT

1 Q And there would have
2 been a, a diagram made that showed
3 the injuries in the case?

4 A Yes, sir. On my
5 chart there is.

6 Q And that was noting
7 injuries to the neck, back,
8 abdomen, and extremities?

9 A My chart notes
10 injuries to the extremities, the
11 back, the abdominal wall, the
12 hands, of course part of the
13 extremities. I don't see
14 notations that suggest injury to
15 the neck.

16 Q I'm sorry. It's the
17 next to the last back, sort of.
18 I'm going to show you what's been
19 admitted as State's nineteen right
20 behind you?

21 A Am I in the way?
22 Your Honor - -

23 THE COURT: Yes, sir.
24 You can go down there.

25 Q Is, are those - -

PARASCHOS -- DIRECT

1 first of all are those, what's
2 depicted there, consistent with
3 what you considered to be
4 electrode marks or electrode
5 burns? I can hand you the actual
6 picture if it would be better?

7 A It would be nice.

8 Yeah. Thank you.

9 There are, there are,
10 are numerous superficial marks on
11 this patient's anterior abdominal
12 wall. Some of them look like
13 abrasions, perhaps minor
14 lacerations. There are a number
15 of kind of circular markings on
16 there which are at least
17 potentially consistent with the
18 kind of injury described.

19 Q And it's hard for you
20 to tell when it's a photograph
21 versus seeing somebody in person?

22 A Yes, sir. That's
23 correct.

24 Q Are the location of
25 those markings consistent with

PARASCHOS -- DIRECT

1 what was detailed in the, in your
2 medical report?

3 A Yeah. Of course this
4 photograph only shows the
5 patient's anterior abdominal wall
6 but, yes, that it, it is
7 consistent, the photograph is
8 consistent with that part of my
9 medical record.

10 Q Apart from the
11 abdominal wall you said there were
12 other similar injuries, at least
13 according to the report, that were
14 found other places?

15 A Well, there were some
16 abrasions on the patient's hand,
17 small lacerations on her hands.
18 There were several puncture wounds
19 in the patient's anacubital fossa,
20 which are the crooks of the elbow,
21 with small areas of bruising
22 there.

23 Q Is that type
24 consistent with intravenous drug
25 use?

PARASCHOS -- DIRECT

1 A Possibly so. Yes.

2 Q That could be from
3 shooting drugs?

4 A Indeed it could be.
5 The patient, the patient, I quoted
6 the patient on my chart as saying,
7 quote, he tried to stick me with
8 needles and give me drugs, end
9 quote. I went on to say without
10 quoting the patient, that she
11 stated that she was tased many
12 times, bound with duct tape, and
13 beaten with hands.

14 To complete my answer
15 to your question earlier, yes,
16 there were other marks like those
17 that I noted on my -- the back of
18 the patient's torso.

19 MR. WILLIAMS: I have
20 no further questions. Thank
21 you, Doctor.

22 THE WITNESS: You're
23 welcome.

24 THE COURT: You may
25 cross-examine.

PARASCHOS - - CROSS

1 CROSS-EXAMINATION BY

2 MR. BOLUS:

3 Q Good morning, Doctor.

4 A Good morning.

5 Q Good to see you.

6 There was never any mention by the
7 patient to you or any member of
8 the staff about being forcibly
9 raped or sodomized or any kind of
10 sexual action taken against her?
11 Do you see anything in there? Did
12 she ever mention that to you?

13 A I don't believe so.

14 Q Okay.

15 A No, sir.

16 Q Never made a mention
17 to you?

18 A No, sir.

19 Q Did she ever say that
20 her husband forced her to have any
21 kind of sexual acts, forced her?

22 A There's no suggestion
23 on the nurses's note or on my note
24 that that's the case.

25 Q And obviously in your

PARASCHOS -- CROSS

1 vast experience in the, in the
2 emergency room you had many
3 occasions where woman who have
4 been brought in with marks,
5 superficial marks, bruises,
6 abrasions, have said to you that
7 I've been raped. Right?

8 A In my experience
9 patients both with and without
10 other signs of injury have claimed
11 rape.

12 MR. BOLUS: Okay.
13 Thank you very much.

14 THE COURT: Any
15 redirect of the witness?

16 MR. WILLIAMS: Yes,
17 your Honor. Just briefly.

18

19

20

21

22 REDIRECT EXAMINATION

23 BY MR. WILLIAMS:

24 Q Doctor, you're
25 certainly trained in, in reporting

PARASCHOS - - REDIRECT

1 criminal sexual conduct or rape
2 cases?

3 A Indeed.

4 Q Are there legal
5 standards as well as ethical
6 standards you follow?

7 A Indeed. Most of the
8 actual reporting is done
9 administratively, though, without
10 my specific involvement.

11 Q Do you see cases
12 where people don't initially
13 report criminal sexual conduct yet
14 will report other injuries or
15 other assaults?

16 A My interaction
17 with - - the answer to your
18 question is yes. My interaction
19 with patients is brief. They're
20 usually in the emergency
21 department for several hours and
22 they go home. I think it's well
23 documented that the patients will
24 frequently not report sexual
25 conduct, whether it's part of a

PARASCHOS -- REDIRECT

1 larger assault picture or not, for
2 many reasons.

3 Q And you all actually
4 will refer people in that
5 situation to specialists so that
6 they can speak to them about those
7 situations, to give that report
8 either to psychologists or, or
9 other doctors or certain people,
10 maybe victim advocates, whoever
11 else may be capable --

12 A I'm sorry. Your
13 question wasn't clear to me.
14 Under the circumstances when a
15 patient reports a sexual report?
16 Is that what you're saying?

17 Q Well, in situations
18 where you may suspect it or it
19 could be possible or in a
20 situation where it seems like
21 somebody isn't wanting to report,
22 will you refer them to others to
23 give that information?

24 A Under circumstances
25 in which I suspect a sexual

PARASCHOS - - REDIRECT

1 assault, either because the
2 patient reports it to me or
3 otherwise, I recommend to the
4 patient that they undergo the
5 official, official physical
6 examination and evaluation for
7 purposes of collecting legal
8 evidence, yes. I, I do refer them
9 to a specific place for that.
10 That work is not done in our
11 emergency room.

12 Q And you certainly see
13 situations where victims are
14 reluctant to report sexual
15 assaults but may be willing to
16 report physical assaults?

17 A Indeed. Yes.

18 MR. WILLIAMS: Thank
19 you. Nothing else.

20 THE COURT: Any
21 objection to the doctor being
22 excused? From the State?

23 MR. WILLIAMS: None,
24 your Honor.

25 THE COURT: From the

PARASCHOS -- REDIRECT

1 defense?

2 MR. BOLUS: No.

3 THE COURT: Doctor,
4 you're excused. Have a good
5 day.

6 THE WITNESS: Thank
7 you, your Honor.

8 THE COURT: You're
9 welcome.

10 Solicitor, please
11 call your next witness.

12 MR. WILLIAMS: Thank
13 you, your Honor.

14 THE COURT: You're
15 welcome.

16 MR. WILLIAMS: The
17 State calls Brandy Paulson.

18

19

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25

PAULSON -- DIRECT

1 BRANDY PAULSON,
2 having been called as a
3 witness, is duly sworn and
4 testifies as follows:

5 COURT CLERK: Please
6 speak into this microphone and
7 state your full name and then
8 spell your last name.

9 THE WITNESS: Brandy
10 Paulson. P-a-u-l-s-o-n.

11 THE COURT: You may
12 proceed.

13 MR. WILLIAMS: Thank
14 your, your Honor.

15 THE COURT: You're
16 welcome.

17 DIRECT EXAMINATION BY

18 MR. WILLIAMS:

19 Q Ma'am, where do you
20 currently work?

21 A I concurrently work
22 at Nancy Koltes Fine Linens.

23 Q Before you worked
24 there where did you work?

25 A North Charleston

PAULSON -- DIRECT

1 Police Department.

2 Q What did you do for
3 the police department?

4 A I worked in the
5 evidence room, logging in evidence
6 and checking in evidence that the
7 officers would give me.

8 Q And if you could,
9 tell the jury what is an evidence
10 room?

11 A It's where the
12 officers will drop off things they
13 would, that they take off the
14 people that they arrest off the
15 street, they would drop it in the
16 evidence room to be locked until
17 court.

18 Q What type of things
19 are we talking about? Drugs?
20 Property? Guns?

21 A Drugs. Yes, sir.
22 Drugs. Guns. Property.

23 Q Plus any evidence
24 that would be picked up by police
25 officers. Correct?

PAULSON -- DIRECT

1 A Correct. Yes, sir.

2 Q You got a subpoena to
3 be here today?

4 A Yes, sir.

5 Q And do you -- have
6 you reviewed the reports in the
7 case at all?

8 A No.

9 Q When you -- when you
10 handle things you generate a
11 report, right, for chain of
12 custody?

13 A Yes, sir.

14 Q I'm going to hand you
15 some documents. I want you to
16 take a look at the last pages of
17 those documents. Did you take a
18 look at those?

19 A Yes, sir.

20 Q Those are basically
21 copies of your report or documents
22 you would have generated?

23 A Yes, sir. They are.

24 Q And they show that
25 you had transported some drugs in

PAULSON - - DIRECT

1 this case?

2 A Yes, sir.

3 Q Or what were supposed
4 to be drugs?

5 A Yes.

6 Q What does it show
7 that your role was in the case?

8 A I would receive these
9 into the evidence room and then
10 I'd take them to, up to
11 S. L. E. D. in Columbia and drop
12 them off at S. L. E. D. to be
13 analyzed.

14 Q Who are, who are the
15 items received from or who logged
16 them in?

17 A I would have logged
18 them in.

19 Q Who would have gotten
20 them to you when they were logged
21 in?

22 A Coker. Andy Coker.

23 Q Is it Corporal Andrew
24 Coker?

25 A Yes.

PAULSON - - DIRECT

1 Q A crime scene

2 officer?

3 A Yes.

4 Q And after he got them
5 to you, what would you have done
6 with them?

7 A I would take them in
8 out of the lock-drop box and sign
9 the chain saying that I received
10 them and then I would, they would
11 go into a locked room until they
12 were taken to S. L. E. D.

13 Q Did you take them to
14 S. L. E. D.?

15 A Yes, sir.

16 Q Why did you take
17 them - - what happens at
18 S. L. E. D.?

19 A They checked it to
20 make sure that it is, that it is
21 drugs.

22 Q So you're the person
23 that actually receives them and
24 basically you just want to make
25 sure that nobody messes with the

PAULSON - - DIRECT

1 drugs?

2 A Yes, sir.

3 Q Do you use Best Kits?

4 Do you know what that is?

5 A Yes, sir.

6 Q What's a Best Kit?

7 A Best Kit is what the

8 officers uses on the - - he puts

9 the drugs in on the street, seals

10 the envelope, and drops it in the

11 box so it's all together.

12 Q And there were Best

13 Kits in this case?

14 A Yes, sir.

15 Q Do you have the

16 numbers there?

17 A Yes, sir.

18 Q It's one seven seven

19 eight one zero, eight one one,

20 eight one two, and eight one

21 three?

22 A Yes, sir.

23 (Whereupon, Best Kits

24 are received and marked as State's

25 Exhibit Nos. 37, 38, 39, and 40

PAULSON -- DIRECT

1 for identification.)

2 THE COURT: Show them
3 to counsel.

4 MR. BOLUS: No
5 objection.

6 THE COURT: Marked and
7 admitted without objection in
8 their respective order.

9 (Whereupon, Best Kits
10 are received and marked as
11 State's Exhibit Nos. 37, 38,
12 39, and 40 in evidence.)

13 Q Miss Paulson, I'm
14 going to show you what's been
15 marked State's or admitted as
16 State's thirty-seven through
17 forty. Are those the Best Kits,
18 the items you would have taken to
19 the State Law Enforcement
20 Division?

21 A Yes, sir.

22 Q And once they arrived
23 there at your hand they would have
24 been given to an analyst there to
25 analyze?

1 A Correct.

2 MR. WILLIAMS: Okay.

3 No further questions of the
4 witness.

5 THE COURT: Any
6 questions of the witness?

7 MR. BOLUS: None.

8 THE COURT: Any
9 objection to the witness being
10 excused? From the State?

11 MR. WILLIAMS: None,
12 your Honor.

13 THE COURT: From the
14 defense? Any objection?

15 MR. BOLUS: I'm sorry.
16 No.

17 THE COURT: Ma'am,
18 you're excused.

19 You may call your
20 next witness.

21 MR. WILLIAMS: Thank
22 you, your Honor. The State
23 calls Jill Clark.

24 THE COURT: You said
25 Jill Clark?

CLARK -- DIRECT

1 MR. WILLIAMS: Yes,
2 your Honor.

3
4
5
6
7 JILL CLARK, having
8 been called as a witness, is
9 duly sworn and testifies as
10 follows:

11 COURT CLERK: State
12 your full name and spell your
13 last name.

14 THE WITNESS: Jill
15 Clark, C-l-a-r-k.

16 THE COURT: You may
17 proceed.

18 MR. WILLIAMS: Thank
19 you, your Honor.

20 THE COURT: You're
21 welcome.

22 DIRECT EXAMINATION BY

23 MR. WILLIAMS:

24 Q Ma'am, where do you
25 work?

CLARK -- DIRECT

1 A I work for the South
2 Carolina Law Enforcement Division.

3 Q That's commonly
4 referred to as S. L. E. D.?

5 A Yes.

6 Q What do you do at
7 S. L. E. D.?

8 A I'm assigned to the
9 drug analysis department.

10 Q How long have you
11 been working with S. L. E. D.?

12 A Since December of
13 '99.

14 Q And how long have you
15 been a drug analyst or, I guess, a
16 chemical analyst?

17 A Well, I completed my
18 training in August of 2000.

19 Q You've testified as
20 an expert in the area of chemical
21 analysis before?

22 A Yes. I've testified
23 thirty-three times now.

24 Q You testified in
25 courtroom in this county in cases

CLARK -- DIRECT

1 that I've had?

2 A Yes, I have.

3 MR. WILLIAMS: Your

4 Honor, I'm going to move to

5 have Miss Clark made an expert

6 in the area of chemical

7 analysis.

8 THE COURT: Any

9 objection?

10 MR. BOLUS: No

11 objection.

12 THE COURT: So

13 admitted.

14 Q When you analyze --

15 well, let me ask you what you do

16 when you analyze chemicals or

17 illicit drugs?

18 A Well, whatever

19 substance is submitted to us,

20 we'll do, I'll do a chemical test

21 and then I'll put it in some sort

22 of instrumentation.

23 Q What does that

24 process involve?

25 A A chemical test is a

CLARK -- DIRECT

1 preliminary test where you add
2 chemicals to whatever substance is
3 submitted and then you get a color
4 change and it gives you an idea of
5 what type of drugs you have, and
6 then based on that, you do an
7 extraction where you add liquid to
8 the sample based on what you think
9 it is and then you run it on our
10 instrumentation, in this case a
11 G. C. mass spec, and it gives us
12 confirmatory identification.

13 Q What are you looking
14 for in the test? What type of
15 substances can you detect?

16 A We're looking to
17 detect controlled substances.

18 Q When you say
19 controlled substances, what does
20 that -- does that mean
21 prescription, non-prescription?

22 A Controlled substances
23 are substances that have been
24 controlled by the government such
25 as cocaine, crack, marijuana,

CLARK -- DIRECT

1 which is a little different. A
2 prescription substance is
3 something you have to have a
4 prescription for it but it may not
5 be controlled.

6 Q So it may be
7 prescription, it may not be, but
8 certainly contraband or illegal
9 narcotics would, would come up
10 positive or you detect those?

11 A Yes.

12 Q What about like
13 over-the-counter stuff? Do you
14 pick up Tylenol or aspirin or
15 something like that?

16 A Yes. It will also
17 detect those substances.

18 Q You were given
19 several items in the case you're
20 in court for today?

21 A Yes. That's correct.

22 Q Do you have your
23 reports with you?

24 A I do.

25 Q Those items come to

CLARK -- DIRECT

1 you in the form of a Best Kit?

2 A They do.

3 Q I want to start, you,
4 you note on your report which Best
5 Kit is which. Correct?

6 A Yes. That's correct.

7 Q If we can just start
8 with the one that ends in eight
9 one zero.

10 A Yes, sir.

11 Q And I believe it
12 would be the S. L. E. D. lab
13 number that ends in four nine
14 seven?

15 A Okay.

16 Q Did you analyze that
17 item?

18 A Yes, I did.

19 Q And I'm showing you
20 State's Exhibit thirty-nine. What
21 was that item?

22 A This was a contact
23 lens container and inside it was a
24 pink liquid substance.

25 Q And what, what did

CLARK -- DIRECT

1 you find that pink, that pink
2 liquid substance to be?

3 A Methadone was found
4 and it was zero point five
5 milliliters and it's a controlled
6 two schedule drug.

7 Q So half of a
8 milliliter of methadone?

9 A Yes. That's correct.

10 Q Approximately -- how
11 much is a half of a millimeter?
12 Is it like ten drops, fifteen
13 drops, a hundred drops? Do you
14 have any --

15 A I don't know exactly
16 how many drops. It would be less
17 than a hundred. I would say maybe
18 ten to twenty drops approximately.

19 Q Okay. The next Best
20 Kit was one seven seven eight one
21 two and your S. L. E. D. lab
22 number ends in four nine three.

23 A Yes.

24 Q What did you receive
25 in that Best Kit?

CLARK -- DIRECT

1 A This was a sharp
2 container and it contained a
3 syringe containing a liquid
4 substance.

5 Q What was found in the
6 liquid substance?

7 A Cocaine was found,
8 zero point one one milliliters and
9 it's also a C. two controlled
10 substance.

11 Q But it basically had
12 a little mixture of liquid and
13 cocaine?

14 A Yes. The cocaine was
15 in a liquid form.

16 Q The next lab report I
17 to look at is four nine five, Best
18 Kit ends in eight one one. What
19 did you receive in that, that kit?

20 A This was a plastic
21 container containing white tablets
22 and there were no controlled
23 substances detected.

24 Q So you, you don't
25 know what those are except that

CLARK -- DIRECT

1 you know they're not controlled
2 substances?

3 A Correct. There was
4 menthol showed up on the
5 instrumentation data but that's
6 not controlled so it's not
7 reported out.

8 Q So you don't even
9 know what they are except they had
10 menthol?

11 A Yes. That's correct.

12 Q I want to finally go
13 to your S. L. E. D. report that
14 ends in four nine one, the Best
15 Kit that ends in eight one three.
16 What items were submitted to you
17 with that, with that kit?

18 A There were three
19 items. The first items was an
20 evidence bag containing a spoon
21 which contained cotton and residue
22 and it had cocaine base. Crack
23 was found, no weight obtained, and
24 it's also a C. two scheduled drug.

25 The second item was a

CLARK -- DIRECT

1 evidence bag containing spoon and
2 also contained cotton on it and
3 there was no controlled substance
4 detected on there.

5 Then the third item
6 was an evidence bag containing a
7 spoon containing cotton and
8 residue again, and it had cocaine
9 base which is crack found, zero
10 point zero two grams, which
11 converts to zero point three zero
12 grains, and it's a C. two
13 controlled substance.

14 Q And as far as the
15 first item when you said no weight
16 obtained, is that basically -- you
17 use a certain amount when you test
18 the drugs?

19 A That's correct. The
20 reason there was no weight
21 obtained on that, it was residue
22 on the spoon so there wasn't
23 enough to measure as far as the
24 threshold on our balance which we
25 weigh the drugs on. But there was

CLARK -- DIRECT

1 enough to test and do --

2 Q So it was residue?

3 You showed residue but not weight?

4 A Yes. That's correct.

5 Q The spoon containing
6 cotton, you said there was nothing
7 on that?

8 A Right. I didn't see
9 anything but I did rinse it but no
10 controlled substances were
11 detected.

12 Q And the third spoon
13 with the cotton residue was point
14 zero two grams which is a small
15 amount?

16 A Yes.

17 MR. WILLIAMS: Nothing
18 else for the witness. Thank
19 you, ma'am.

20 THE COURT: Any
21 questions?

22 MR. BOLUS: No
23 questions.

24 THE COURT: Any
25 objection to the witness being

1 excused? From the State?

2 MR. WILLIAMS: None,
3 your Honor.

4 THE COURT: From the
5 defense?

6 MR. BOLUS: None.

7 THE COURT: Thank you,
8 Miss Clark. You have a good
9 day. You're excused.
10 You may call your
11 next witness.

12 MR. WILLIAMS: Thank
13 you, your Honor. The State
14 calls Sergeant Roberts.

15

16

17

18

19

20 WILLIAM ROBERTS,

21 having been called as a
22 witness, is duly sworn and
23 testifies as follows:

24 COURT CLERK: If you
25 please state your full name

ROBERTS -- DIRECT

1 and spell your last.

2 THE WITNESS: Sergeant
3 Gary Roberts. R-o-b-e-r-t-s.

4 THE COURT: You may
5 proceed.

6 MR. WILLIAMS: Thank
7 you, your Honor.

8 DIRECT EXAMINATION BY
9 MR. WILLIAMS:

10 Q Sir, where do you
11 work?

12 A City of Charleston
13 Police Department in the digital
14 evidence unit.

15 Q And what do you do in
16 the digital evidence unit?

17 A I'm the director of
18 the digital evidence laboratory
19 and also an analyst.

20 Q And as far as the
21 digital evidence unit itself, can
22 you tell the jury what that is.

23 A Yeah. Basically what
24 that is, is we analyze digital
25 media for evidence, all types of

ROBERTS -- DIRECT

1 crimes. Narcotics. Homicide.
2 You name it. Phones. P. D. A.'s.
3 Any piece of digital media that
4 may have some evidentiary value we
5 make an attempt to analyze it for
6 evidentiary value.

7 Q As far as the unit
8 itself is that fairly unique at
9 least in the tri-county area?

10 A Yes, sir. There's
11 currently two of our type labs in
12 the State of South Carolina.

13 Q And where are those?

14 A Ours and S. L. E. D.,
15 the State Law Enforcement
16 Division. We are the -- we're
17 ASPAC internationally accredited,
18 internationally, one of the only
19 ones in the state and I believe
20 one of three in the world.

21 Q As far as the cases
22 that you handle, do you take
23 referrals from other agencies when
24 something needs to be digitally
25 processed?

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1 A Yes, sir, we do. We
2 currently serve roughly to twenty
3 to twenty-five state and local law
4 enforcement agencies.

5 Q Keeps you pretty
6 busy.

7 A Yes, sir.
8 Unfortunately.

9 Q In this case you
10 analyzed a computer for the North
11 Charleston Police Department?

12 A Yes, sir, I did.

13 Q That was supplied to
14 you by Corporal Coker?

15 A Corporal Coker from
16 their crime scene. Yes, sir.

17 Q And it's not unusual
18 for you to assist say North
19 Charleston, Mount Pleasant, or
20 other agencies?

21 A No, sir. We also
22 offer those services to assist
23 them as well in the actual
24 execution of search warrants, but
25 this is one where they actually

ROBERTS -- DIRECT

1 brought the computer to us.

2 Q So you'll actually go
3 out on a scene to make sure
4 something gets done properly as
5 well?

6 A Yes, sir.

7 Q I want to ask you now
8 about your, your specialization.
9 What is it that you do? You get
10 information off of computers or
11 off of digital --

12 A Yes, sir. We,
13 depending upon the type of case it
14 is and the request from the
15 submitting agency or officer
16 really dictates how we analyze the
17 computer. Whether it's an image
18 type case, maybe a financial
19 transaction case where you're
20 looking for internet-type records.
21 It just, it varies depending upon
22 the specific type of case that it
23 is.

24 Q And you're provided
25 that background from the law

ROBERTS -- DIRECT

1 enforcement agency or the officer?

2 A Yes, sir. We have
3 forms and documents we require
4 them to fill out. It's actually
5 called a request form, requesting
6 the services that they want and
7 how they want the investigation --
8 at from our end -- handled.

9 Q Do you have any
10 special training that qualifies
11 you to do this type of work?

12 A Yes, sir.

13 Q And what that,
14 briefly?

15 A I spent roughly two
16 years in Washington, D. C. at
17 F. B. I. headquarters being
18 trained by the Cyber Crime Unit.
19 I was out in Quantico during that
20 time which is their training
21 facility in the F. B. I., trained
22 there in digital evidence,
23 different types of file systems,
24 file structures. I've been
25 trained by the Federal Law

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1 Enforcement Training Center. I'm
2 SCURA (phonetic) certified, A-plus
3 trained. That's Microsoft basic
4 training with hardware, software,
5 and networking. Several of the
6 vendors that offer products. Been
7 trained through them. I'm also --
8 I'm chairman of the research
9 committee for Scientific Working
10 Group of Digital Evidence which is
11 out of the University of Central
12 Florida. And I'm a technical
13 expert adviser for ASPAC Lab in
14 the discipline of digital
15 evidence.

16 Q You basically are an
17 expert in digital evidence,
18 digital evidence recovery?

19 A If there is one, I
20 guess.

21 Q Okay. Have you ever
22 been qualified as an expert in
23 that area?

24 A No, sir, I have not.

25 MR. WILLIAMS: Your

ROBERTS - - DIRECT

1 Honor, I'm going to move to
2 qualify him as an expert in
3 the area of digital evidence
4 recovery. I think he
5 certainly has the background.

6 THE COURT: Any
7 objections or questions?

8 MR. BOLUS: None.

9 THE COURT: So
10 admitted.

11 Q Now as far as this
12 case goes, what was it that you
13 were asked to do? You said there
14 were basically request sheets that
15 come in?

16 A Yes, sir.

17 Q What was the request
18 that you covered in this case?

19 A Give me one second.
20 This was a request for a Dell
21 Dimension lap, or excuse me,
22 desktop computer. They were
23 looking for any type of evidence
24 pertaining to the
25 kidnapping/sexual assault of the

ROBERTS -- DIRECT

1 spouse.

2 Q And so you would have
3 been -- this would have been
4 dropped off to you by Corporal
5 Coker and what would you have
6 done? How would you have searched
7 for that information? What are
8 your techniques or your
9 approaches?

10 A It's actually quite
11 detailed. They have, like I said,
12 a request form that they fill out.
13 Once they fill out the form they
14 submit the item to us. We
15 documented the chain of custody
16 form internally, and if it's an
17 external agency we also fill out
18 their chain of custody.

19 Once that's done, we
20 intake the device, bag it, tape it
21 up and store it. Once we're ready
22 to start the case to analyze it,
23 we remove it from the evidence
24 room, and we acquire the evidence.
25 And that's a separate step process

ROBERTS - - DIRECT

1 and what we do basically is we
2 have a device that allows us to
3 pull things off the computer or
4 off the media and then allow it to
5 go back. So it's kind of like a
6 C. D. R. W. if you're familiar
7 with that, where you can write,
8 you can write something on it one
9 time. You give it to a friend,
10 look at it. You can't pull it
11 back off. You can look at it but
12 you can't, you know, reintroduce
13 anything to the actual media.

14 Q And you analyzed this
15 computer to find - -

16 A Well, we were looking
17 for photographs, documents,
18 anything pertaining to the spouse
19 or related to that type of
20 activity.

21 Q And you found what
22 ended up, you found some documents
23 on the computer. Is that correct?

24 A Yes, sir.

25 Q And you all put

ROBERTS -- DIRECT

1 together -- when you, you generate
2 a report you do a, a summary sheet
3 but you also generate a disk?

4 A Yes, sir. We do
5 what's known as a digital report
6 that is self-generated by the
7 computer forensic software that we
8 use and that case, it was access
9 data, forensic tool kit, and it's
10 an H. T. M. L. report which means
11 it's web based. It looks just
12 like the internet. Pop it in. It
13 will pop up. It's hyper-linked so
14 you can click on the different
15 links and you do that because most
16 people are visual and a lot of the
17 customers that we service seem to
18 better understand something when
19 we give them a visual
20 representation versus a bunch of
21 words on a piece of paper.

22 Q I'm going to show you
23 this. Is it your -- basically
24 your report for lack of a better
25 term.

ROBERTS -- DIRECT

1 A Yes, sir.

2 Q If you can hang on to
3 that. You can play this on a, on
4 a computer if I give you one?

5 A Yes, sir. I can.

6 Q I'm going to hand you
7 my laptop. If you could just
8 access your report.

9 A All right. We also
10 have a setup where it will auto
11 play so if the officer doesn't
12 know what to click on, they can
13 put it in and it will generally
14 just pop up, and which it's done
15 now and it gives you, like I said,
16 it's like a web page.

17 Q So, so based on that
18 report, you basically have copies
19 and I just want to -- you, you
20 have copies there of the Word
21 documents that would have been
22 recovered off of the computer in
23 this case?

24 A Yes, sir. That's
25 correct.

ROBERTS -- DIRECT

1 Q I want to ask you
2 about several of those documents.
3 The first I want to ask you about
4 is one that was labeled, I think
5 it says: "My wife, April one,
6 2006, dot, D. O. C.," a Word
7 document.

8 A Give me just one
9 second. Dated April first?

10 Q I believe it's -- the
11 document is entitled: "My wife,
12 April one, 2006, dot" --

13 A Yeah. I got two.
14 April first and April
15 twenty-fifth. I have April first.

16 Q Okay. So there's one
17 that's April first and one of
18 April twenty-fifth?

19 A Yes, sir.

20 Q Are you able to open
21 up that, that document and look it
22 to see if this copy I'm going to
23 show you is an accurate copy?

24 A Yes, I am.

25 MR. WILLIAMS: I'm

ROBERTS -- DIRECT

1 going to have these marked for
2 convenience at this point.

3 THE COURT: Are they
4 being admitted, Mr. Williams?
5 Are you seeking to admit the
6 documents, Mr. Williams?

7 MR. WILLIAMS: Yes,
8 your Honor.

9 THE COURT: Any
10 objection?

11 MR. BOLUS: Just -- the
12 officer says he pulled it off
13 this machine, computer.

14 THE COURT: You want
15 him to lay the appropriate
16 foundation and then you'll
17 have no objection?

18 MR. BOLUS: I think he
19 probably has already, so I'm
20 not objecting to the copies.

21 THE COURT: Okay.
22 Marked and admitted without
23 objection.

24 MR. WILLIAMS: If I can
25 get those marked now.

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1 (Whereupon, the
2 letters previously referred to
3 are received and marked as
4 State's Exhibit Nos. 41, 42,
5 43, 44, and 45 in evidence.)

6 MR. WILLIAMS: For the
7 record, your Honor, those are
8 State's 45, 44, 43, 42, and
9 41.

10 THE COURT: Marked and
11 admitted without objection.

12 MR. WILLIAMS: Thank
13 you, your Honor.

14 Q Sergeant, right?

15 A Yes, sir.

16 Q Sergeant, I want to
17 go back right to the -- I want to
18 go back to the last document we
19 had just talked about. That
20 was -- it was -- the title of the
21 document was "My wife, April
22 first, 2006." Were you able to
23 open up that document?

24 A Yes, sir.

25 Q All right. Can you

ROBERTS -- DIRECT

1 tell me if State's exhibit
2 forty-one corresponds to that Word
3 document, is a printed version of
4 the digital document?

5 A Hang on one second.

6 Q Yeah. Go ahead.

7 A Yes. Your mouse is a
8 little off. Yes. I got it. Yes,
9 sir.

10 Q Okay.

11 A That's it.

12 MR. BOLUS: Your Honor,
13 just a second. We're having a
14 hard time trying to find
15 which --

16 THE COURT: Which
17 document he's referring to?

18 MR. BOLUS: Yeah.

19 THE COURT: Because you
20 don't know the numbers.
21 Correct?

22 Can you help Mr.
23 Bolus look so he'll have the
24 corresponding numbers?

25 MR. WILLIAMS: I will.

ROBERTS -- DIRECT

1 That's the one that --

2 forty-one is --

3 THE COURT: Give him a
4 date. That might help him.

5 It's kind of --

6 MR. WILLIAMS: It
7 starts, it starts out "My
8 dearest wife" and states
9 "before I begin this extremely
10 important letter."

11 MR. BOLUS: Got it.

12 MR. WILLIAMS: Okay.

13 Q The next document,
14 sergeant, I want to talk to you
15 about, it has a similar title. It
16 says, "My wife, April
17 twenty-fifth, 2006." It's a Word
18 document.

19 A I have it.

20 Q And that starts out
21 with: "I feel that I have no
22 other options" --

23 A Yes, sir.

24 Q -- "than to put these
25 thoughts into words."

ROBERTS -- DIRECT

1 Let me show you
2 State's exhibit forty-two. Is
3 that a printed version of that
4 digital file?

5 A Yes, sir, it is.

6 Q And that's State's
7 forty-two. State's exhibit
8 forty-two.

9 The next one I want
10 to ask you about is what I have
11 marked as State's exhibit
12 forty-five and it's labeled
13 "internet protocol, dot, D. O. C."
14 A document.

15 A Starts out forty-one,
16 I feel?

17 Q It's internet
18 protocol dot D. O. C. It starts
19 out, yeah, four one, I feel I have
20 no other options. It starts out
21 the same way but is a longer
22 document than the previous one
23 which was about four printed
24 pages, three and a half?

25 A Yes, sir.

ROBERTS -- DIRECT

1 Q You -- look at
2 State's forty-five and see if
3 that's the same document?

4 A Yes, sir, it is.

5 Q The next one I want
6 to ask you about is one labeled:
7 "My story, May second, 2006, dot,
8 D. O. C." Do you have that there
9 as well?

10 A It's a paragraph?

11 Q That's a
12 one-paragraph document. Would you
13 look at that and see if that's
14 the same?

15 A Yes.

16 Q And that's State's
17 exhibit forty-three.

18 Finally, Sergeant, I
19 want to show you what's been
20 admitted as State's forty-four, a
21 document labeled: "The truth
22 hurts me, seven, 2006, dot,
23 D. O. C." Can you open up that
24 document on your report?

25 A Yes.

ROBERTS -- DIRECT

1 Q Is that printed, a
2 printed version of that digital
3 document?

4 A Yes, sir, it is.

5 Q So what we have are
6 several documents that you would
7 have pulled off of his computer
8 that have been now put into hard
9 copy, and in your expertise they
10 were taken off of the computer
11 which you were submitted?

12 A Yes, sir. That's
13 correct.

14 Q That was submitted by
15 Corporal Coker?

16 A Yes, sir.

17 MR. WILLIAMS: I have
18 no further questions of the
19 witness.

20 THE COURT: Any
21 questions for the witness?

22 MR. BOLUS: Is he
23 through?

24 THE COURT: Uh-huh.

25 MR. BOLUS: I have no

ROBERTS -- DIRECT

1 objection.

2 THE COURT: You have no
3 questions?

4 MR. BOLUS: No.

5 THE COURT: Any
6 exception to the witness being
7 excused? From the State?

8 MR. WILLIAMS: None,
9 your Honor.

10 THE COURT: From the
11 defense?

12 MR. BOLUS: None.

13 THE COURT: Sir, you're
14 excused.

15 THE WITNESS: Thank
16 you, ma'am.

17 THE COURT: Thank you.
18 Have a good day.

19 THE WITNESS: Thank
20 you. You, too.

21 THE COURT: You may
22 call your next witness.

23 MR. WILLIAMS: Your
24 Honor, at this time the State
25 rests.