

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM OCONEE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DENNIS TEMPLE,

APPELLANT

Appellate Case No. 2011-182806

RECORD ON APPEAL

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1 Q. On May the 5th -- 27th, 2010?

2 A. I did not. I received the items on October the
3 21st.

4 Q. You did not receive Case Number L10-05754?

5 A. I received items for that case, for that lab
6 number. The items I received actually I logged in on
7 October the 21st, not in May.

8 Q. Okay. And the only item you received was the
9 belt?

10 A. I'm sorry?

11 Q. Those items you received were the belt?

12 A. I received multiple items. On the, October 21st,
13 I received a washcloth, a camo hood and gloves, three
14 white socks, and also a brown leather belt.

15 Q. A washcloth?

16 A. I'm sorry?

17 Q. You said a washcloth?

18 A. Yes, that's correct.

19 THE DEFENDANT: Excuse me for a minute.

20 (Whereupon, the Defendant conferred with
21 Mr. Tavernier off the record.)

22 BY MR. TEMPLE:

23 Q. So, Ms. Yarbrough, could you tell me, you said you
24 received, once again, you received a washcloth, the hood
25 and the gloves?

1 A. I'm Ms. Kinard. Ms. Kinard.

2 Q. Sorry, excuse me.

3 A. That's okay. I received, on October the 21st,
4 okay, I received a purple washcloth, a camo hood and
5 gloves, three white socks, and one brown leather belt on
6 October the 21st of 2010 from Sergeant Patrick Merck.

7 Q. Could you tell me where the washcloth and, where
8 the washcloth went to?

9 A. When I logged in that evidence, it was placed
10 with -- let me refer back to my chain -- it was placed in
11 a box with the camo hood, the gloves, and, and the belt.
12 And at that time it went -- I put it on evidence
13 processing intake shelf number 3.

14 Q. And do that particular shelf have a department
15 head or a figure that it's assigned to?

16 A. It's evidence processing.

17 Q. What about the -- this is just the washcloth we're
18 talking about?

19 A. That's correct. But it was placed in the same box
20 with other items to be analyzed by evidence processing.
21 That's a different department.

22 Q. So all items, that's what you're...

23 A. I'm sorry?

24 Q. You said all items, that's what you're saying, all
25 items?

1 A. No, not all items. The items that I mentioned.

2 Q. The washcloth, the hood, the gloves, three socks,
3 the belt?

4 A. The washcloth, the hood and gloves and belt were
5 all placed in a box, and that one box was placed on
6 evidence processing intake storage shelf 3, which is
7 within our evidence room.

8 Q. These items were sealed?

9 A. Yes. They were sealed in the box, and the seal
10 would have been initialed and dated by Sergeant Patrick
11 Merck on October the 21st.

12 THE DEFENDANT: Thank you, ma'am. No further
13 questions at this time.

14 THE COURT: Anything on redirect?

15 MS. SIMMONS: No, Judge. We would ask that this
16 witness be excused.

17 THE COURT: Okay. You can be excused. Thank you.

18 (Whereupon, the witness was excused.)

19 THE COURT: Ladies and gentlemen, we'll take a
20 15-minute break. Please don't discuss the case and then
21 we'll bring you in and we'll go until five or a little
22 after five, five after, maybe. Please don't discuss the
23 case.

24 (Whereupon, the jury left the courtroom at
25 approximately 3:51 p.m.)

1 (A recess was taken.)

2 THE COURT: All right. You can bring them in.

3 (Whereupon, the jury entered the courtroom at
4 approximately 4:09 p.m.)

5 THE COURT: Thank you, ladies and gentlemen. Just
6 so you know, I just talked to the heating and
7 air-conditioning people downstairs. It is eight degrees
8 hotter where I'm sitting than where you are sitting. I
9 don't know how that's physically possible, but that's
10 what they told me. So I share your pain if you're warm.
11 I'm 10 degrees warmer.

12 You may call your next witness.

13 MS. SIMMONS: Thank you, Judge. The State calls
14 Nikki Perry.

15 Whereupon,

16 Nikki Perry,

17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MS. SIMMONS:

19 THE WITNESS: Nikki Perry, P-e-r-r-y.

20 BY MS. SIMMONS:

21 Q. Ms. Perry, where are you employed?

22 A. I'm currently employed with the South Carolina Law
23 Enforcement Division, commonly known as S.L.E.D.

24 Q. And how long have you been at S.L.E.D.?

25 A. I've been employed at S.L.E.D. for four and a half

1 years.

2 Q. And what is your job title with S.L.E.D.?

3 A. I'm a Forensic Technician in the Evidence Control
4 Department at the Forensic Lab.

5 Q. Can you explain how evidence intake and log-in
6 works as part of your job?

7 A. Sure. We log in and package evidence brought into
8 the lab for forensic analysis.

9 Q. And when some samples are brought in by law
10 enforcement, do you seal them and tape them in the
11 presence of that officer?

12 A. We do.

13 Q. What safeguards are in place to ensure the
14 integrity of the intake process?

15 A. We have policies and procedures put in place that
16 we adhere to. We seal all evidence that is brought in to
17 S.L.E.D., we place seals on the boxes, and we heat-seal
18 all the pouches and we have the officers initial and date
19 those seals.

20 Q. Did you have occasion to be involved in S.L.E.D.
21 Case L10-05754?

22 A. We did.

23 Q. And is the suspect in this case Dennis Temple?

24 A. It is.

25 Q. Once items are received by S.L.E.D. on particular

1 case numbers, do they get assigned numbers within that
2 case?

3 A. Yes, ma'am, they do. When additional evidence is
4 brought in and the lab number has already been
5 established, we will take additional evidence and we will
6 give items new item numbers.

7 Q. Did you receive what is commonly known as a
8 suspect blood sample in this case on September 23rd,
9 2010?

10 A. I did.

11 Q. And what S.L.E.D. item number was that assigned
12 to?

13 A. It was assigned S.L.E.D. Item Number 6.

14 Q. And where did you receive that item -- from whom
15 did you receive that item?

16 A. I received S.L.E.D. Item Number 6 from Sergeant
17 Patrick Merck of the Oconee County Sheriff's Office.

18 Q. And at what time on the 23rd of September?

19 A. At 11:10 a.m.

20 Q. Did you label the item for identification or mark
21 it in the computer?

22 A. I would have logged it in and the computer would
23 have generated Item 6 for that piece of evidence. I
24 would have placed the evidence in a heat-sealed pouch,
25 had Patrick sign and date the heat-sealed pouch. And

1 then I placed it into the D.N.A. evidence intake storage,
2 and we place a label on that particular item in that
3 heat-sealed pouch that would say the Lab Number
4 L10-05754, Item Number 6.

5 Q. So the extent of your involvement with S.L.E.D. 6
6 was the intake, heat sealing and placement in D.N.A.
7 intake storage?

8 A. Yes, ma'am.

9 Q. Did you alter or tamper with or otherwise
10 contaminate this item once it was in your custody?

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

12 Q. And again the D.N.A. intake storage facility, the
13 S.L.E.D. log-in technicians have access to that?

14 A. That's correct.

15 Q. But the computer reports everyone who touches that
16 item?

17 A. Correct.

18 Q. Did you later transfer Item 6 from the particular
19 location where you placed it?

20 A. I did. On December 24, 2010, at 9:28 a.m. I
21 transferred that item to Betty Butler, which is a
22 forensic technician in the evidence processing
23 department.

24 Q. Did your records indicate that anyone else had
25 moved S.L.E.D. Item 6 while it was on those shelves?

1 A. No, ma'am.

2 Q. And you did not alter or tamper with the item in
3 any way until you transferred it to Ms. Butler on
4 September 24, 2010, at 9:28 a.m.?

5 A. No, ma'am.

6 Q. Did S.L.E.D. also have occasion to receive a belt
7 and a pair of gloves in this case?

8 A. Yes, ma'am.

9 Q. And is the belt under S.L.E.D. Item 8 and gloves
10 under S.L.E.D. Item 10, or vice versa?

11 A. Yes. The gloves were logged in under Item 8 and
12 the belt was Item 10.

13 Q. What was your role with those two items?

14 A. I was notified by Josetta Blair that she requested
15 container B on this case, which included the gloves and
16 the belt. So I retrieved that box from evidence
17 processing intake shelf 3, placed it in my custody and
18 transferred it into the custody of Josetta Blair, a
19 forensic technician in the evidence processing
20 department.

21 Q. What date and time did you do that?

22 A. I did that on October 25th, 2010, at 11:49 a.m.

23 Q. Did you alter or tamper with S.L.E.D. 8 or 10 in
24 any way in the process of transferring those items to
25 Josetta Blair on the date in question?

1 A. I did not.

2 MS. SIMMONS: Please answer any questions the
3 Defendant may have.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION BY MR. TEMPLE:

6 Q. Yes. Ms. Perry, could you please tell me which
7 items you received on, in intake in reference of Case
8 Number L10-05754?

9 A. I logged in from Patrick Merck Item Number 5,
10 which was described as an empty plastic bottle, and I
11 logged in from Patrick Merck on September 23rd Item 6,
12 which was a blood standard from Dennis Maurice Temple.

13 Q. So those are the only two items that you received?

14 A. Those are the only two items that I logged in,
15 yes.

16 Q. Did you do any testing on those two items?

17 A. I did not. I do not test items.

18 Q. And you sent those items to who?

19 A. After I logged them in, I placed the blood sample
20 in D.N.A. evidence intake storage, and I placed the empty
21 plastic bottle in our latent evidence intake storage.

22 Q. Did you do any other test other than that,
23 procedures?

24 A. I'm sorry, can you say that again?

25 Q. Yes. Did you do any other procedures other than

1 that for these items?

2 A. To those items, no, I did not.

3 Q. Thank you, ma'am.

4 THE DEFENDANT: No further questions, Your Honor.

5 THE COURT: Anything on redirect?

6 MS. SIMMONS: No, Your Honor.

7 THE COURT: All right. Ma'am, do you need to be
8 excused?

9 THE WITNESS: Yes.

10 THE COURT: Okay. You're excused.

11 (Whereupon, the witness was excused.)

12 THE COURT: You may call your next witness.

13 MS. SIMMONS: The State calls Sherree Brown.

14 Whereupon,

15 Sherree Brown,

16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MS. SIMMONS:

18 THE COURT: Yes, ma'am.

19 BY MS. SIMMONS:

20 Q. Good afternoon, Ms. Brown.

21 A. Good afternoon.

22 Q. Where are you employed?

23 A. South Carolina Law Enforcement Division, also
24 known as S.L.E.D.

25 Q. What is your job title there?

1 A. I'm a Forensic Technician within the D.N.A.
2 Department.

3 Q. How long have you been at S.L.E.D.?

4 A. 16 and a half years, and the last 13 within the
5 D.N.A. department.

6 Q. What does your job in D.N.A. entail?

7 A. One of my duties at the D.N.A. department is to go
8 down to the evidence control area and retrieve evidence
9 that is brought in to the S.L.E.D. to be analyzed for
10 D.N.A. And also, if there are any samples of liquid
11 blood, part of my job is to stabilize that blood to make
12 it into a dry form.

13 Q. What safeguards are in place to ensure that
14 samples submitted to S.L.E.D. are not compromised?

15 A. We just have policies and procedures that the
16 forensics lab does, and also within the D.N.A.
17 department.

18 Q. Did you have occasion to be involved in L10-05754?

19 A. Yes.

20 Q. And was that suspect named Dennis Temple?

21 A. Yes.

22 Q. Once items are received by S.L.E.D. on a case, are
23 they assigned a number within that case?

24 A. Yes.

25 Q. Did S.L.E.D. receive what is commonly known as a

1 C.S.C. kit in this case, S.L.E.D. Item 1?

2 A. Yes.

3 Q. Did S.L.E.D. also receive a suspect sample for
4 standard in this case, S.L.E.D. Item 6?

5 A. Yes.

6 Q. When did you receive S.L.E.D. Item 1?

7 A. I took custody of it on May 28th, 2010, at 9:15
8 a.m.

9 Q. Who did you receive it from?

10 A. A forensic technician in the evidence control
11 department, Amy Stephens.

12 Q. Did you personally witness Amy Stephens retrieve
13 that item from evidence storage and hand it directly to
14 you?

15 A. Yes.

16 Q. You were with her the whole time, she had that
17 item the whole time?

18 A. Yes.

19 Q. Did you mark or label that item the moment you
20 receive it or log it in the computer?

21 A. Yes. Because I had to open up the C.S.C. kit from
22 the heat-sealed pouch and retrieve the liquid blood
23 standard that's within the kit that's collected, and I
24 took it and did all procedures throughout and made it a
25 liquid to dry on filter paper.

1 Q. And the C.S.C. kit, S.L.E.D. Item 1, was that the
2 victim's blood originally?

3 A. Yes.

4 Q. And what was your particular role in processing
5 S.L.E.D. Item 1, the victim's blood?

6 A. As a technician within the D.N.A. department, I'm
7 the first line of getting evidence, and if any case comes
8 in with the liquid blood standard, that is part of my job
9 duties is to stabilize it so when a case can be assigned,
10 the analyst doesn't have to worry about it, it's already
11 done.

12 Q. The blood is stabilized for analysis?

13 A. Yes.

14 Q. So you would only actually process a blood portion
15 of S.L.E.D. Item Number 1?

16 A. Right. I sub itemize and I created 1.1. 1.1 is
17 the blood standard from the C.S.C. kit.

18 Q. And you followed S.L.E.D. policies and procedures
19 to make sure the item was not contaminated?

20 A. Yes.

21 Q. Once you completed your task regarding the C.S.C.
22 kit, S.L.E.D. Item 1, what did you do with the item?

23 A. After it was stabilized, the next day I repackaged
24 the blood standard into a coin envelope and then it's put
25 back into the C.S.C. kit, and heat-sealed the heat-sealed

1 pouch and put my initials on it.

2 Q. And the entire C.S.C. kit, where was it stored?

3 A. It was stored in a secure area within the D.N.A.
4 department and it was the location D.N.A. storage drawer
5 30-A.

6 Q. And who ultimately retrieved the item, Item 1,
7 from D.N.A. storage 3-A?

8 A. D.N.A. analyst Amanda Webb.

9 Q. And do you know when that occurred?

10 A. According to my chain, she took custody of it on
11 June 22nd, 2010.

12 Q. Other than developing the blood sample that we
13 discussed, did you alter or tamper with or contaminate
14 the C.S.C. kit, S.L.E.D. Item 1, in any way?

15 A. No.

16 Q. And your records do not indicate that anyone else
17 had access to -- anyone else had S.L.E.D. Item 1 while it
18 was in your custody, control or possession?

19 A. Correct.

20 Q. Did you receive S.L.E.D. Item 6 in this case, the
21 defendant's blood sample?

22 A. Yes, I did.

23 Q. When did you receive that?

24 A. I took custody of it on September the 27th, 2010.

25 Q. From whom?

1 A. It was in a storage location within the D.N.A.
2 department and the location was, is D.N.A. 3rd.

3 Q. From D.N.A. storage 3rd?

4 A. Yes.

5 Q. Did you label or mark or otherwise notate in the
6 computer when you received that item?

7 A. Yes. It's when I transferred it to me, it became
8 time-stamped, that it went from location D.N.A. 3rd to my
9 custody on September the 27th, 2010, at 10:19 a.m.

10 Q. Again, what was your particular role with S.L.E.D.
11 Item 6?

12 A. Again, in this case a liquid blood standard was
13 sent in, and I went through our policies to stabilize the
14 liquid blood to make it a dry blood standard so it could
15 be analyzed at a later date.

16 Q. And you followed S.L.E.D. policies and procedures
17 to ensure the item was --

18 A. Yes.

19 Q. When you completed your task regarding
20 stabilization of the blood of S.L.E.D. Item 6, what did
21 you do with the item?

22 A. At this time it was still in my custody, and
23 before I could move it to the secure location, Amanda
24 Webb came and she personally took it from me and we did
25 it in the computer and personally she took custody of it

1 on October the 1st, 2010, at 9:30.

2 Q. You directly transferred S.L.E.D. 6 to Amanda
3 Webb?

4 A. Yes.

5 Q. Do the records indicate that anyone else had
6 access to Item 6 during your possession for processing up
7 until the time it was transferred?

8 A. No.

9 MS. SIMMONS: Please answer any questions the
10 Defendant may have.

11 THE WITNESS: Okay.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION BY MR. TEMPLE:

14 Q. Ms. Brown, is it true that you received Item
15 Number 1 on September --

16 A. What item are you referring to, sir?

17 Q. Item Number 1.1.

18 A. Item 1.1 was created by me.

19 Q. The blood standard from --

20 A. From the C.S.C. kit.

21 Q. Okay. So did you also receive -- is it true that
22 you also received blood standards from the Defendant,
23 Dennis Temple?

24 A. Could you tell me what item number you are
25 responding about?

1 Q. Item Number 6.

2 A. Yes, sir.

3 Q. Did you do any type of test to those items?

4 A. No test was performed, just stabilized the blood
5 standards.

6 Q. After your stabilizing, did you pass them on to,
7 pass both items on to the next person, Amanda Webb?

8 A. Item Number 6 was passed to Amanda Webb, but Item
9 Number 1 and 1.1 was put in a storage drawer.

10 Q. How long did they stay there, ma'am?

11 A. I put the evidence, item 1 and 1.1, which is both
12 in the same heat-sealed pouch, transferred it to D.N.A.
13 storage drawer 3-A on 6-8-2010, and D.N.A. Analyst Amanda
14 Webb took custody of it on June 22nd, 2010.

15 Q. So, according to the department storage drawer in
16 which the item number 1 was received and, on 6-8-2010,
17 and the date that the Forensic Scientist, Amanda C. Webb,
18 received this item was 14 days? Is that true?

19 A. When are you talking, when it first come in the
20 door or when I had it?

21 Q. When it was stored. You had it on 5-28?

22 A. Yes.

23 Q. Item Number 1?

24 A. It stayed in my custody from 5-28 until I
25 transferred it to D.N.A. storage drawer 3-A on 6-8-2010.

1 Q. Okay. According to your records, though, how long
2 did it stay in that storage room?

3 A. It was scanned into the drawer and physically put
4 into the drawer on 6-8-2010, and D.N.A. Analyst Amanda
5 Webb put it in her custody on 6-22nd, 2010.

6 Q. My question is, so did it stay in the drawer
7 during that time, the whole time?

8 A. From the 6-8 to the 6-22 it stayed in the drawer,
9 that particular storage drawer in a secure location
10 within the D.N.A. department.

11 Q. So how many days was that, Ms. Brown?

12 A. Eight, 16 -- 12 days.

13 Q. 12 days. Then after 12 days the Forensic
14 Scientist, Amanda C. Webb, received it. Did you do any
15 other tests to it?

16 A. No, I did not.

17 Q. What about Item Number 6?

18 A. I took custody of it on September the 27th, 2010.

19 Q. So, so who was it sent to at the -- well, what did
20 you do to it while you had it?

21 A. While it was in my custody, I prepared it through
22 S.L.E.D. and D.N.A. policies and procedures to stabilize
23 the liquid blood to a dry form.

24 Q. And you did no further tests to it?

25 A. No.

25 (Whereupon, the witness was excused.)

1 THE COURT: Have you got someone else you can fit
2 in, you think?

3 MS. SIMMONS: Our last law enforcement witness is
4 Sergeant Patrick Merck. I anticipate he will be in the
5 30-minute range.

6 THE COURT: Y'all come over here a minute.

7 (Discussion at sidebar.)

8 THE COURT: All right. You can call your next
9 witness.

10 MS. SIMMONS: The State calls Sergeant Patrick
11 Merck.

12 Whereupon,

13 Patrick Merck,

14 after first having been duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MS. SIMMONS:

16 Q. Sergeant Merck, where are you employed?

17 A. The Oconee County Sheriff's Office.

18 Q. How long have you been in law enforcement?

19 A. Almost 19 years.

20 Q. What do your job duties entail currently?

21 A. I am currently assigned to the Evidence and Crime
22 Scene Division.

23 Q. And how long have you been there?

24 A. Approximately 12 years.

25 Q. Does part of your job involve evidence collection

1 and evidence transport to S.L.E.D.?

2 A. Yes, ma'am.

3 Q. What procedures are in place within your
4 department at the Sheriff's Department to ensure that
5 evidence is handled in an efficient and appropriate way
6 and is not contaminated?

7 A. We've, any time we are handling evidence we wear
8 gloves. Plus, also everything is sealed and remains in a
9 sealed state.

10 Q. Were you dispatched to a call on May 9th or
11 10th -- on May 10th, actually, 2010, regarding a rape and
12 kidnapping at All Safe Storage in Seneca, South Carolina?

13 A. Yes, ma'am.

14 Q. And All Safe is in Oconee County?

15 A. Yes, ma'am.

16 Q. What time did you first receive your call
17 regarding this incident?

18 A. Approximately 2:30 a.m. on the 10th.

19 Q. Where did you go first?

20 A. I first went to the Oconee Medical Center.

21 Q. What did you do at the Oconee Medical Center?

22 A. I met with Lieutenant Reed, and he advised me of
23 what the situation was. I waited for the victim to have
24 the evidence collection kit performed, and then
25 photographed the victim's injuries and wounds.

1 Q. And those photographs have been previously
2 introduced into evidence?

3 A. Yes, ma'am.

4 Q. Did you later have occasion to execute two search
5 warrants on the Defendant's storage unit, unit [REDACTED]?

6 A. Yes, ma'am.

7 Q. When did you do that?

8 A. The first one was on May 10th and the second on
9 May 11th of 2010.

10 Q. Describe what you found at the storage units when
11 you executed the search warrant.

12 A. On May 10th I found -- actually, I collected some
13 sheets, found the storage unit itself kind of in
14 disarray. There was what appeared to be a bed in the
15 storage unit. On top of the bed, sheets, torn pieces of
16 sheet, some tied together.

17 Around the walls of the storage unit appeared to
18 be just various items stacked and stored. Shoes,
19 personal documents, things of that nature.

20 Q. Do you recall the color of the sheets that you saw
21 in the storage unit?

22 A. Pink and white, I believe.

23 Q. Is the physical evidence you personally saw
24 consistent with the information you were provided by the
25 victim?

1 A. Yes, ma'am.

2 Q. Did you see cleaner within the storage unit?

3 A. Yes, ma'am.

4 Q. Did you see a bottle within the storage unit?

5 A. Yes, ma'am.

6 Q. Where was the bottle located?

7 A. The bottle was located in what appeared to be a
8 five-gallon bucket on the, put in what was a makeshift
9 bed on the left side of that bed, and it was kind of up
10 against the wall.

11 Q. Was the cleaner near the bucket?

12 A. Yes, ma'am.

13 Q. Did you see bindings or strips of sheets?

14 A. Yes, ma'am.

15 Q. Sergeant Merck, I'm going to show you what has
16 been previously marked State's Exhibits 62 and 63. Were
17 these items personally collected by you?

18 A. Yes, ma'am.

19 Q. Tell me a little bit about the sealing and taping
20 process when you are dealing with it.

21 A. On each, each item of evidence, depending on what,
22 what type of evidence it is, I place it into a container,
23 seal that container, and log it in and it remains in that
24 sealed state. These particular items, the torn pieces of
25 sheets, I just placed in a plain brown paper bag, labeled

1 the bag, and then sealed the bag itself.

2 Q. Could you open those items and show them to the
3 jury?

4 A. Okay.

5 Q. And, Sergeant Merck, have those items been in your
6 care, custody and control the entire time they have been
7 in evidence?

8 A. Yes, ma'am.

9 Q. And are they in substantially the same condition
10 they were in when you collected them?

11 A. Yes, ma'am.

12 MS. SIMMONS: Judge, we would move State's Exhibits
13 62 and 63 into evidence, and the Defendant was provided
14 access to these items on December 1st.

15 THE COURT: All right. Any objection to the
16 admission of these items?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: All right. Without objection.

19 (State's Exhibits 62 and 63 were received in
20 evidence.)

21 BY MS. SIMMONS:

22 Q. Do you recognize -- these items, where did you
23 find them?

24 A. These particular pieces were on the floor inside
25 unit [REDACTED], beside, beside the bed in front of the door in

1 kind of a little hallway there.

2 Q. Again, consistent with the victim's statement?

3 A. Yes, ma'am.

4 Q. And can we open item 63, please?

5 A. Sure. (Witness puts cloths back in State's
6 Exhibit 62 and opens State's Exhibit 63 and removes cloth
7 pieces.)

8 Q. Where were these items recovered, Item 63?

9 A. These were the items recovered outside of unit
10 [REDACTED].

11 Q. And would these be consistent with the responding
12 officers' account of what happened?

13 A. Yes, ma'am.

14 Q. Thank you, Sergeant Merck.

15 A. (Places items back in bag.)

16 Q. Did you also find socks during your processing of
17 the Defendant's unit, [REDACTED]?

18 A. Yes, ma'am.

19 Q. And why were you looking for socks?

20 A. It was told to the investigators that socks had
21 been placed in the victim's mouth to gag her.

22 Q. Were you also looking for a belt during your
23 search?

24 A. Yes, ma'am.

25 Q. I show you what has been marked as State's Exhibit

1 56. Is this the item you recovered from the Defendant's
2 storage unit?

3 A. Yes, ma'am, it is.

4 Q. Is it substantially, other than the markings
5 notated by S.L.E.D., in the same condition as when you
6 found it, and do you recognize it as the particular
7 leather belt that you recovered?

8 A. Yes, ma'am, I do.

9 MS. SIMMONS: Judge, we move into evidence State's
10 Exhibit 56.

11 THE COURT: Any objections?

12 THE DEFENDANT: Well, Your Honor -- no -- well, I
13 object. My previous argument in the suppression hearing.

14 THE COURT: Subject to those, I'll allow it to be
15 admitted. And your previous arguments are incorporated
16 into your objection.

17 THE DEFENDANT: Okay. Thank you, sir.

18 (State's Exhibit 56 was received in
19 evidence.)

20 BY MS. SIMMONS:

21 Q. Were you also looking for a head lamp when you
22 were processing the Defendant's storage unit?

23 A. Yes, ma'am, I was.

24 Q. I show you what's previously been marked as
25 State's Exhibit 55, and the Defendant was provided access

1 on December 1st of 2010. Do you recognize State's
2 Exhibit 55?

3 A. Yes, ma'am, I do.

4 Q. And tell me what that is and where you recovered
5 it.

6 A. This is a green and black small head lamp, and I
7 recovered it from unit [REDACTED]. It was at the head of the
8 bed, on the top of the bed.

9 Q. During your processing of the unit, did you
10 observe any pink Nike shoes?

11 A. Yes, ma'am, I did.

12 Q. Were both shoes, that the victim said she was
13 wearing at the time of the attack, recovered from her
14 unit, unit [REDACTED]?

15 A. That was my understanding. They were turned in to
16 me through the temporary storage.

17 Q. Did you take into evidence any, a washcloth in
18 this case?

19 A. Yes, ma'am, I did.

20 Q. Could -- describe the scene that you were
21 processing. I mean, was it a lot of clutter or was it
22 neat?

23 A. It was basically in disarray. There was a lot of
24 clutter, a lot of things stacked around, a lot of pieces
25 of torn sheets and sheets wrinkled up on the bed and on

1 the floor, also.

2 Q. Were there a lot of rags around?

3 A. Yes. Yes, ma'am.

4 Q. The washcloths that you recovered, could the
5 victim positively identify it?

6 A. No, ma'am.

7 Q. Did you also have occasion to take photographic
8 documentation of All Safe Storage unit number [REDACTED] on two
9 separate occasions?

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

11 Q. Did this include the inside and the outside of the
12 unit?

13 A. Yes, ma'am.

14 Q. And have you previously looked at State's 35, 26,
15 37, 42, 38, 48, 49, 50, 34, 39, 40, 47, 46, 45, 44, 43,
16 52, 51 and 53 in this matter?

17 A. Yes, ma'am.

18 MS. SIMMONS: Judge, these have been previously
19 shown to the Defendant before this afternoon.

20 THE COURT: Any objections to these?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: All right. Without objection.

23 MS. SIMMONS: Judge, we would move all of these
24 items into evidence and ask that they be published to the
25 jury.

1 THE COURT: Any objection to that?

2 THE DEFENDANT: Well, I think I have a previous
3 objection to the...

4 THE COURT: You are protected there. Yeah. You are
5 protected there. I'll allow them into evidence.

6 (State's Exhibits Numbers 35, 26, 37, 42, 38,
7 48, 49, 50, 34, 39, 40, 47, 46, 45, 44, 43,
8 52, 51 and 53 were received in evidence.)

9 BY MS. SIMMONS:

10 Q. Sergeant Merck, since you processed this crime
11 scene, I'm going to show you these photos, and if you
12 could just describe what you're seeing.

13 A. Okay. That is basically the entranceway to unit
14 [REDACTED]. As I walked in, that was my path down, down the
15 little makeshift hallway there.

16 Q. And what is that on the floor?

17 A. That is the pieces of torn sheets that I
18 recovered.

19 MS. SIMMONS: Judge, let the record reflect that is
20 what has been admitted as State's 36.

21 THE COURT: All right.

22 THE WITNESS: That's merely a closer view of those
23 same torn sheets, kind of an overhead view.

24 BY MS. SIMMONS:

25 Q. Can you describe what area that is within the

1 unit? Is that your foot?

2 A. Yes, ma'am. That is my foot. That's basically
3 the floor and that's just like a little walkway.

4 MS. SIMMONS: And, Judge, so the record will
5 reflect, that was State's 35.

6 THE COURT: All right.

7 BY MS. SIMMONS:

8 Q. I'm now going to show you State's 37.

9 A. Okay. That, that is as I was entering unit [REDACTED],
10 you can see to the left in the photograph is the
11 mattresses blocking the doorway of unit [REDACTED]. The bed is
12 extending to the right in the photograph. The green and
13 black head lamp is there in the middle of the head of the
14 bed, and the bed is extending to the right.

15 Q. Any other items recovered off the sheet that you
16 can see there?

17 A. The socks and the other shoes.

18 Q. I show you what has been admitted as State's
19 Number 42.

20 A. Those are the pink and white tennis shoes.

21 Q. Were they recovered within the unit?

22 A. Yes, ma'am. Or actually I didn't, didn't recover
23 those.

24 Q. Did you see them in the unit?

25 A. Yes, ma'am, I did.

1 Q. I show you what has been admitted as State's
2 Number 38. What do you see there?

3 A. That is inside unit [REDACTED]. That's including the
4 bed. That is the five-gallon bucket with the cleaning
5 solution and the empty bottle inside the bucket.

6 Q. And showing you what has been admitted as State's
7 Number 48.

8 A. Okay. That is showing the hole in the side of the
9 mattress.

10 Q. And what has been admitted as State's 49, does
11 that provide a little bit better representation of what
12 you are describing as the hole in the mattress?

13 A. Yes, ma'am, it does.

14 Q. And is that consistent with the victim's
15 statement?

16 A. Yes, ma'am.

17 Q. To retrieve the items in the mattress, what did
18 you do?

19 A. In order to photograph those in place before
20 recovering those, we actually tore a hole in the box
21 spring to photograph the items still inside the box
22 springs.

23 Q. I'm showing you what's previously been admitted as
24 State's 50. Tell me what you see there.

25 A. That is the hole that we actually tore in the box

1 spring. It shows the metal hanger, a leather belt, and a
2 roll of electrical tape.

3 Q. And I'm showing you what has previously been
4 admitted as State's 34.

5 A. This also is just another photograph of the
6 entrance of [REDACTED] showing the torn sheets, the mattresses,
7 the bed, and the other items stacked in unit [REDACTED].

8 Q. Sergeant Merck, I'm showing you State's 39.

9 A. That is a little makeshift shelf along the back
10 wall of unit [REDACTED] that has toiletry items and things like
11 that.

12 Q. Personal hygiene items?

13 A. Yes, ma'am.

14 Q. And what has been admitted as State's 40?

15 A. That is a black duffle-style bag inside unit [REDACTED]
16 with one of the pink and white shoes inside of it.

17 Q. I'm showing you what has been previously admitted
18 as State's 51.

19 A. That is a photograph I took inside the evidence
20 department in the lab area. As I, in order to submit the
21 socks to S.L.E.D., I actually removed them from the
22 sheets and packaged them separately, and that is the
23 photograph I took prior to repackaging the three socks.

24 Q. And showing you State's 52.

25 A. That's just a close-up of those three socks.

1 Q. And showing you State's 47.

2 A. That is inside unit [REDACTED] showing some business
3 cards of Dennis Temple.

4 Q. And did you also take those business cards into
5 evidence?

6 A. I took one of those, yes, ma'am.

7 Q. Do you have it with you today?

8 A. Yes, ma'am. It is actually in the box of items I
9 have back there.

10 MS. SIMMONS: Judge, may I?

11 THE COURT: Sure.

12 THE WITNESS: It should be in a small brown manila
13 envelope.

14 MS. SIMMONS: I'll move on until they find it. How
15 about that?

16 BY MS. SIMMONS:

17 Q. Sergeant Merck, showing you what has been admitted
18 as State's Number 46. What is that?

19 A. That is a piece of mail inside unit [REDACTED] bearing
20 the name of Dennis Temple.

21 Q. I'm showing you what has been admitted as State's
22 45. Can you tell me what that is?

23 A. That is another document found inside unit [REDACTED]
24 also bearing the name of Dennis Temple.

25 Q. I'm showing you what has been marked as State's

1 44. If you would tell me what that is?

2 A. Also another piece of mail inside unit [REDACTED] bearing
3 the name of Dennis Temple.

4 Q. I'm showing you State's Number 43.

5 A. Also another document bearing the name of Dennis
6 Temple inside [REDACTED].

7 Q. And back to what's been previously admitted as
8 State's Number -- the photograph which has previously
9 been admitted as State's 47, did you actually collect
10 that item?

11 A. Yes, ma'am, I did.

12 MS. SIMMONS: Beg the Court's indulgence for one
13 moment.

14 (State's Exhibit 64, business card of Dennis
15 Temple, was marked for identification.)

16 BY MS. SIMMONS:

17 Q. Sergeant Merck, I'm showing you what's been marked
18 for identification purposes as State's Exhibit 64.

19 THE COURT: Any objection?

20 THE DEFENDANT: No, Your Honor.

21 (Received in evidence was State's Exhibit
22 64.)

23 BY MS. SIMMONS:

24 Q. Could you open that item and explain to me what
25 that is?

1 A. It is a business card with the name Global
2 Providers, bearing the name of Dennis Temple. It has a
3 phone number, email address, and some products that he
4 was currently offering.

5 MS. SIMMONS: Your Honor, may I publish this to the
6 jury?

7 THE COURT: Yes, ma'am.

8 BY MS. SIMMONS:

9 Q. Sergeant Merck, reading that card, is it referring
10 to shoes?

11 A. Yes, ma'am, it does.

12 Q. Thank you. And all of the photographs and the
13 items that we observed, all of these things were
14 personally observed by you in your processing of unit
15 [REDACTED] -- I mean [REDACTED]?

16 A. Yes, ma'am.

17 Q. Did you also have occasion to take one photograph
18 of the victim's unit, number 53, State's Number 53?

19 A. Yes, ma'am.

20 MS. SIMMONS: Judge, this has also been previously
21 provided to the Defendant.

22 THE DEFENDANT: Yes, Your Honor. That's my previous
23 objection.

24 THE COURT: All right. Subject to previous
25 objection, it's admitted.

1 (State's Exhibit 53 was received in
2 evidence.)

3 BY MS. SIMMONS:

4 Q. I'm just gonna show you State's Number 53 which
5 has now been admitted. What do you see here?

6 A. It's a pair of glasses that I was told was the
7 victim's broken glasses.

8 Q. They were found inside her unit?

9 A. Inside [REDACTED], yes, ma'am.

10 Q. And when you found them, were they broken?

11 A. Yes, ma'am.

12 Q. Sergeant Merck, did you also process the victim's
13 car in this case when it was recovered?

14 A. Yes, ma'am, I did.

15 Q. I'm gonna show you 7, 8, 9 and 10.

16 MS. SIMMONS: Judge, these have been previously
17 shown to the Defendant.

18 BY MS. SIMMONS:

19 Q. Are these a fair and accurate representation of
20 the vehicle as you processed it on what date?

21 A. Yes, ma'am. And I processed it on May 11th, 2010.

22 Q. And you can testify about the appearance of the
23 inside and the outside of the vehicle?

24 A. Yes, ma'am.

25 MS. SIMMONS: Judge, we would move these items into

1 evidence.

2 THE COURT: Any objection to those, subject to the
3 same....

4 (Ms. Simmons shows State's Exhibits 7, 8, 9
5 and 10 to Mr. Temple).

6 THE DEFENDANT: Did I previously object to them? I
7 don't think so.

8 THE COURT: Okay. Without objection.

9 THE DEFENDANT: Your Honor, I object. Disclosure
10 violation.

11 THE COURT: All right.

12 BY MS. SIMMONS:

13 Q. Number 7. Tell me what you see.

14 A. It is the victim's vehicle. The tag number did
15 come back to the victim's name and address.

16 Q. State's Number 10?

17 A. That is the back seat area. That is a piece of
18 metal art in the back seat.

19 That is the front passenger's side floorboard
20 showing the camouflage hood and pair of gloves.

21 Q. Were those items collected by you for evidence
22 processing?

23 A. Yes, ma'am.

24 Q. And Number 9?

25 A. That is the trunk of the vehicle.

1 Q. Are all the photographs that we looked at
2 consistent with the statement and the investigation?

3 A. Yes, ma'am.

4 Q. Did you also have occasion to take in items of
5 physical evidence in this case during your processing of
6 the crime scene?

7 A. Yes, ma'am, I did.

8 Q. What items of evidence did you receive -- did you
9 retrieve and take into your custody from the victim's
10 recovered vehicle?

11 A. The hood, the gloves, and I think those were the
12 main items.

13 Q. Did you receive the C.S.C. kit in this case which
14 has been previously referred to as S.L.E.D.'s 1?

15 A. Yes, ma'am, I did.

16 Q. When did you receive it?

17 A. That was on May 13th.

18 Q. Who did you receive it from?

19 A. I received it actually from temporary storage, a
20 refrigerated locker inside the evidence department.

21 Q. And who had placed it in temporary storage?

22 A. Brian Danielson.

23 Q. Okay. Has anyone altered or bothered that item
24 since it was placed there by Deputy Danielson?

25 A. No, ma'am.

1 Q. What did you do with the item once you retrieved
2 it?

3 A. Once I retrieved it, it was logged in to the
4 evidence department and I placed it in refrigerated
5 storage inside of the evidence department.

6 Q. Did you later retrieve that item from your secure
7 storage facility and take it to S.L.E.D.?

8 A. Yes, ma'am, I did.

9 Q. And when did you do that?

10 A. That was May 27, 2010.

11 Q. And S.L.E.D. heat-sealed it?

12 A. Yes, ma'am.

13 Q. Was it received by them in your presence and
14 sealed by them in your presence?

15 A. Yes, ma'am, it was.

16 Q. Who did you leave it with at S.L.E.D.?

17 A. Doris Yarbrough.

18 Q. Pursuant to a Court Order was a blood sample in
19 this case collected from the Defendant on September 22nd,
20 2010, which has been referred to thus far as S.L.E.D. 6?

21 A. Yes, ma'am.

22 Q. Where was that sample taken?

23 A. The sample was collected inside the courtroom in
24 the Oconee County Courthouse.

25 Q. Who drew that sample?

1 A. Christie Shiflett, a nurse with the Oconee County
2 Detention Center, drew that blood.

3 Q. Were you present the entire time that she drew
4 that blood from the Defendant?

5 A. Yes, ma'am.

6 Q. Was the blood immediately transferred to you?

7 A. Yes, ma'am, it was.

8 Q. And what did you do with it?

9 A. I immediately took it to the Oconee County Law
10 Enforcement Center, logged it in to evidence and placed
11 it in refrigerated storage.

12 Q. Is that a secure facility?

13 A. Yes, ma'am, it is.

14 Q. Did you later retrieve what is identified as the
15 Defendant's sample, S.L.E.D. 6, and take it to S.L.E.D.?

16 A. Yes, ma'am, I did.

17 Q. When was it taken to S.L.E.D.?

18 A. September 23rd, 2010.

19 Q. Who did you leave it with at S.L.E.D.?

20 A. Nikki Perry.

21 Q. And was that sealed and received in your presence?

22 A. Yes, ma'am, it was.

23 Q. Did you alter, destroy or tamper with that item in
24 any way?

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

1 Q. What date did you recover a pair of gloves from
2 the victim's car?

3 A. The gloves were recovered on May 11th, 2010.

4 Q. That is what is being referred to thus far as
5 S.L.E.D. 8. What did you do with the gloves when you
6 recovered them?

7 A. I took them back to the Law Enforcement Center,
8 logged them in, and put them in storage in the evidence
9 department.

10 Q. Is that a secure facility?

11 A. Yes, ma'am, it is.

12 Q. Did you later retrieve the gloves and take them to
13 S.L.E.D.?

14 A. Yes, ma'am, I did.

15 Q. Did you alter or tamper with them in any way on
16 the way to S.L.E.D.?

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

18 Q. Who did you leave the gloves with?

19 A. With Selena Kinard in S.L.E.D.

20 Q. Was that heat-sealed and received in your
21 presence?

22 A. Yes, ma'am, it was.

23 Q. What date was the belt recovered from the bed
24 inside the Defendant's storage unit?

25 A. That was also May 11th, 2010.

1 Q. What did you do with the belt when you recovered
2 it?

3 A. Packaged it and took it back to the Law
4 Enforcement Center, logged it in and placed it in
5 storage.

6 Q. Was the belt later transported to S.L.E.D.?

7 A. Yes, ma'am, it was.

8 Q. Did you tamper, alter or destroy that item in any
9 way?

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

11 Q. Who did you leave it with at S.L.E.D.?

12 A. Selena Kinard, also.

13 Q. The socks that were recovered from 193 that we
14 just looked at the pictures, when did you recover them?

15 A. Actually, we recovered those on May 10th, 2010.

16 Q. Where did you store them once you recovered them?

17 A. Inside the Oconee County Evidence Department.

18 Q. Again, in a secure facility?

19 A. Yes, ma'am.

20 Q. Did you later retrieve the socks which later
21 became known as S.L.E.D. 9 and take them to S.L.E.D.?

22 A. Yes, ma'am, I did.

23 Q. Did you alter, tamper with or destroy them in any
24 way on the way to S.L.E.D.?

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

1 Q. Were they received and heat-sealed and initially
2 processed in your presence?

3 A. Yes, ma'am, they were.

4 Q. Were all items that were tested at S.L.E.D.
5 returned to you after testing?

6 A. Yes, ma'am.

7 Q. Have those items been in your care, custody and
8 control since that time?

9 A. Yes, ma'am.

10 Q. During the times that the items of evidence have
11 been in your care, custody or control, have you altered,
12 tampered with or destroyed these items in any way?

13 A. No, ma'am, I have not.

14 Q. Have you taken appropriate steps to ensure the
15 integrity of the evidence preservation in this matter?

16 A. Yes, ma'am.

17 MS. SIMMONS: Please answer any questions the
18 Defendant might have.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Y'all come over here a moment.

21 (Discussion at sidebar.)

22 THE COURT: All right, ladies and gentlemen. We'll
23 break for today and we'll resume questioning tomorrow.
24 As I said, please don't discuss this case, please don't
25 read, listen to or watch anything concerning this case on

1 TV, including radio or the papers. I don't see any point
2 in hiding from you the fact that there is publicity about
3 it. So please don't look at it. You can save
4 everything, have somebody save it for you and you can
5 look at it later in the week.

6 All right. We'll see you tomorrow. And the way we
7 are moving, it's possible we will finish this case
8 tomorrow or at least give it to you tomorrow. So we'll
9 do our best. See you tomorrow morning at 10:00.

10 (Whereupon, the jury left the courtroom at
11 approximately 5:09 p.m.)

12 THE COURT: All right. See you all tomorrow
13 morning.

14 MS. SIMMONS: Thank you, Judge.

15 (Whereupon, the trial of the *State of South*
16 *Carolina v. Dennis Temple* adjourned on
17 December 14, 2010, at approximately 5:10
18 p.m., to resume on Wednesday, December 15,
19 2010, at approximately 10:00 a.m.)

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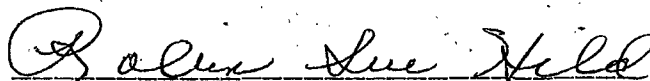
25

Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, FCRR, RPR, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Oconee County, South Carolina, on the 14th day of December, 2010.

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

August 27, 2010

A handwritten signature in cursive script, reading "Robin Sue Hild".

Robin Sue Hild, FCRR, RPR
Circuit Court Reporter

State of South Carolina)
 County of Oconee)

In the Court of General
 Sessions
 Indictments Nos:

2010-GS-37-00886, 00887,
 00888, and 00889

State of South
 Carolina,

Plaintiff,

-vs-

Dennis Temple,

Defendant.

)
)
) Transcript of Record
) Trial -- Volume 3
) Pages 336 through 459.
)
)
)

December 15, 2010
 Walhalla, South Carolina

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR., JUDGE; AND A
 JURY.

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

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1	EXHIBITS	
2		
3	NUMBER AND DESCRIPTION	ID./EV.
4	Defendant's Exhibit Number 1, rag	364/351
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1 ** Start of Requested Certified Transcript of Record **

2 (Whereupon, the trial of the State of South
3 *Carolina versus Dennis Temple* resumed on
4 Wednesday, December 15th, 2010, at
5 approximately 10:50 a.m., day three of three
6 days.)

7 THE COURT: I've got a note from a juror that
8 (reading):

9 At the last break before leaving court yesterday the
10 jurors were frustrated and started to mumble things under
11 their breath. No deliberations have taken place.
12 However, further admonition may be necessary so that no
13 jurors talk about the case.

14 I'll take care of that.

15 Anything we need to take up before we start?

16 MS. ADAMS: No, sir. Your Honor, would you like
17 Patrick Merck to take the stand?

18 THE COURT: Yes, ma'am.

19 (Marked for identification was Court's
20 Exhibit 4-T, note from Juror Foreman.)

21 (Whereupon, the jury entered the courtroom at
22 approximately 10:53 a.m.)

23 THE COURT: All right. Ladies and gentlemen, first
24 let me tell you that the reason we're late this morning
25 is again my fault. I had some matters I had to take care

1 of other than this case. But all the parties have been
2 sitting here waiting on me and I apologize for that.

3 The other thing is I have a note from the jury that,
4 I don't want to read the whole thing, but the gist of it
5 is that some of the jurors may be getting a little
6 frustrated and there has been some indication that there
7 was some mumbling under your breath, whatever. Just make
8 sure, ladies and gentlemen, that you don't deliberate on
9 this case amongst yourselves. Please keep any thoughts
10 you might have to yourself. And, as I said earlier, you
11 can form an opinion about the evidence as it's coming in,
12 but don't form an opinion about the whole case until you
13 have heard the whole case. And if there continues to be
14 a problem with it, I may have to take some action. But I
15 guess the bottom line is keep your thoughts to yourself
16 and don't talk to each other about it.

17 Again, there has been some publicity. I'm assuming
18 that nobody has read anything or watched anything on
19 television about this case. If that is not so, you need
20 to let me know just so I can resolve that issue, too. (No
21 response.)

22 All right. Yesterday we stopped after the direct so
23 we'll begin with the cross.

24 All right. Yes, sir.

25

1 CROSS-EXAMINATION BY MR. TEMPLE:

2 Q. Sergeant Patrick Merck, where are you employed?

3 A. The Oconee County Sheriff's Office.

4 Q. How long have you been employed there, sir?

5 A. At the Sheriff's Office itself, approximately a
6 little over 14 years.

7 Q. And do you have any type of special training or
8 skills in a particular field?

9 A. Yes, sir, I do, in crime scene and evidence,
10 various classes in each of those fields.

11 Q. On May the 10th, 2010, did you receive a call in
12 regards to a C.S.C., criminal sexual conduct crime?

13 A. Yes, I did.

14 Q. And who was that call from?

15 A. That was from our dispatch at the Sheriff's
16 Office.

17 Q. And were you deployed to a scene in reference to
18 this, this crime?

19 A. Yes. I was asked to respond to Oconee Medical
20 Center, initially to respond there.

21 Q. And that response was in reference to you doing
22 what?

23 A. I'm sorry, could you repeat the question?

24 Q. Was you instructed to do a specific thing while
25 you was there?

1 A. I was asked to respond to the Medical Center to
2 meet with investigators in reference to a C.S.C. case.

3 Q. While you was there, did you take pictures of
4 anybody?

5 A. Yes, I did.

6 Q. And who was that?

7 A. The victim.

8 Q. The victim in this case?

9 A. Yes, the victim.

10 Q. Is it also true, Sergeant Merck, that a search
11 warrant was issued in reference to a storage unit number
12 193 at All Safe Storage in Seneca?

13 A. Yes, sir, it is.

14 Q. Did you and other officers search and seize
15 evidence inside of this particular unit?

16 A. Yes, we did.

17 Q. Did you take any pictures while you was there?

18 A. Yes, I did.

19 Q. The search warrant that was in reference to this
20 search, did it describe particular things that you were
21 in, in this particular unit to be seized?

22 A. Yes, it did.

23 Q. Could you tell us what those things were? Do you
24 need a little help?

25 A. I would have to look at the search warrant.

1 Q. Okay.

2 THE DEFENDANT: Your Honor, may I present this
3 search warrant to him, please?

4 THE COURT: Sure.

5 MS. SIMMONS: Judge, the search warrant has already
6 been admitted. It's a Court's exhibit.

7 THE DEFENDANT: All right. They're admitted.
8 Which ones are they?

9 MS. ADAMS: I'll be happy to hand them to him.

10 THE DEFENDANT: For reference --

11 THE COURT: Hold on just a second. Let her hand it
12 to him.

13 MS. SIMMONS: Beg the Court's indulgence for one
14 moment.

15 Judge, for the record, the search warrants dealing
16 with the Defendant's unit are, have been previously
17 marked as Court's 2 and Court's 3, and I'm handing them
18 to Sergeant Merck.

19 THE COURT: All right.

20 BY MR. TEMPLE:

21 Q. Could you name those items on that search warrant
22 list, please, sir?

23 A. Yes. On Exhibit Number 2 is a search warrant
24 dated 5-10-2010. The description of property sought, as
25 stated on the search warrant, search to include but not

1 limited to any and all personal property items, papers,
2 fibers, blood, semen, clothing, shoes, and any other
3 photographic documentation.

4 Q. Those specific items that you, that was noted in
5 the search warrant, that were taken from the unit, do you
6 have a list?

7 A. Of the items actually taken?

8 Q. Yes.

9 A. On the search warrant is pieces of torn white
10 sheets. Number two is a purple washcloth. Number three,
11 one empty plastic bottle. Number four, one green and
12 black headlight. Number five, one black bag with
13 miscellaneous clothing items. Number six, the bed sheet
14 from the top of bed (two mattresses stacked with pieces
15 of torn bed sheets and socks). Number seven is one
16 business card. And number eight is photographic
17 documentation.

18 MS. SIMMONS: And, Judge, I'm going to object to
19 this line of questioning. I believe there's already been
20 a pretrial ruling on the validity of the search warrant.
21 I think we are just relitigating that issue.

22 THE COURT: What is your issue about the search
23 warrant?

24 THE DEFENDANT: This is not the search warrant. I'm
25 going into about his testimony yesterday in reference to

1 the search warrant. She just didn't mention the search
2 warrant, but everything that was seized --

3 THE COURT: Okay. I'll allow you a little leeway.
4 Make sure you don't talk -- I mean, I've ruled on the
5 search warrant. Just make sure you ask some questions
6 that are relevant.

7 THE DEFENDANT: Okay.

8 BY MR. TEMPLE:

9 Q. Sergeant Merck, could you please tell us about, a
10 little more about the water bottle and why it became an
11 item of interest in the search warrant?

12 A. The water bottle was based on the victim's
13 statements. It was an area that we focused on based on
14 the victim's statements.

15 Q. So that's why you seized it?

16 A. Yes.

17 Q. And it was, it was collected as evidence --

18 A. Yes, it was.

19 Q. -- by you?

20 And did you -- what happened after it was
21 collected?

22 A. After it was collected I logged it into evidence.
23 It was secured in Evidence at the Oconee County Sheriff's
24 Office, and later it was submitted to S.L.E.D. for
25 analysis.

1 Q. Sergeant Merck, I also notice you mentioned a
2 couple of washcloths on this list as well. Was it also
3 an item of interest?

4 A. Yes, it was.

5 Q. Where did you find this washcloth in the unit?

6 A. It was laying on top of the makeshift bed. As I
7 entered unit [REDACTED], it would have been on the right side of
8 the bed nearest to the entrance where I went in.

9 Q. Were there any other washcloths in that area?

10 A. There were numerous other pieces of cloth in [REDACTED].

11 Q. Why didn't you collect these?

12 A. This was one that was, again, based on witness
13 statements, or victim's statements, that closely fit the
14 description that was given by the victim.

15 THE DEFENDANT: Your honor, at this time I would
16 like to -- there is a purple washcloth, and marked as
17 item number --

18 THE COURT: What number is it?

19 THE DEFENDANT: Five.

20 MS. SIMMONS: Judge, I object. The victim cannot
21 identify this washcloth, and it was not even presented to
22 her by the Defense.

23 THE DEFENDANT: Your Honor, these were an item of
24 interest that were seized due to Officer Merck's
25 interpretation of the victim's statement which --

1 THE COURT: Ladies and gentlemen, I need to send you
2 out of the room. But please don't discuss the case.

3 (Whereupon, the jury left the courtroom at
4 approximately 11:05 a.m.)

5 THE COURT: What question do you want to ask him
6 about?

7 THE DEFENDANT: What question? This evidence is
8 damaging to the State. They don't want me to enter it
9 into evidence because of that fact. I want to enter it
10 into evidence on the Defense side.

11 THE COURT: So you want to introduce the blue cloth
12 that we discussed two days ago that was brought out here,
13 right? I mean, I'm just asking.

14 THE DEFENDANT: I'm entitled to --

15 THE COURT: I'm just asking: Is that what you want
16 to do?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is there an objection to that?

19 MS. SIMMONS: Yes, Your Honor. The victim's
20 statement says a blue cleaning rag was used. The
21 washcloth we're talking about is a purple washcloth. If
22 he wanted to introduce this through this washcloth, he
23 would need to authenticate it through the victim as
24 identifying that this washcloth was the washcloth that
25 was used, and she can't identify it.

1 THE COURT: Was this something that this officer
2 collected?

3 MS. SIMMONS: He collected a washcloth, yes; but we
4 don't know if it was the one used.

5 THE COURT: I understand. But all he's trying to do
6 is introduce it into evidence. I think he can do that if
7 it was collected.

8 MS. SIMMONS: Judge, I want to make sure that he --
9 this officer did not do any testing on that washcloth, he
10 just collected it.

11 THE COURT: Right. All you can do --

12 THE DEFENDANT: I understand that --

13 THE COURT: Wait a minute -- let me -- all you can
14 do is introduce it. If he collected it, you can
15 introduce it, and it's in. And all he knows I assume is
16 that he collected the washcloths. I don't know anything
17 that would prevent him from introducing something that
18 was collected for his own purposes, whatever they are.
19 Okay.

20 THE DEFENDANT: Thank you, sir.

21 MS. ADAMS: Your Honor, if I may, that's fine as
22 long as he's not trying to say that this is the washcloth
23 that Catherine says was used on her.

24 THE COURT: And I don't know. I mean, I understand
25 why you are objecting, but I don't know where he's headed

1 yet. We'll have to deal with that when it comes up.

2 Yes, sir.

3 THE DEFENDANT: Your Honor, Sergeant Merck, a
4 14-year veteran, read the victim's statement, conducted a
5 search warrant and seized evidence in reference to the
6 victim's statement. He said he saw numerous washcloths
7 inside the unit.

8 THE COURT: I'll let you introduce it. But that's
9 all you can ask him, is: "Did you collect this?" "Why
10 did you?"

11 THE DEFENDANT: Yes, sir, I understand.

12 THE COURT: Okay. All right.

13 THE WITNESS: It's in the box, yes. The one
14 underneath it.

15 (The jury entered the courtroom at
16 approximately 11:08 a.m.)

17 THE WITNESS: Yes, that one, that one, the one
18 Philpott has. Yes, sir. Yes, sir.

19 (Discussion off the record.)

20 THE WITNESS: Do you want to maintain the chain on
21 this?

22 THE COURT: Yes. We'll maintain the chain, so he's
23 gonna -- of evidence.

24 Do you understand that, Officer? So that we can
25 track where everything has been, so he's just gonna be

1 careful.

2 THE WITNESS: (Nodded head.)

3 THE DEFENDANT: Okay.

4 THE COURT: Okay.

5 THE DEFENDANT: Yes, Your Honor, I would like to
6 enter that purple washcloth marked as item 5 and one
7 empty bottle, one empty plastic bottle, numbered as item
8 number 6, from the Oconee County Sheriff's Office
9 evidence collection log that was found, the washcloth was
10 found at the edge of the bed.

11 THE COURT: I understand.

12 Do you have the bottle?

13 THE WITNESS: Yes, sir. That's in that box right
14 there.

15 THE COURT: Do you have an objection?

16 MS. ADAMS: Your Honor, if he wants to talk about
17 the S.L.E.D. results of the washcloth and the bottle,
18 that's fine.

19 THE COURT: He's just going to introduce it.

20 MS. ADAMS: That's fine. I mean if he's -- okay.

21 THE COURT: All he's doing is introducing them. And
22 I'm gonna allow him to introduce them, because those were
23 two items that were mentioned on the search warrant.

24 All right. You want to introduce those into
25 evidence; is that correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. I'll allow you to introduce
3 them. Go ahead. Do you have a question about them?

4 THE DEFENDANT: Yes, sir. If I'm not mistaken, if I
5 don't introduce them now, future reference to these items
6 is void. Am I correct? I mean, could I bring these
7 issues back up as evidence?

8 THE COURT: Yeah. Don't go there. No. You've
9 introduced them as Defense Exhibits Numbers, what, 1 and
10 2?

11 THE DEFENDANT: 5 and 6.

12 THE COURT: Okay. We'll sort that out at a break.
13 Don't open it yet.

14 You don't need him to open it. You just want it
15 introduced, right?

16 THE DEFENDANT: That's right.

17 THE COURT: Okay. And just leave it like that.

18 And just for the record, it's continued with its
19 chain of custody seal, so, all right, go ahead.

20 (Defendant's Exhibits 5, washcloth, and 6,
21 empty plastic bottle, were received in
22 evidence, later re-marked as Defendant's
23 Exhibits 1 and 2.)

24 BY MR. TEMPLE:

25 Q. So one empty plastic bottle, item number 6, was

1 found in a five-gallon bucket in the storage unit.

2 THE COURT: All right. Make sure you ask a
3 question.

4 THE DEFENDANT: Well, Your Honor, I was going
5 through the ritual of introducing --

6 THE COURT: It's in. You're done.

7 BY MR. TEMPLE:

8 Q. Well, Sergeant Merck, you also stated in -- is it
9 true that there was a black bag with a bunch of Nike shoe
10 boxes inside that bag when you searched the unit?

11 A. Yes, there was.

12 Q. Did you collect this black bag for evidence as
13 well?

14 A. The black bag that I collected was on the bed, and
15 it contained clothing items, including -- it's not the
16 bag that contained the shoes, this was a smaller bag on
17 the bed.

18 Q. There was also a reference in the victim's
19 complaint that there was a bag that was, contained Nike
20 shoe boxes. Did you collect this?

21 A. No, sir, I did not collect that one. It is in the
22 photographs, though. I did collect a black bag, but it
23 was a smaller black bag on the bed.

24 Q. So was the bag of shoes in -- was there any
25 fingerprinting taken of the shoeboxes inside the bag?

1 A. No, sir, I did not.

2 Q. Why not?

3 A. First of all, those type boxes are not very good
4 sources for fingerprints; and based on what we had
5 discussed, areas we wanted to concentrate on in the
6 storage unit, those areas were not checked.

7 Q. Within the victim's statement she stated that the
8 assailant packed the bag of shoes, the Nike shoeboxes,
9 and put them in a bag. If the assailant packed his bag,
10 he touched those shoeboxes. Those shoeboxes should have
11 contained some type of fingerprints. You didn't even
12 attempt to collect them?

13 A. At that time I was not aware of that. No, sir, I
14 did not check those boxes.

15 Q. In reference to the, to the search warrant, I
16 notice you also seized a belt. Did you put it in an
17 evidence log?

18 A. Yes, I did.

19 Q. For fingerprinting?

20 A. No, sir, not the belt.

21 Q. The belt was not fingerprinted?

22 A. No, sir. Basically a leather belt such as that
23 one cannot be fingerprinted.

24 Q. But it was sent to a forensics laboratory?

25 A. Yes, it was.

1 Q. Did you also, Sergeant Merck, do a collection of
2 evidence on the vehicle that was allegedly stolen?

3 A. Yes, I did.

4 Q. Did you dust for prints, fingerprints?

5 A. Yes, I did, on the exterior.

6 Q. Not in the interior?

7 A. On certain portions of the interior, most of the
8 interior of a vehicle is not a good source for
9 fingerprints based on the texture and the fabric. And
10 those areas are basically, you can't get a fingerprint
11 off cloth unless it's, has a solid finish to it.

12 Q. Sergeant Merck, what about the mirror and the
13 window, each side window of the vehicle? Did you dust
14 for prints the mirror, the glass, the window, the
15 console?

16 A. The mirror, yes, the mirror was checked. That is
17 one area that can be checked. But, like I said, there
18 are not many areas in a vehicle, based on the way they
19 are manufactured today, that you can recover identifiable
20 prints.

21 Q. But did you dust for prints on that mirror?

22 A. Yes, I did.

23 Q. You did?

24 A. On that, on the mirror, yes, I did.

25 Q. And the windows, on both sides of the front

1 windows?

2 A. I don't remember doing the windows. Those can be
3 checked visually for fingerprints. You don't necessarily
4 have to dust a piece of glass in order to find a
5 fingerprint. You can visibly see fingerprints on a piece
6 of glass.

7 Q. So no prints was found?

8 A. I did recover one print on the exterior back
9 windshield. They were not very good prints, though.
10 There was one left.

11 Q. Did you recover -- this, this cloth that belonged
12 to the victim, did you recover the fingerprints of the
13 victim on the cloth?

14 A. No, sir, I did not.

15 Q. So can you, can you tell us who was driving the
16 car, who had it, based upon the evidence you collected?

17 A. No, sir. I can't.

18 Q. You can't say for sure who was driving?

19 A. No, sir.

20 Q. What about the locks, Sergeant Merck, on the
21 storage shed; where they seized and -- in this case?

22 A. No, sir, they were not.

23 Q. No fingerprinting taken [sic] either, right?

24 A. No, sir. I did check the lock of the victim's
25 storage unit -- actually, I did not check that lock. At

1 that time I was told the officers had to actually touch
2 that lock in order to get the unit opened, and they had
3 already touched that lock, so I did not check it.

4 Q. Did you touch the handle that you -- the door, the
5 door opens and the door closes a certain way.

6 A. Right.

7 Q. There should be some type of handles.

8 A. I checked those areas, the handles of the door on
9 the victim's unit, I did check those and the exterior
10 portion of the door in certain areas.

11 Q. What about on the inside, did you check any other
12 items inside of the unit?

13 A. Inside the victim's unit?

14 Q. Well, the assailant unit.

15 A. I'm sorry?

16 Q. In the Defendant unit. If there was -- the victim
17 alleged that the -- was inside the storage unit?

18 A. Which --

19 Q. Inside the storage unit. Either one.

20 THE COURT: Repeat your question. Just ask -- what
21 was the question?

22 BY MR. TEMPLE:

23 Q. Did you find any fingerprints inside the storage
24 unit?

25 A. In which storage unit?

1 Q. Let's say the, the one that the, the victim said
2 she was raped in.

3 A. Inside unit [REDACTED], no, sir, I did not.

4 Q. You found no evidence?

5 A. No, I did not.

6 Q. Did you find any fingerprints in the victim's
7 storage unit on the sunglasses, the broken sunglasses, or
8 anything inside of it?

9 A. No, I did not.

10 Q. Not on the door handles?

11 A. No, I did not. I found one. On the victim's unit
12 there was one partial print on the outside of the door
13 frame; that was the only halfway decent print that was
14 recovered. But, as I said, it was on the exterior
15 portion on the outside of the storage unit, not on the
16 interior.

17 Q. Is it also true you, that day you collected other
18 items, such as socks?

19 A. Yes, I did.

20 Q. Sheets, you collected sheets?

21 A. Yes, I did.

22 Q. That were involved in this crime?

23 A. Yes. Yes, I did.

24 Q. Did you find the assailant -- well, you couldn't
25 determine that, so...

1 But they placed the evidence, they placed into
2 evidence these items?

3 A. The socks and the sheets?

4 Q. Right.

5 A. Yes, they were.

6 Q. When you inspected the car, did you notice any
7 damage to the car?

8 A. The victim's vehicle?

9 Q. Excuse me?

10 A. The victim's vehicle?

11 Q. Yeah. The victim's, the victim's vehicle.

12 THE COURT: The car. The car, you asked?

13 THE DEFENDANT: Yes, sir.

14 THE WITNESS: I don't recall any damage.

15 BY MR. TEMPLE:

16 Q. No kind of indication where there might have been,
17 anybody had been in an accident or --

18 A. No, sir.

19 Q. -- a bump or a scrape, dent?

20 A. Not right off, I don't recall any damage.

21 THE DEFENDANT: Thank you, Sergeant Merck.

22 Your Honor, no further questions.

23 THE COURT: Redirect?

24 MS. SIMMONS: Judge, just briefly.

25

1 REDIRECT EXAMINATION BY MS. SIMMONS:

2 MS. SIMMONS: I beg the Court's indulgence for just
3 one moment so I can get it turned on.

4 BY MS. SIMMONS:

5 Q. Sergeant Merck, while we're waiting for it to warm
6 up, I'm just gonna backtrack a little bit with you. You
7 indicated that you found a pair of gloves in the victim's
8 vehicle; is that correct?

9 A. Yes, that's correct.

10 Q. If you were in that car wearing gloves, would it
11 be consistent with finding no fingerprints?

12 A. Yes, it would.

13 Q. You also indicated you found no prints at all in
14 the victim's vehicle; is that correct?

15 A. Inside, yes, that is correct.

16 Q. Based on your training and experience, could that
17 be consistent with the inside of a vehicle being wiped
18 down?

19 A. Yes, ma'am, it could be.

20 Q. And on the storage units, the Defendant said that
21 you didn't find any prints. In fact, prints were not
22 attempted because you knew ownership of both of these
23 units, right?

24 A. Correct.

25 Q. Bringing you back to, a little further back as far

1 as your processing -- do you see that all right?

2 A. Yes.

3 Q. -- your processing of the Defendant's storage
4 unit, unit [REDACTED], the bottle in question has been admitted
5 by the Defendant. Can you point it out in that picture
6 and tell me where it was found?

7 A. In the center of the photograph in the white
8 five-gallon bucket, that is the bottle in the top of it.

9 Q. Right there?

10 A. Yes, ma'am.

11 Q. And that bottle, was it empty when you recovered
12 it?

13 A. Yes, ma'am.

14 Q. And what is that immediately to the left of the
15 bucket sitting in the floor with the large bottle?

16 A. The one with the white and yellow label is a
17 cleaning solution.

18 Q. And based on the victim's statement -- you have
19 been in this storage unit -- how many feet do you
20 estimate from where the incident, from where she said the
21 rape occurred to where this bucket was located?

22 A. Two to three feet.

23 Q. As to the purple washcloth, you did, you did
24 obtain a purple washcloth from inside the unit, correct?

25 A. Yes, ma'am, I did.

1 Q. And you have testified that numerous other pieces
2 of cloth rags were found inside the unit?

3 A. Yes, ma'am.

4 Q. And is it indeed true that the victim cannot
5 identify this washcloth and the one that was used in her
6 attack?

7 A. Yes, ma'am, it is.

8 Q. And numerous rags were found in [REDACTED] in the
9 clutter?

10 A. Yes, ma'am.

11 Q. And not all, not all rags were collected?

12 A. No, ma'am, they were not.

13 Q. Would that have been physically impossible?

14 A. Yes, ma'am.

15 MS. SIMMONS: Thank you.

16 THE COURT: All right. Thank you, sir. You can
17 step down.

18 THE DEFENDANT: Your Honor, can I recross, please?

19 THE COURT: Just one question, please, one or two
20 questions.

21 RECROSS-EXAMINATION BY MR. TEMPLE:

22 Q. Sergeant Merck, this vehicle, was this vehicle
23 abandoned? Was it allegedly abandoned, left out in the
24 open?

25 A. To my knowledge, yes. I was not there when it was

1 recovered.

2 Q. Well, do you know if this vehicle's doors was
3 opened or closed?

4 A. I do not know. As I stated, I was not there when
5 the vehicle was recovered.

6 Q. So you don't know if it was exposed to other
7 people or not? You don't know if anyone went inside?

8 A. I don't have any idea.

9 Q. Also, you said this was cleaning agent. What kind
10 of cleaning agent is it if it's cleaning agent?

11 A. As far as a particular brand, I couldn't tell you.
12 I know it had the odor of a pine cleaner that I am used
13 to.

14 Q. Did you sample it or smell it?

15 A. Yes, I smelled it.

16 Q. You smelled it?

17 A. Yes, sir, I did.

18 Q. But you didn't look at the label?

19 A. No, sir, not at that time.

20 Q. When you took photos, when you got these photos
21 when you entered into this unit, you mentioned a lot of
22 rags was in there. But you mentioned only one rag at the
23 corner of the bed. If this, if all these rags was
24 involved in this incident, wouldn't they be somewhere in
25 the vicinity, or, of the, where all the other items was

1 found or -- this was the only rag that caught your
2 attention. For some reason all the other rags you
3 excluded. Did this rag have any importance to you, any
4 interest?

5 A. The one reason, it was on the bed.

6 Q. The rag was on the bed?

7 A. Yes, it was.

8 Q. Or by the bed, the edge of the bed?

9 MS. SIMMONS: Objection, Your Honor, asked and
10 answered.

11 THE COURT: Yeah. Just ask one question and let him
12 answer it.

13 THE DEFENDANT: Okay.

14 BY MR. TEMPLE:

15 Q. On the bed. Was this also the same bed that you
16 recovered the socks and the sheets and the such and such,
17 the blanket?

18 A. Yes, it was.

19 THE DEFENDANT: Thank you. No further questions.

20 THE COURT: Anything?

21 MS. SIMMONS: No.

22 THE COURT: Okay. You can step down.

23 (Whereupon, the witness was excused.)

24 THE COURT: Ladies and gentlemen, I'm gonna send you
25 out. We need to mark a piece of evidence and get that

1 straightened out. Don't discuss the case. It will only
2 take us ten minutes.

3 (Whereupon, the jury left the courtroom at
4 approximately 11:36 a.m.)

5 (The Court Reporter and Judge conferred off
6 the record.)

7 THE COURT: Yeah. What do you all have as
8 Defense -- what was Defense Exhibit 1 through 4?

9 MS. ADAMS: Judge, I don't think there are any.

10 THE DEFENDANT: No, sir.

11 THE COURT: You mentioned five and six. I've got it
12 as one and two would be the rag and the bottle.

13 MS. SIMMONS: Your Honor, I think he means one and
14 two.

15 THE COURT: You meant one and two?

16 THE DEFENDANT: Well, on the Oconee County Sheriff's
17 evidence collection bottle, it's labeled item five and
18 six.

19 THE COURT: So Defense 1 and 2 would be, 1 would be
20 the rag and 2 would be the bottle, which is still in its
21 container, and I intend to keep it there to keep it safe.
22 You all weren't gonna use it, are you?

23 MS. ADAMS: No, sir.

24 THE COURT: Well, if you do, we'll deal with it.
25 So it's 1 and 2. That was the confusion. Let's

1 take five minutes.

2 (Defendant's Exhibit Number 1, rag, was
3 marked for identification, formerly marked as
4 Defendant's Exhibit Number 5.)

5 (Defendant's Exhibit Number 2, bottle, was
6 marked for identification, formerly
7 Defendant's Exhibit Number 6.)

8 (Discussion off the record.)

9 (A recess was taken.)

10 THE COURT: Thanks. Have a seat.

11 Okay. You can call them in.

12 (The jury entered the courtroom at
13 approximately 12:00 p.m.)

14 THE COURT: All right. You can call your next
15 witness.

16 MS. SIMMONS: Thank you, Judge. We would call Betty
17 Butler.

18 Whereupon,

19 Betty Butler,

20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MS. SIMMONS:

22 THE COURT: Yes, ma'am.

23 BY MS. SIMMONS:

24 Q. Good morning, Ms. Butler.

25 A. Good morning.

1 Q. Where are you employed, Mrs. Butler?

2 A. The State Law Enforcement Division, also known as
3 S.L.E.D.

4 Q. And what is your job title there?

5 A. Forensic Technician.

6 Q. And how long have you been at S.L.E.D.?

7 A. Over 15 years.

8 Q. What does your job as a forensic technician
9 entail?

10 A. As a forensic technician we take in evidence where
11 we do a chemical test, and sometimes we pick up evidence
12 and deliver it other places.

13 Q. On September 23rd, 2010, did S.L.E.D. receive what
14 is commonly known as a suspect blood sample?

15 A. Yes, we did.

16 Q. Is that S.L.E.D. Item 6?

17 A. Yes. I received the suspect blood on September
18 24th, 2010.

19 Q. Had it been altered or tampered with in any way at
20 all?

21 A. No, it was not.

22 Q. Who did you receive the suspect blood from?

23 A. From Forensic Technician Nikki Perry.

24 Q. What did you do with it?

25 A. When I received the item, I put it into my

1 custody, and I went to the third floor and placed it into
2 our refrigerator, which is a secured area in that
3 particular location.

4 Q. And what time did you deposit the suspect blood
5 into the third floor storage?

6 A. It was September 24, 2010, at 9:34.

7 Q. And that is a secure storage facility?

8 A. Yes, it is.

9 Q. Did anyone else have access to the suspect blood
10 while it was in your possession up until the time you
11 deposited it on the third floor?

12 A. No, they did not.

13 MS. SIMMONS: Please answer any questions the
14 Defendant might have.

15 CROSS-EXAMINATION BY MR. TEMPLE:

16 Q. Ms. Butler, would you please state again what day
17 that you deposited blood?

18 A. September 24th, 2010.

19 Q. And this was item number -- do they have an item
20 number?

21 A. Item Number 6.

22 Q. And you did no further testing?

23 A. No, I did not.

24 THE DEFENDANT: Thank you, ma'am. That's all of my
25 questions.

1 THE COURT: Anything else?

2 MS. SIMMONS: Nothing, Judge.

3 THE COURT: Ma'am, you can be excused.

4 (Whereupon, the witness was excused.)

5 MS. SIMMONS: Your Honor, the State calls Josetta

6 Blair.

7 Whereupon,

8 Josetta Blair,

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MS. SIMMONS:

11 Q. Good morning, Ms. Blair.

12 A. Good morning.

13 Q. Where are you employed?

14 A. South Carolina Law Enforcement Division, commonly
15 known as S.L.E.D.

16 Q. And what is your job title at S.L.E.D.?

17 A. A Forensics Technician.

18 Q. How long have you been at S.L.E.D.?

19 A. For approximately two and a half years.

20 Q. Explain to me what you do as a forensic
21 technician.

22 A. I receive evidence from the submitting agencies
23 throughout South Carolina. Once I receive that evidence,
24 I process the evidence for any type of biological fluids,
25 hairs, and fibers.

1 Q. Did you have occasion to be involved in S.L.E.D.
2 Case L10-05754 regarding this Defendant?

3 A. Yes, I did.

4 Q. Did S.L.E.D. receive a belt and a pair of gloves
5 in this case?

6 A. Yes.

7 Q. And when were those received by S.L.E.D.?

8 A. When did I receive it?

9 Q. When did you receive it -- I apologize -- the belt
10 and gloves?

11 A. Okay. I received the belt and gloves on October
12 25th, 2010, at 11:49.

13 Q. From whom?

14 A. Nikki Perry.

15 Q. Did you mark, notate for identification when you
16 received those items?

17 A. Yes. When I received those items, they were taken
18 into my custody, and while processing them I marked them
19 with my initials, the lab number and the I.D. number.

20 Q. Had they been altered or tampered with in any way
21 when you received them?

22 A. No. The seals were intact.

23 Q. What was your particular role with the belt and
24 gloves?

25 A. With the belt and the gloves, I was -- the request

1 for the belt and gloves were ownership and touch D.N.A.
2 in processing the gloves, I took two swabs from the
3 exterior of the gloves for touch D.N.A. and two swabs
4 from the interior of the gloves for ownership. And on
5 the belt I took the swab from the ends of the belt for
6 touch D.N.A. and also from the swab from the center of
7 the belt for touch D.N.A.

8 MS. SIMMONS: Judge, may I approach the witness?

9 THE COURT: Yes, ma'am.

10 BY MS. SIMMONS:

11 Q. Ms. Blair, I am going to show you what has already
12 been admitted into evidence as State Number 56, and I
13 have placed some gloves for you. This is the belt. Can
14 you show to the jury your markings on the belt?

15 A. Yes. (Witness opens bag.) On the outside you can
16 see where I had marked the Item Number 10, and the Lab
17 Number L10-05754, and the date was October 26th, 2010,
18 with my initials.

19 On the belt here you can see where I marked the
20 Item Number, 10, S.L.E.D.'S Item Number 10, Lab Number
21 L10-05754, and my initials. And also you will see where
22 I did the swabs, took the swabs on the belt.

23 Q. There are multiple spots on the belt?

24 A. Correct. For the Item Number 10.1 is the swab
25 from the belt ends, which you will see 10.1 here and 10.1

1 here. And then in the center you will see 10.2 where I
2 took the swab from the center of the belt.

3 Q. And once you collected the swabs or scrapings from
4 the gloves and the belt, what's the next thing you do
5 with those?

6 A. Once I have scraped and swabbed the items, they
7 are placed in a heat- -- in a coin envelope -- excuse
8 me -- in a coin envelope. Once they are dry they are
9 placed in that envelope and they are placed in a
10 heat-sealed pouch which has my initials, the lab number,
11 and the item number.

12 Q. And these are separately heat-sealed to prevent
13 cross-contamination?

14 A. Correct, they are separately heat-sealed in a
15 coin, sealed in coin envelopes, separate.

16 Q. And once you had placed those in envelopes, where
17 did they go?

18 A. They actually were transferred to Amanda Webb. I
19 physically gave her those swabs once I finished
20 processing the case.

21 Q. Did anyone else have access to the belt and gloves
22 and the swabs you produced from them during the time you
23 were processing them up to the point you deposited them
24 with Amanda Webb?

25 A. No, no one had access.

1 MS. SIMMONS: Please answer any questions the
2 Defendant may have.

3 THE COURT: Any questions?

4 (Mr. Tavernier and the Defendant conferred
5 off the record.)

6 CROSS-EXAMINATION BY MR. TEMPLE:

7 Q. Ms. Blair, so you did no further testings on these
8 items?

9 A. Once I took the swabs from those items, no, sir, I
10 did no further testing.

11 Q. And these were the only two items that you
12 received?

13 A. No, sir. I received other items besides the
14 gloves and belt.

15 Q. What was those items?

16 A. S.L.E.D. Lab Item Number 7 was a washcloth,
17 S.L.E.D. Number Item 8.1 was a hood, S.L.E.D. Lab Number
18 8.2 was a pair of gloves, Item 8.3 was a car charger, and
19 Item 8.10 was a belt.

20 THE DEFENDANT: Thank you, ma'am. No further
21 questions.

22 THE COURT: Anything else from the State?

23 MS. SIMMONS: No, Your Honor.

24 THE COURT: Thank you, ma'am. If you need to be
25 excused, you can be excused, okay?

1 (Whereupon, the witness was excused.)

2 MS. ADAMS: Your Honor, the State calls Amanda Webb.

3 Whereupon,

4 Amanda Webb,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MS. ADAMS:

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

8 MS. ADAMS: Thank you, Your Honor.

9 BY MS. ADAMS:

10 Q. Amanda, where are you employed?

11 A. With the South Carolina Law Enforcement Division,
12 also known as S.L.E.D.

13 Q. What is your occupation there, what's your
14 occupation?

15 A. I'm a D.N.A. Analyst.

16 Q. And how long have you been employed with S.L.E.D.?

17 A. Approximately three years.

18 Q. Please tell the jury a little bit about your
19 educational background and training.

20 A. I have a Bachelor's of Science Degree in Forensic
21 Chemistry from Marshal University in West Virginia. And
22 I have a Master's Degree in Forensic Science, also from
23 Marshal University. And once I was employed with
24 S.L.E.D., I went through about a year and a half of
25 training before doing my own independent casework.

1 Q. And when you say you go through a year and a half
2 of training, what does that entail?

3 A. I am trained by a Court-Qualified D.N.A. Analyst,
4 I first learn how to handle evidence, how to do the
5 testing, how to run the instrumentation, and how to
6 interpret results. There is also a series of tests that
7 I must pass and get correct results for in order to be
8 allowed to work on any evidence.

9 Q. So have you testified in court before?

10 A. Yes, I have.

11 Q. And have you been qualified as an expert before?

12 A. Yes, I have.

13 MS. ADAMS: Your Honor, at this point I would like
14 to qualify Amanda Webb as an expert in Forensic Serology
15 and D.N.A. Analysis.

16 THE COURT: Any objection?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: She's qualified.

19 MS. ADAMS: Thank you, Your Honor.

20 BY MS. ADAMS:

21 Q. Please tell the Court what D.N.A. is.

22 A. D.N.A. is a molecule found in the body. It's
23 inherited from our parents. We get half of our D.N.A.
24 from our mothers and half from our fathers. Each
25 individual has their own D.N.A. that's different for each

1 person; except in the case of identical twins, identical
2 twins do have the same D.N.A.

3 And in forensics we test 16 different locations on
4 the D.N.A., and those 16 locations as a whole generates
5 what's called a D.N.A. profile. And a D.N.A. profile are
6 developed from evidence items and also known standards.
7 Known standards are D.N.A. collected from people that you
8 know it originates from, like victims or suspects. And
9 then any D.N.A. profile generated from evidence is
10 compared to the victim or the suspect.

11 Q. All right. So what type of fluids do you test?

12 A. I can test for blood, semen, and saliva.

13 Q. So in this particular case did you receive known
14 blood samples from the victim, Catherine McGough, and the
15 Defendant, Dennis Temple, for comparison purposes?

16 A. Yes, I did.

17 Q. And had those known samples been altered or
18 tampered with in any way?

19 A. No, they had not.

20 Q. Okay. And how do you know that?

21 A. I know because the packaging was intact when I
22 received it. The heat-sealed pouches that we have been
23 mentioning were attached and sealed properly and
24 initialed by anyone who had handled the evidence before.

25 I believe the blood standard from Dennis Temple

1 came from the D.N.A. technician, Sherree Brown. That had
2 been opened by Sherree Brown, because the blood samples
3 come in tubes of blood, and in order for us to make it
4 more usable and workable with the D.N.A. analysis, the
5 blood is just simply poured on paper, and that way I can
6 cut out pieces of the paper for my further testing. So
7 Sherree did pour the blood, but that's just to preserve
8 it, and that's all that was done to that standard.

9 Q. Now, Amanda, you also received several different
10 pieces of evidence in this case to test for D.N.A.:
11 Swabs from gloves, swabs from the belt that was mentioned
12 earlier, socks, the victim's rape kit, and obviously,
13 just like you said before, when you receive it, you would
14 obviously know if it had been intact or not because
15 everything is sealed properly from Process, correct?

16 A. Yes, that's correct.

17 Q. So all those items that you received were intact,
18 as they should have been?

19 A. Yes, that's correct.

20 Q. So once you receive these known blood standards
21 from the victim and the Defendant, again you compare them
22 to evidence that law enforcement sends you that's
23 collected at the crime scene; is that correct?

24 A. Yes, that's correct.

25 Q. Explain to the jury the different kinds of results

1 that you can get when you test evidence.

2 A. Basically the first thing I look for when
3 interpreting data of D.N.A. analysis, first I look to see
4 if there is a D.N.A. profile developed at all. If not,
5 then I say no D.N.A. profile was developed from those
6 items in my report.

7 If I do see a D.N.A. profile, I then look to see
8 if it's from one individual, which is called a single
9 source profile, or a mixture of two or more individuals.
10 If it's a single source, one individual, I can then
11 compare that evidence to standards that I can say match,
12 which means it's the same profile as a known individual,
13 or I can say excluded, which is a non match. And
14 sometimes there's not enough D.N.A., and I say it's
15 insufficient for interpretation.

16 If there is a mixture of two or more individuals,
17 sometimes one individual will deposit more D.N.A. on an
18 item than the other. We call those major contributors
19 just because they are contributing more D.N.A., and I'm
20 able to differentiate between individuals on those items,
21 and the person contributing less D.N.A. to that item
22 would then be the minor contributor.

23 Sometimes you can't discern between two different
24 individuals and that's just simply, you just call it a
25 mixture. But if you have enough, you can still include

1 or exclude someone.

2 Q. And that means basically if you exclude someone,
3 then their profile is not involved at all, so they didn't
4 touch it or whatever the case may be with a particular
5 evidence test?

6 A. That's correct. Their D.N.A. would not be on that
7 item.

8 Q. Okay. Now, before we start, the Defendant
9 mentioned, which is Defendant's Exhibit 1, this purple
10 washcloth or the rag. Did you test the rag for semen and
11 also to determine if the victim's D.N.A. and/or the
12 Defendant's D.N.A. was on it?

13 A. Yes, that's correct. I tested the swabs from the
14 rag.

15 Q. All right. And please tell the jury what your
16 findings were from that rag.

17 A. I tested two cuttings from the rag, and I tested
18 those for semen, and I didn't find any semen on those
19 cuttings.

20 And then there were two swabs taken from the rag,
21 and that was to check for touch D.N.A., which is just to,
22 just to see if anyone could have handled the rag or if it
23 was, if it was on their person and they could have gotten
24 D.N.A. on the item.

25 And the two swabs from the rag, from one of the

1 swabs I developed a mixture of at least two individuals,
2 and the D.N.A. profile of the major contributor to this
3 mixture, meaning the person who donated the most D.N.A.
4 to this rag, matches Dennis Temple.

5 And I was also looking for the victim on this rag,
6 and Catherine McGough was excluded as a possible
7 contributor of D.N.A. to this item, meaning I did not
8 find her D.N.A. on the rag.

9 And then the other swab from the rag was a single
10 D.N.A. profile, and it also matches Dennis Temple.

11 Q. So Amanda, specifically, if this rag had been
12 soaked in a cleaning solution, would you expect to find
13 anyone's D.N.A. on it?

14 A. No, I would not if it had been soaked. Usually
15 cleaning solutions are harsh agents and they can degrade
16 D.N.A. or sterilize D.N.A. We use cleaning solutions.
17 For instance, we use bleach in the lab, and that's one of
18 the things we use to sterilize our work spaces and get
19 rid of any residual D.N.A. that may be left, and we clean
20 in between cases to make sure that it doesn't carry over.
21 So I know cleaning agents do sterilize or destroy D.N.A.

22 Q. So, since you found the Defendant's D.N.A. along
23 with someone else 's and not Catherine's, is it highly
24 likely then that this is not the rag that Catherine said
25 the Defendant used to wipe her and clean her with?

1 A. I would say that would be highly likely, because a
2 rag soaked in a cleaning solution I would -- it would be
3 nearly impossible to find anyone's D.N.A. on it.

4 Q. Now the bottle. Was the bottle tested -- and this
5 is the bottle that we believe actually that the Defendant
6 used to clean Catherine out -- was the bottle tested for
7 a cleaning agent?

8 A. Yes, it was.

9 Q. Okay. And what were the results?

10 A. No cleaning solution was found.

11 Q. Okay. When was that bottle tested?

12 A. It was tested in November.

13 Q. All right. So the bottle was tested approximately
14 six months after the incident occurred?

15 A. Yes, that's correct.

16 Q. All right. Does it surprise you that you did not
17 find a cleaning agent or solution when you tested that
18 bottle?

19 A. No, it doesn't surprise me, because cleaning
20 solutions can decrease over time, can dissipate over
21 time. And since it had been six months since the
22 incident, and -- the packaging needs to be a certain way,
23 and it was in a paper bag, and when I received the item,
24 it was a Gatorade bottle, and there was kind of a screw
25 top from the mouthpiece, and it wasn't screwed down all

1 the way, so if there was anything inside the bottle, like
2 a cleaning solution, I would imagine that it could have
3 evaporated out of that bottle.

4 For instance, if you have used cleaning solution
5 before, which I'm sure you have, the smell from the
6 cleaning solution is kind of the indicator that we test
7 for for what makes that smell, the chemicals that do,
8 that's kind of what we test for. And you notice that
9 after you have cleaned, you can still smell the solution,
10 but if you wait a couple hours or so and come back, you
11 can't smell it anymore. That's because it has
12 evaporated. And I would say that that's a likely
13 scenario here, six months after the fact.

14 Q. And when you swabbed that bottle, it was empty,
15 correct?

16 A. Yes, that's correct.

17 Q. All right. Now, you also -- we asked you to test
18 the mouth of the bottle for the victim's D.N.A., correct?

19 A. Yes, that's correct.

20 Q. All right. And what were the results of that?

21 A. There was a partial D.N.A. profile developed from
22 the mouth of the bottle, but it was insufficient for
23 reliable interpretation. What that means is that I did
24 find a little bit of D.N.A., but there was not enough
25 there for me to make a comparison.

1 Q. Are those results also consistent with that bottle
2 being in a cleaning solution?

3 A. Yes, they are. If there was any D.N.A. on the
4 bottle and the cleaning solution came in contact, it
5 could have sterilized the D.N.A.

6 Q. So again, the lack of Catherine's D.N.A. is also
7 consistent with her statement?

8 A. Yes, that's correct.

9 Q. And just because you didn't find a cleaning
10 solution in that bottle doesn't mean that there wasn't a
11 cleaning solution in it six months earlier?

12 A. Yes, that's correct.

13 Q. All right. Let's go now, Amanda, to the swabs you
14 received that were taken from the inside and outside of
15 the gloves that were found in the victim's car. What are
16 you usually looking for with evidence such as gloves?
17 What are you testing? What do we want to know?

18 A. In this case we were testing for -- the common
19 practice in S.L.E.D. is to test gloves for ownership or
20 touch D.N.A., meaning who could have been wearing the
21 gloves and if they touched anyone while wearing those
22 gloves. And as item comes in to S.L.E.D., a swab, there
23 is a swab of the exterior of the glove taken and then a
24 swab of the interior of the glove taken. And the
25 exterior is looking to see if someone wearing it touched

1 someone, and the interior would be to see who was wearing
2 them.

3 Q. So tell the jury what your results were first from
4 the swabs taken from the outside of the gloves.

5 A. The swab from the outside of the gloves was a
6 mixture of at least two individuals. Catherine McGough
7 and Dennis Temple cannot be excluded as possible
8 contributors to this mixture. And that just means that I
9 found Catherine McGough's and Dennis Temple's D.N.A. on
10 the outside of those gloves.

11 Q. What were your results of the swabs taken from
12 inside of the gloves found in Catherine's car?

13 A. The inside of the gloves were again a mixture of
14 two individuals. Here I was able to discern a major
15 contributor, meaning someone who donated more D.N.A., and
16 that matched Dennis Temple. And Catherine McGough could
17 not be excluded as a possible minor contributor of D.N.A.
18 to the item. So her D.N.A. was also found on the inside
19 of the glove.

20 Q. And again I want to make sure the jury
21 understands, as a major contributor, does that mean that
22 Dennis Temple had prolonged contact with the inside of
23 those gloves?

24 A. That would be one possibility, yes, that he was
25 wearing them perhaps and maybe got more, more of his skin

1 cells on the gloves.

2 Q. Okay. Now, the victim in this case, Catherine
3 McGough, says that the Defendant wore gloves during this
4 nine-hour ordeal as he was coming in and out. But she
5 never touched gloves --

6 THE DEFENDANT: Objection, Your Honor.

7 BY MS. ADAMS:

8 Q. -- she never put those gloves on.

9 THE COURT: Hold on.

10 What's your objection?

11 THE DEFENDANT: She never, she never stated that in
12 her report.

13 MS. ADAMS: Your Honor, I apologize.

14 THE COURT: Well, she can ask the question. And if
15 she says she didn't state it, then --

16 All right. Go ahead.

17 BY MS. ADAMS:

18 Q. If the victim said that she had never touched
19 those gloves, please explain to the jury how her D.N.A.
20 can be on the outside and inside of those gloves.

21 A. What the victim's statement is saying that he was
22 wearing the gloves off and on, taking them off and on.
23 And if he had touched her without wearing the gloves and
24 possibly gotten her skin cells or some of her body fluid
25 on his hands, and then touched the gloves to put them on,

1 that would put them on the exterior of the gloves. And
2 then putting his hands inside of the gloves, that could
3 also transfer her D.N.A. from his hands to the inside of
4 the gloves.

5 Q. Did you also receive samples taken from the
6 leather belt that's already been admitted into this case?

7 A. Yes, I did.

8 Q. All right. What were you testing for on the
9 leather belt?

10 A. It was requested that we test for victim D.N.A.

11 Q. Based on her statement, obviously, she had been
12 strangled with the belt, right?

13 A. Yes, that's correct.

14 Q. All right. Tell the jury again where the swabs
15 were taken?

16 A. There were two swabs taken, one from the center of
17 the belt and one from the ends of the belt.

18 Q. What were your results?

19 A. The swabs that I tested, both from the ends of the
20 belt and the center of the belt, I didn't test them
21 together, I tested them separately, but they ended up
22 having the same result. So in the statement it was one
23 result.

24 Both of these swabs from the belt were mixtures of
25 at least two individuals. The D.N.A. from the major

1 contributor to this mixture matches Catherine McGough,
2 and Dennis Temple cannot be excluded as a minor
3 contributor to the belt.

4 Q. So what did that mean?

5 A. That means that both Catherine McGough and Dennis
6 Temple's D.N.A. was found on this belt, but Catherine had
7 left more D.N.A. behind. She contributed more to the
8 item.

9 Q. So that would be consistent with prolonged contact
10 with that belt?

11 A. Yes. Prolonged contact. And if you are being
12 choked with a belt, I can imagine it's rubbing, and so
13 that would also deposit more skin cells.

14 Q. So again, your findings are consistent with
15 Catherine McGough?

16 A. Yes, that's correct.

17 Q. Did you also receive three socks found at the
18 crime scene?

19 A. Yes, I did.

20 Q. And you actually received the socks, right? Not
21 the swabs or cuttings?

22 A. I took the whole socks into my custody.

23 Q. Explain to the jury what you did with the socks
24 and why.

25 A. It was requested that I test the socks for saliva

1 and the victim's D.N.A. because the victim had stated
2 that the suspect, Dennis Temple, had gagged her with the
3 socks, and so they were inside of her mouth and I wanted
4 to test for saliva. I tested all three of the socks for
5 saliva using an alternate light source, that's the
6 different shade of light that you see and it makes things
7 fluoresce, and I noticed some areas of fluorescence on
8 the socks, and I cut those areas out and I tested for
9 saliva with the chemical test, and saliva was indicated
10 on all of these socks. And the areas where I found
11 saliva I took out and I did D.N.A. analysis, and on all
12 of the socks that I did D.N.A. analysis on --

13 Q. Amanda, before you give me your results, tell me,
14 you just did one profile?

15 A. Just one profile on all three of the socks,
16 correct.

17 Q. Tell the jury the condition of the socks. In
18 other words, did they appear to be new, worn?

19 A. They appeared to be fairly new and pretty clean.
20 They looked nice and clean.

21 Q. I'm sorry. So tell the jury the results.

22 A. The D.N.A. profile developed from the socks
23 matches the D.N.A. profile of Catherine McGough, and the
24 probability of randomly selecting an unrelated individual
25 having a D.N.A. profile matching these items is

1 approximately one in 340 trillion.

2 Q. What does that number mean?

3 A. Basically it means if someone other than Catherine
4 McGough had left D.N.A., the D.N.A. profile on those
5 socks, the probability that her D.N.A. profile would also
6 match would be one in 340 trillion. Basically it's just
7 a calculation of how rare her profile is. And so her
8 profile in the population would be found one out of 340
9 trillion times. That exceeds the world's population.

10 Q. Which is, what, six billion?

11 A. Six billion, approximately.

12 Q. And this is 340 trillion?

13 A. Trillion, that's right.

14 Q. Why is it you are unable to develop a statistical
15 number for the socks as opposed to the belt and the
16 gloves that we just talked about?

17 A. It's S.L.E.D. protocol to make statistical match
18 statements to items that are more easily attainable for
19 calculation. And in this case it is a single source.
20 It's a D.N.A. profile developed from one individual. The
21 ones I was talking about before was a mixture of two or
22 more individuals.

23 And if you can put a statistic to a single
24 individual instead of a mixture, it gives a more true
25 representation of how rare that individual's profile is.

1 And any statistic that I would have developed for any of
2 the other items, the mixtures, would have been around the
3 same or a little bit less. But since I have the best
4 statistical calculation here, I then just say also
5 matches for the other items.

6 Q. So that's just basically you develop a number
7 here, too, because it's a single source and that's really
8 just your own policy? It doesn't mean that there is any
9 less Catherine's D.N.A. on any item or any less of the
10 Defendant's D.N.A.?

11 A. Yes, that's correct.

12 Q. Okay. All right. Did you also receive a sexual
13 assault evidence collection kit taken from Catherine at
14 the hospital?

15 A. Yes, I did.

16 Q. And you received vaginal swabs that were taken
17 from Catherine, correct?

18 A. Yes, that's correct.

19 Q. And what were you testing for?

20 A. I was testing for semen.

21 Q. What were your results on the vaginal swab for
22 semen?

23 A. No semen was found.

24 Q. Would you expect to find semen if the vaginal
25 canal had been injected with a cleaning solution and the

1 vaginal area wiped with a rag soaked in cleaning
2 solution?

3 A. It would be much less likely that I would find any
4 D.N.A. or any semen after someone had been cleaned with a
5 cleaning solution, again, for the reasons that we use it
6 in the lab. It just sterilizes any D.N.A. So I would
7 say, no, it would be very difficult.

8 Q. So again, as Catherine stated, she was injected
9 with a cleaning solution. Your findings of no semen are
10 consistent with her account?

11 A. Yes.

12 Q. All right. Did you receive rectal swabs from the
13 victim?

14 A. Yes, I did.

15 Q. Again, what were your results on the rectal --
16 because again, what are you looking for on the rectal
17 swabs as well?

18 A. Semen as well.

19 Q. And what were your results on the rectal swabs?

20 A. Semen was identified, and since semen was
21 identified, I then tested the item and tried to develop a
22 D.N.A. profile from the item.

23 Q. Now, explain for the jury before we get to your
24 results why, if there is no allegation of anal
25 intercourse, how you would find and indicate semen on a

1 rectal swab and not a vaginal swab?

2 A. It's found quite commonly, and I've seen it in
3 many cases before, where there is no rectal penetration,
4 but vaginal. And what happens is most likely the victim
5 is lying on their back, which I believe the victim says
6 she was in this instance. Gravity can sort of take over,
7 and the semen can sort of drain or drip from the vaginal
8 canal into the rectal canal.

9 Q. And Catherine was on her back during the attack,
10 and so your findings are consistent again with her
11 statement, because there was a time frame, too, in
12 between the actual rape and the cleaning?

13 A. Yes,, that's correct. It would give it time to
14 drip down. And then also I can imagine that if there was
15 no anal penetration, then that area might not have been
16 cleaned.

17 Q. What were your results from the semen found on
18 Catherine's rectal swabs?

19 A. The D.N.A. profile developed from the semen on the
20 rectal swabs matches the D.N.A. profile of Dennis Temple,
21 and the probability of randomly selecting an unrelated
22 individual having a D.N.A. profile matching the semen on
23 the rectal swabs is one in 330 trillion.

24 Q. Please tell the jury what that number means.

25 A. If Dennis Temple was not the one who left his

1 semen on the rectal area of the victim, then the
2 probability that whoever would have left it just so
3 happened to have the same profile as Dennis Temple, would
4 be one in 330 trillion. Again, that's just a calculation
5 of how rare his D.N.A. profile is in the population.

6 Q. So why is it that when you developed Catherine's
7 profile, it was one in 340 trillion and this one is one
8 in 330? How do you get the different numbers?

9 A. It's because it's unique to each individual D.N.A.
10 profile. I'm looking at that person's profile and
11 calculating their uniqueness. And since a person has a
12 different profile, there's different numbers and
13 frequencies of the D.N.A. involved, and it gives a
14 different calculation result.

15 Q. But both numbers are extremely high, correct?

16 A. Yes. In all of my casework that I have done and
17 others I reviewed, these are rare profiles.

18 Q. So in your opinion, in your expert opinion, to a
19 reasonable degree of scientific certainty, does the semen
20 found on Catherine's rectal swabs match the Defendant,
21 Dennis Temple?

22 A. Yes, the semen found on the rectal swab matches
23 Dennis Temple.

24 Q. Which means it came from Dennis Temple, correct?

25 A. In my opinion, I would say so.

1 MS. ADAMS: Thank you, Amanda. Please answer
2 anything the Defendant has.

3 CROSS-EXAMINATION BY MR. TEMPLE:

4 Q. Ms. Webb, would you please state how many years
5 you have been working for the forensics laboratory at
6 S.L.E.D.?

7 A. Approximately three years.

8 Q. And you have training, you have a Bachelor's
9 Degree, forensic chemistry degree, A Bachelor of Science
10 Degree. Am I correct?

11 A. Yes, that's correct.

12 Q. And you analyzed the suspect blood?

13 A. Yes, I did.

14 Q. Is it also true that you tested the washcloth for
15 D.N.A. samples?

16 A. Yes, I did. I tested cuttings from the washcloth
17 and swabs from the washcloth.

18 Q. Is it true that the major contributor to this
19 mixture was Dennis Temple?

20 A. Yes. You were the major contributor to the
21 washcloth.

22 Q. Is it true that you also found another individual
23 present?

24 A. Yes, that's correct. There were at least two
25 individuals on this washcloth, you and someone else.

1 Q. And you exclude Catherine?

2 A. Yes, that's correct. I did not find her D.N.A. on
3 the washcloth.

4 Q. Did you receive any other washcloths?

5 A. No, I did not.

6 Q. At any time?

7 A. No, sir.

8 Q. Did you, when you analyzed this washcloth, did you
9 analyze it for cleaning solution?

10 A. No, I did not.

11 Q. Could your equipment, technology did [sic] such a
12 thing? Could it do -- could the technology that you had
13 at your, in your presence, could it detect such fluids or
14 substances?

15 A. I don't believe there would have been a method
16 that could have identified cleaning solution on the
17 washcloth the way it was received into the lab because it
18 had been six months after the incident and it wasn't
19 packaged and sealed to where the cleaning solution would
20 not have evaporated.

21 Q. Could you tell me what date were these tests
22 concluded?

23 THE WITNESS: If I could refer to my notes?

24 THE COURT: Yes, ma'am.

25

1 BY MR. TEMPLE:

2 Q. When the, when tests originally started on these
3 criminal sexual conduct kits of the victim and the
4 suspect?

5 A. I tested the washcloth on 10-31-10, and when the
6 original testing of the criminal sexual conduct kit was
7 in 6-22-10.

8 Q. So that's one month after the, roughly 45 days
9 after the incident occurred, not six months at all.

10 A. It was about a month for the testing of the
11 criminal sexual conduct items, but the washcloth was
12 tested in October -- well -- and that was approximately
13 five months after the incident. It was not received at
14 S.L.E.D. until October.

15 Q. You stated that you would not be able to detect
16 any D.N.A. findings due to the, due to the rag being
17 soaked in the cleaning solution. The victim stated that
18 the rag was soaked first and wiped after. So technically
19 the D.N.A. should have been still present on top. Would
20 you agree?

21 A. I would expect that the cleaning solution would
22 have soaked into the fabric of the rag, and if it was
23 dipped and then directly used to wipe the victim, I would
24 still expect it to degrade or sterilize any D.N.A. that
25 was on the rag due to the fact that the cleaning solution

1 would still have been fresh on the rag.

2 Or, if the rag was in a cleaning solution and then
3 a month or so later used to wipe someone, then I would
4 not expect the cleaning solution to still be as potent
5 and I would not expect it to sterilize any D.N.A.

6 Q. Because if the D.N.A. was placed on the rag first
7 and then soaked, it would kill the D.N.A., period, right?

8 A. Yes, that's correct. If it was within a short
9 amount of time that the cleaning solution was on the rag
10 and then used to wipe someone, it wouldn't have mattered
11 if they were wiped first before the cleaning solution was
12 added or after the cleaning solution was added, because
13 the cleaning solution would still be pretty saturated on
14 the rag, it would still be pretty potent and be able to
15 destroy any D.N.A. that might be on the rag.

16 Q. So are you saying that cleaning solution saturates
17 at a faster rate than D.N.A. --

18 MS. ADAMS: Your Honor, I object. Asked and
19 answered.

20 BY MR. TEMPLE:

21 Q. -- than the D.N.A.?

22 THE COURT: Hold on. All right.

23 Overruled. I'll allow him to answer the question.

24 You need to just ask, let her answer and move on to
25 the next question. Go ahead.

1 You can answer that question. Go ahead.

2 THE WITNESS: Um, I don't know that one necessarily
3 saturates faster than the other. It's just the fact that
4 the presence of the cleaning solution being on the rag,
5 together with the D.N.A., and they come into contact, it
6 would break open and destroy the D.N.A.

7 BY MR. TEMPLE:

8 Q. Is it true, is it true that, that an item that is
9 touched by anybody, D.N.A. can be left there without an
10 incident occurring?

11 A. Yes, that's correct. Just anyone touching an
12 object can leave D.N.A. behind. I've found that it's
13 more common that if a person has prolonged contact with
14 an item that it's more likely that their D.N.A. is gonna
15 be there instead of just touching it for a couple of
16 seconds and placing the item back down, you might not
17 transfer enough skin cells having been touching it for
18 not a long enough time to deposit the D.N.A. But yes, if
19 someone touches and handles, they can transfer their
20 D.N.A. to that item.

21 Q. So basically I could walk into the grocery store
22 and touch something and leave behind D.N.A.?

23 A. It's a possibility. It would depend on the
24 conditions. If your hands are all sweaty, it might leave
25 more D.N.A. behind. And again, it also depends also on

1 how long you have been handling the item. And there have
2 been instances, they're rare, but there have been
3 instances where if you touch for a couple seconds, you
4 might leave D.N.A. behind.

5 Q. So is it true that if a person used the bathroom
6 and wiped themselves with an item that belongs to someone
7 else, is it possible that you could transfer that D.N.A.?
8 Could that D.N.A. stick to them?

9 A. I'm not sure which, which transfer you are talking
10 about. The person who owns the items, their D.N.A.
11 transfers to the person who's wiping themselves, or the
12 person wiping themselves transferring their D.N.A. to the
13 item?

14 Q. Either or. It could be either one.

15 A. Either scenario is likely. It -- I would say it
16 would be more likely that just because a person owned an
17 item, they would have had to have been touching it or
18 wearing it for a long time before -- and get a larger
19 amount of D.N.A. on that item before it's transferred to
20 the person who wiped themselves with that item.

21 Q. If I was, if I went into Burger King or something
22 and I went to use the bathroom, and there was no tissue
23 in there and I saw some tissue on the floor, not on a
24 roll, and I took the tissue and after I used, after I
25 used the bathroom, I wiped myself, it's possible that I

1 could have transferred to somebody else who may have used
2 that tissue to wipe their nose, or could I, could I
3 possibly transfer that D.N.A. on myself?

4 A. Yes, that could be a possibility.

5 Q. Is it true that you tested other items, as well?

6 A. Yes, I did.

7 Q. What other items did you test?

8 MS. ADAMS: Your Honor, if he can ask about a
9 specific item, we don't object. I mean, there's a lot of
10 evidence submitted in this case.

11 THE COURT: Do you have a specific item you're
12 interested in?

13 THE DEFENDANT: Yes. The hood.

14 THE COURT: All right. Ask about the hood.

15 Sustained for that.

16 THE WITNESS: Yes. I tested swabs from a hood in
17 this case. I believe the hood is a hoodie sweatshirt.

18 BY MR. TEMPLE:

19 Q. And what was your finding?

20 A. Well, the D.N.A. developed from the hood is a
21 mixture of at least three individuals. Catherine McGough
22 and Dennis Temple cannot be excluded as possible
23 contributors of D.N.A. to this mixture, meaning I found
24 both Catherine McGough's and Dennis Temple's D.N.A. on
25 this sweatshirt.

1 Q. Nobody else? You said three, at least three?

2 A. Yes, there is a third individual.

3 Q. So would you find that normally in a situation
4 where only two individuals were involved, or allegedly
5 involved?

6 A. All I can attest to is that there were at least
7 three, three people's D.N.A. found on the item.

8 (The Defendant conferred with Mr. Tavernier
9 off the record.)

10 BY MR. TEMPLE:

11 Q. Ms. Webb, sorry, ma'am. Is it true that, that the
12 failure to secure certain items by either party, any
13 individual that would preserve those characteristics of
14 those items, could be lost?

15 A. Um, yes. You mean the cleaning solution, if it's
16 not the items believed to have cleaning solution on them
17 or contain cleaning solution, it can be lost over time if
18 it's not packaged correctly. And sometimes even if it is
19 packaged correctly, a prolonged amount of time will also
20 have the solution to evaporate.

21 Q. So to make a positive affirmative disposition
22 about that particular item, it would be hypothetical,
23 wouldn't you think? It would be -- it would not be -- it
24 would be an error to make such a conclusion, since this,
25 the package that the items were sealed in were not

1 preserved?

2 A. The only conclusions that can be made is that the
3 item was tested and no cleaning solution was found. And
4 yes, it is. It's not a definite, but it's just a
5 possibility that the solution was there and evaporated.
6 But the only definite one that can be made is that it was
7 tested but there was none found.

8 Q. Can I open the package?

9 A. Sure.

10 Q. If I open the bag of chips, two days later they
11 wouldn't have the same freshness as they had when it was
12 first opened.

13 THE DEFENDANT: Thank you, Ms. Webb. No further
14 questions. Thank you, ma'am.

15 THE COURT: Anything on redirect?

16 REDIRECT EXAMINATION BY MS. ADAMS:

17 Q. Just to be clear, Amanda, the hood that the
18 Defendant was referring to that was found in Catherine's
19 car with the gloves. This third individual, is it
20 possible, obviously, that Mr. Temple could have let
21 someone else wear that sweatshirt long before this
22 incident and you would find their D.N.A.?

23 A. Yes. That could definitely be a possibility.
24 Especially if the shirt had not been laundered since it
25 had been worn and shared by someone else.

1 Q. And again, since Catherine had never touched these
2 items, the most likely scenario is her D.N.A. was placed
3 on these items when the Defendant touched them after
4 touching her?

5 A. Yes, that would be a likely scenario.

6 MS. ADAMS: Thank you, Your Honor.

7 THE COURT: Anything else?

8 THE DEFENDANT: Yes.

9 RECROSS-EXAMINATION BY MR. TEMPLE:

10 Q. Likely, but not the only scenario, right?

11 A. That's correct. I'm trying to imagine how else
12 her D.N.A. would have gotten on a sweatshirt that she
13 didn't touch if it wasn't from someone touching her and
14 placing it, and transferring it to the item, unless she
15 had worn the item also or brushed up against it.

16 Q. Are we talking about a sweatshirt here?

17 A. I thought that's what we were talking about. Did
18 you mean something else?

19 Q. I thought we was talking about, the State
20 mentioned a hood.

21 MS. ADAMS: The hoodie shirt.

22 THE WITNESS: I believe, I believe the hood in this
23 case is, the item is a hoodie sweatshirt. It was
24 submitted to S.L.E.D. with a description of "hood," so I
25 believe it's a hoodie sweatshirt.

1 THE DEFENDANT: Okay. Thank you, ma'am.

2 THE COURT: Anything else? (No response.)

3 All right. You can step down. You may be excused.

4 MS. ADAMS: May she be excused?

5 THE COURT: Yes. That's what I just said.

6 (Whereupon, the witness was excused.)

7 MS. ADAMS: Your Honor, the State rests.

8 THE COURT: All right. Ladies and gentlemen, I'm
9 gonna send you to lunch. We've got some matters that we
10 have to take care of, so please don't be back in the jury
11 room until 2:30. Don't discuss the case and be prepared
12 to sit here this afternoon for a while. Have a good
13 lunch.

14 (Whereupon, the jury left the courtroom at
15 approximately 1:10 p.m.)

16 THE COURT: The State has rested. Any motions?

17 (The Defendant conferred with Mr. Tavernier
18 off the record.)

19 DEFENDANT'S MOTIONS:

20 THE DEFENDANT: Okay. Yes, sir. I'm not familiar
21 with this part here. But I would like to preserve the
22 past previous motions that I have filed in this case in
23 any hearing that I've had.

24 Do I need to state them, Your Honor?

25 THE COURT: No. Anything that, any motions you made

1 in our hearing last week or anything you made today or
2 during this week is protected for the record.

3 THE DEFENDANT: Thank you, sir. Also, I have one
4 new one, a new motion.

5 THE COURT: All right.

6 THE DEFENDANT: Which would be a mistrial. And the
7 grounds for that would be that the State has admitted
8 evidence of, or consistently stated that cleaning
9 solution was used in the alleged victim. They failed to
10 put forth the evidence in reference to that. Even not by
11 the doctor, not by Belton (phonetic) or Stauber
12 (phonetic) or S.L.E.D. or -- and it was extremely
13 prejudicial, it was damaging, it was -- it deprived me of
14 rights. That's all the -- the Gatorade bottle, too, Your
15 Honor.

16 THE COURT: Okay. And ask Mr. Tavernier, if you
17 want, if there's any other motion you need to make, just
18 briefly..

19 (The Defendant conferred with Mr. Tavernier
20 off the record.)

21 THE COURT: Let me say this. You don't need to be
22 specific. Stand up, if you would. I assume you would
23 want to make a directed verdict motion at this stage.

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Okay. Go ahead. And you don't have to

1 be too specific. Just generally I would assume you would
2 want me to grant a directed verdict motion because the
3 evidence has been insufficient to convict you at this
4 point.

5 THE DEFENDANT: Yes, sir. Because that is true,
6 Your Honor. Because I didn't know this proceeding right
7 here was -- this is my first time in trial. I didn't
8 know that this is the particular time -- well, I did, but
9 any lapse, Your Honor, for this specific motion.

10 COURT'S RULING ON DEFENDANT'S MOTIONS:

11 THE COURT: Motion, okay. Okay. On the directed
12 verdict -- and what I want to make sure of and what I've
13 tried to make sure of all along is everything is
14 preserved and any rights you might have will be
15 protected.

16 Your directed verdict motion is denied.

17 And the motion for mistrial is denied basically
18 because the issue of the lack of cleaning solution is a
19 factual issue for the jury. It's something that
20 obviously you can argue in closing if that's what you
21 want to do. So those motions are denied.

22 I need to talk to you about your Fifth Amendment
23 rights. Have you had enough time to talk with
24 Mr. Tavernier and think about whether you are going to
25 present any evidence or testify?

1 THE DEFENDANT: I would like to present two
2 witnesses.

3 THE COURT: Okay.

4 THE DEFENDANT: Well, actually, they're State
5 witnesses. I would like to bring them back as my witness
6 and label them as hostile witnesses.

7 MS. SIMMONS: Judge, he didn't present a witness
8 list at the beginning of this case.

9 THE COURT: Well, I understand. You don't have any
10 new witnesses. You've got State witnesses you want to
11 re-call?

12 THE DEFENDANT: No, no new witnesses.

13 THE COURT: All right. Who do you want to call?

14 THE DEFENDANT: That would be Nurse Chapman and
15 Catherine McGough.

16 MS. SIMMONS: Judge, we have released Nurse Chapman.

17 THE COURT: Nurse Chapman has been released. She's
18 not here. And we released her from her subpoena.

19 MS. ADAMS: And, Your Honor, he had ample
20 opportunity to cross-examine Catherine.

21 THE COURT: What do you want to bring up new? I
22 mean, you had your --

23 THE DEFENDANT: It was during the State's direct
24 examination, they failed to bring up certain matters. So
25 this information I think was pertinent to the case, and I

1 feel that it's pertinent in this case.

2 THE COURT: All right. You are protected for the
3 record for wanting to call them. But you had an
4 opportunity to cross, and that was your opportunity to
5 bring up that information. But I assume that you
6 would -- like I said, you are protected for the record if
7 you want to appeal my denial if you want to call her
8 back.

9 Also, we have released Nurse Chapman. What do you
10 want to ask Nurse Chapman? And you don't have to tell me
11 specifically, but generally so the record is clear.

12 THE DEFENDANT: It was in reference to, to the
13 credibility of the victim.

14 THE COURT: Okay. All right. And again, you are
15 protected for the record, but I wouldn't let you re-call
16 the victim, or if you could get Nurse Chapman here,
17 obviously I'm not sure, but she's not here. And I assume
18 no subpoenas were issued and we have released her.

19 Other than those two, is there anybody you would --
20 and have you talked specifically to Mr. Tavernier about
21 whether you're gonna testify?

22 THE DEFENDANT: No.

23 COURT'S EXPLANATION OF DEFENDANT'S RIGHT TO TESTIFY:

24 THE COURT: All right. Well, let me do this. And
25 just take it -- I want to take a minute to explain what

1 your rights are. And some of this I need to do for the
2 record and some of it, if you don't understand, you need
3 to make sure that you understand. You can ask me
4 questions or ask Mr. Tavernier questions.

5 We have reached the point where the State has rested
6 where you have got the opportunity to testify if you want
7 to.

8 You have the right to claim the protection of the
9 Fifth Amendment. And just basically in general and in
10 part, the Fifth Amendment says no person shall be
11 compelled in any criminal case to be a witness against
12 themselves. That means that I can't or the State can't
13 require you to testify against yourself, but you do have
14 the right to testify. Nobody can make you. It's a
15 personal right that you have to waive if you want to
16 waive it. You do need to understand that if you did
17 testify, you would be subject to the rules of
18 cross-examination. You could be examined on certain
19 convictions involving dishonesty or false statements or
20 that might carry a year or more in prison.

21 The question is, that I have for you and that I need
22 to put on the record is whether or not you thought about
23 this issue, whether or not you had time to discuss this
24 with your family or anyone else that you need to discuss
25 it with, and if you have made a freely, voluntarily,

1 knowingly and intelligently made decision not to testify.

2 If you decide not to testify, I'll explain to the
3 jury that you have a right not to testify, the Fifth
4 Amendment grants you that right, it is a substantial
5 right, and that they cannot discuss during their
6 deliberations the fact that you didn't testify.

7 So have you talked about that with Mr. Tavernier and
8 other parties?

9 MR. TAVERNIER: (Nodded head.)

10 THE DEFENDANT: Yeah, I think we have -- I might --
11 we -- Fifth Amendment, yes, we have. Yes, Your Honor.

12 THE COURT: Okay. Do you have any questions to me
13 about your Fifth Amendment rights only?

14 THE DEFENDANT: Yeah, I do, Your Honor.

15 THE COURT: All right. What is it?

16 You can talk to Mr. Tavernier.

17 MR. TAVERNIER: Your Honor, for the record we have
18 discussed it and gone over -- I have not made any
19 advisement to him other than to give him what his options
20 are. And based on what he is saying, I think I
21 probably -- if you can give us a couple minutes so we can
22 go back over it and he can come back and address the
23 Court?

24 THE COURT: Yeah. The reason I -- do you want to do
25 that?

1 MR. TAVERNIER: If we can. And I told him some
2 options, but I think he's having some confusion on what
3 those options are.

4 THE COURT: Okay. I'll let you do that over lunch.
5 I want everybody back at 2:30. Because assuming -- if I
6 make the assumption you're not gonna testify and not call
7 any other witnesses, we'll move right into closing
8 arguments and the jury charge.

9 If you are, obviously it's gonna make a difference.
10 So be back at 2:30 and we'll go back on the record. I'll
11 question you again and make sure you understand it and
12 we'll go from there.

13 Okay. We're adjourned for about an hour.

14 (A luncheon recess occurred.)

15 End of Morning Proceedings

16 ***

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1 **AFTERNOON PROCEEDINGS**

2 (Approximately 2:38 p.m.)

3 **THE COURT:** Mr. Temple, during lunch have you had
4 time to think about whether or not you're going to
5 testify, and also have you had time to speak with your
6 advisory counsel?

7 **THE DEFENDANT:** Yes, Your Honor. And I will not
8 testify.

9 **THE COURT:** All right. And you understand your
10 Fifth Amendment rights and you don't have any questions
11 about that? That's a freely, voluntarily, knowingly and
12 intelligently made decision you made; is that correct?
13 Nobody has forced you to make it?

14 **THE DEFENDANT:** No, sir.

15 **THE COURT:** Thank you. Do you have any evidence
16 that you are gonna put up or will you just rest?

17 (The Defendant conferred with Mr. Tavernier
18 off the record.)

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** You need to make a motion, to renew a
21 motion?

22 **DEFENDANT'S MOTION:**

23 **THE DEFENDANT:** Yeah. Because I'm renewing my
24 motion on -- well, it was kind of like a, when I
25 questioned, cross-examined the victim in this case, when

1 I finished, I stated, "Your Honor, no more questions at
2 this time." I didn't state that I was not gonna, had no
3 intentions of cross-examining her again. My intention
4 was to bring her up on direct as a witness. I intended
5 to bring her in as my witness.

6 THE COURT: All right. What do you want to get from
7 her? That's what I'm trying to understand.

8 THE DEFENDANT: I'm trying to prove that what she's
9 saying is lying, which, which I didn't do during, when I
10 was cross-examining her. I got to prove that she's lying
11 about several different things that she said. Plus, I
12 can prove that she said there was more people there at
13 that time than me and her.

14 THE COURT: What's y'all's position?

15 MS. SIMMONS: Judge, those are all things that were
16 within the scope of, could have been within the scope of
17 his cross-examination of her. Those were not things that
18 came out later in the trial. And he had a full and fair
19 opportunity to cross-examine her at that time.

20 THE DEFENDANT: Your Honor, as you know, as
21 witnesses came and came and came, different issues did
22 come up which make up the whole of my intentions or my
23 request, you know, to bring her back up. That was
24 intended as a trial strategy only, you know?

25

1 COURT'S RULING ON DEFENDANT'S MOTION:

2 THE COURT: Okay. All right. And I understand what
3 motion you are making, and again I'm gonna deny your
4 motion to allow you to -- and my opinion at this point
5 that was something that could have been directed to her
6 in cross. And again, I understand you want to protect
7 your rights in that regard, so you are protected for
8 that.

9 THE DEFENDANT: Okay. Can I argue the issues or the
10 facts of her statement on opening statement?

11 THE COURT: Yeah. Go ahead.

12 All right. So the Defense is resting, right? Is
13 that correct?

14 THE DEFENDANT: Yes, sir. I rest.

15 THE COURT: Okay. So we'll move on to closing. And
16 y'all will close and then he'll reply.

17 MS. ADAMS: Your Honor, since he introduced
18 evidence, it's my understanding I'm gonna open on the
19 law, he goes and then I go.

20 THE COURT: I think you have to open in full and
21 then he gets to reply. I think that's where this whole
22 discussion -- I mean -- what did he introduce?

23 MS. ADAMS: He admitted evidence.

24 THE COURT: What?

25 MS. ADAMS: So he lost his right for closing

1 argument. Defendant's Exhibits 1 and 2, remember, he
2 admitted the bottle and the rag.

3 THE COURT: Right, and I understand that.

4 So what's your intention?

5 MS. ADAMS: Well, Your Honor, it's my understanding
6 based on the law that since he admitted evidence, that he
7 loses his right to final argument, closing argument, so
8 I --

9 THE COURT: Show me where it says that. I mean, I'm
10 just asking. I think he has a right to reply even though
11 he puts in evidence. The old rules were that. The new
12 rules are you open and close in full and he replies and
13 that's it. The old rules are where you had to open or
14 close on the law, then he replies and you sandwiched in
15 with the facts. I'm confused about where you come up
16 with that, though, but I'll be happy to look at it.

17 MS. ADAMS: I think I gave some of the cases to
18 Hillary. It was, it was my understanding that it's Rule
19 59 that is no longer in existence, that basically --

20 THE COURT: I'm not talking about the issue of where
21 he doesn't put in evidence.

22 MS. ADAMS: Right. So when he does, that means he,
23 it's just like putting forward testimony, which means he
24 doesn't get final argument.

25 THE COURT: All right.

1 Any objection to that?

2 (The Defendant conferred with Mr. Tavernier
3 off the record.)

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: All right. That's fine. It's a tempest
6 in a teapot. That's fine.

7 Anything else from the State or Defense? Because
8 I'm going right into closing when we bring them back in.
9 Anything in rebuttal?

10 THE DEFENDANT: I'm fine, Your Honor.

11 MS. ADAMS: I open, he goes, and then if I want
12 to...

13 THE COURT: Right.

14 MS. ADAMS: Okay.

15 THE COURT: Okay. Let's bring them in.

16 (The jury entered the courtroom at
17 approximately 2:45 p.m.)

18 THE COURT: All right. Ladies and gentlemen, you
19 have heard all the testimony that you're gonna hear in
20 this case. The Defense has rested. As I told you
21 earlier, the Defendant is not in any way forced to
22 testify. In fact, you cannot discuss -- and I'll tell
23 you this again in my charge -- you can't discuss the fact
24 that he's not testified when you begin your
25 deliberations. And because the burden is on the State to

1 prove each and every element, he doesn't have to put up
2 any evidence and he's made that decision.

3 So you have heard all the testimony. We'll move to
4 closing argument. After the closing arguments, I have to
5 read to you verbatim about 20 pages' worth of law. So
6 once the closing arguments are finished, if you need a
7 break, let me know. Otherwise I'll move right into the
8 charge and we'll give this case to you for your
9 deliberations.

10 But let me also remind you that closing arguments
11 are not evidence and shouldn't be considered by you as
12 evidence. They're merely the opportunity for the State
13 and the Defense to argue their position and tell you
14 again why you should agree with them on their position.

15 All right. Yes, ma'am.

16 MS. ADAMS: Thank you, Your Honor, may it please the
17 Court.

18 CLOSING ARGUMENT ON BEHALF OF THE STATE (LAW):

19 MS. ADAMS: Ladies and gentlemen, it's now time to
20 turn this case over to you. It is time for you to find
21 the Defendant, Dennis Temple, guilty of every single
22 crime that he has been charged with.

23 As the Judge just told you, when we are done, he's
24 gonna instruct you on the law, and you must take the law
25 as he gives it. But I'm gonna take an opportunity right

1 now to go over the law with you and explain to you why
2 there is no doubt that the Defendant is guilty of every
3 single crime charged. And after the Defendant has an
4 opportunity to speak, I will again be able to address
5 you.

6 But first let's start with the law.

7 The Defendant has been charged, as you know, with
8 two counts of criminal sexual conduct in the first
9 degree. These are the elements. I have to prove to you
10 beyond a reasonable doubt each and every element of every
11 single crime charged.

12 The Defendant engaged in a sexual battery with the
13 victim, Catherine. Sexual battery is sexual intercourse,
14 cunnilingus, fellatio, anal intercourse, or any
15 intrusion, however slight, of any part of a person's body
16 or of any object into the genital or anal openings of
17 another person's body.

18 Sexual battery. Ladies and gentlemen, the first
19 count of criminal sexual conduct deals with the penile
20 penetration of the Defendant into Catherine's vagina.
21 That is the sexual battery, that is the penetration, all
22 right? We know that that occurred. There was
23 overwhelming evidence that that occurred. You have the
24 Defendant's semen on the rectal swabs that was taken from
25 Catherine at the hospital. One in 330 trillion. It

1 belongs to one person, and that person is the Defendant,
2 Dennis Temple.

3 Now, you heard from Amanda Webb, the D.N.A. expert.
4 There was no anal intercourse. But the fact that semen
5 came from a rectal swab is very common. Ladies and
6 gentlemen, it's graphic. It's graphic. And Catherine
7 was lying on her back during a sexual assault, and there
8 was a time frame, he told you, before he got up and
9 cleaned her out. There is no doubt that the Defendant
10 had sexual intercourse with Catherine.

11 Now, the second count deals with what happened when
12 he got up after he had sexual intercourse with her.
13 Because the law says, for any intrusion, however slight,
14 of any person's body or of any object into the genital
15 opening of another person's body. The object is the
16 bottle, the Gatorade bottle. When he inserted that
17 bottle into Catherine's vaginal area, he committed a
18 second and separate criminal sexual conduct. It is a
19 distinct and separate crime. It's what the law says, and
20 that is what he is charged with.

21 When he stuck that bottle in her, in an attempt to
22 destroy all the evidence, he injected a cleaning solution
23 into her to destroy his semen. And ladies and gentlemen,
24 it was a cleaning solution in that bottle. Catherine
25 told you she smelled it in the bucket and Sergeant

1 Patrick Merck told you he smelled the cleaning solution
2 in the bucket. Amanda Webb, the expert, told you she was
3 not surprised they didn't find it in the Gatorade bottle
4 when they tested it because it had evaporated.

5 Ladies and gentlemen, you need to remember when you
6 walk into this courtroom, you do not leave your common
7 sense out there, you bring that in here, too. All the
8 evidence is overwhelming and supports exactly what
9 Catherine said happened. And that bottle is a second and
10 separate offense and crime.

11 Now, I also have to prove to you that he used
12 aggravated force to accomplish this sexual battery, or --
13 not both -- or the victim submitted to sexual battery
14 while she was, while she was also the victim of forcible
15 confinement, or kidnapped. We have both for criminal
16 sexual conduct. We have aggravated force and we have
17 kidnapping. But kidnapping, again, is a second offense.
18 We'll get to that in a minute.

19 What is aggravated force? It is the use of physical
20 force or physical violence of a high and aggravated
21 nature to overcome the victim. And it also includes the
22 threat of using a deadly weapon, ladies and gentlemen.
23 He forced Catherine into her unit. She fought. He
24 strangled her, he punched her. And then he took the belt
25 you have in evidence, wrapped it around her neck, like

1 you would put a choke collar on a dog, and drug her 83
2 feet at least across a gravel parking lot. She lost
3 consciousness, she urinated over herself, which is
4 consistent with being to the point of passing out. And
5 when she wakes up she's on a mattress, he gags her and he
6 ties her. You got the socks with her saliva all over
7 them, and you have strips of sheet that he used to bind
8 her.

9 You have the pictures. The marks are consistent.
10 She has scratches all over her body, bruises all over her
11 body. He punched her on the nose, her nose is swollen.
12 Everything is consistent. Ladies and gentlemen, if that
13 is not aggravated force, I don't know what aggravated
14 force is.

15 Kidnapping is a second and separate offense, even
16 though it's a part of criminal sexual conduct.

17 I have to prove to you each and every element of
18 kidnapping. It's that the Defendant, Dennis Temple,
19 knew, knowingly and unlawfully, seized, confined,
20 inveigled, decoyed, kidnapped, abducted, or carried away
21 another person. Seize means to take hold of suddenly or
22 forcibly. Confine means to limit, restrict or enclose,
23 kidnap is to remove a person against her will, and abduct
24 means to carry off secretly or by force, and for an
25 illegal purpose.

1 Ladies and gentlemen, Catherine's D.N.A. is on the
2 inside of that belt because it was around her neck for so
3 long. Even worse, fear. That's what kidnapping is. He
4 locked her in his unit for over nine hours. She could
5 not escape. That is kidnapping. He tied her up
6 repeatedly. That's kidnapping.

7 And finally, ladies and gentlemen, he stole her car.
8 Grand larceny. Taking and carrying away personal
9 property is the car valued at more than \$5,000. The car
10 was worth \$19,000, the wholesale value, and he intended
11 to deprive her of it. Ladies and gentlemen, you do not
12 leave your common sense outside there when you come in
13 here. He stole her car.

14 The Defendant is now gonna have an opportunity to
15 talk to you, and I'll be back.

16 THE COURT: Yes, sir.

17 THE DEFENDANT: May I use this, Your Honor?

18 THE COURT: Yes.

19 Ms. Adams, would you cut that on for him?

20 MS. ADAMS: Turn it on, yes.

21 THE COURT: Please.

22 CLOSING ARGUMENT BY THE DEFENDANT:

23 THE DEFENDANT: The prosecution wants y'all to
24 believe that this is, these are crimes that I committed,
25 which are not consistent. I haven't had a full

1 opportunity --

2 Can I go into this, Your Honor?

3 THE COURT: Sure.

4 THE DEFENDANT: I really haven't had a full
5 opportunity to defend myself because my strategy was
6 based upon my re-calling of ---

7 MS. ADAMS: Your Honor, objection.

8 THE DEFENDANT: Okay.

9 THE COURT: Yeah, sustained.

10 THE DEFENDANT: But my thing is it's not consistent.
11 I'm gonna show you why.

12 The victim states -- well, on the date of rape she
13 stated that -- she stated several things, a seven-page
14 story. College student.

15 She stated that when she arrived at All Safe, she
16 came in the gate. She saw the assailant leaving out. If
17 you recall, when the manager of All Safe testified, she
18 said that the only way to get in with a car is you have
19 to punch a code in. The only way to come out with a car
20 or to come out for the gate to go back period, the only
21 way for the gate to open when you are inside is you have
22 to be in the car.

23 So if the victim said that I was walking, the only
24 way out would be up under the gate, not by the gate
25 opening, or even going out where she come, which would be

1 the wiser choice instead of going up under the gate.

2 All right. Well, here we have -- if she came in,
3 Catherine McGough, if she came in here, which would be
4 4:38, then I was going out at that same time. She said
5 that -- this, this document here shows that I came in at,
6 allegedly came in at 4:41. So if I entered according to
7 this document at 4:41, and she stated in her statement
8 that I left two or three times, then where is it
9 documented in this report a second time after I arrived
10 behind her? That's one thing I wanted to point out.

11 But also another thing I wanted to point out is the
12 fact that in her statement she said that, she said that I
13 have drug her to my unit.

14 Let me put that up here, too.

15 MS. ADAMS: Your Honor, objection. He's getting
16 ready to show them something that I don't think is in
17 evidence.

18 THE COURT: What are you getting ready to show?

19 THE DEFENDANT: Your Honor, the prosecution told the
20 jury during direct examination with the witness that I
21 drug her from my storage shed, from her storage shed to
22 my storage shed. I'm gonna prove to the jury that she
23 stated in her statement to the police that I had drug
24 her.

25 THE COURT: That you have drug her?

1 THE DEFENDANT: Yeah. Not only that. The
2 prosecution also stated that, and the victim admitted to
3 her that she was --

4 THE COURT: I'll tell you what. Come around here
5 behind the screen.

6 (Discussion at sidebar.)

7 THE COURT: Ladies and gentlemen, I need to send you
8 out for a few minutes. We need to find something on a
9 tape. Please do not discuss this case yet.

10 (Whereupon, the jury left the courtroom at
11 approximately 3:06 p.m.)

12 THE COURT: Let me just put on the record -- and,
13 Mr. Temple, I don't want to misstate anything that was
14 said here because a lot was said. But basically you
15 wanted at first to first introduce a portion of the
16 victim's statement. Since that's not into evidence, I
17 told you behind the curtain that you couldn't do that.

18 And then you want to, us to play a portion, the very
19 last portion of the 9-1-1 tape where the dispatcher asks,
20 "Does he have a weapon?" That's the portion you want; is
21 that right?

22 THE DEFENDANT: Well ---

23 THE COURT: Stand up. She can't hear you if you sit
24 down. I don't care, but...

25 THE DEFENDANT: Yes, Your Honor. The particular

1 part is when the 9-1-1 operator asks the question and her
2 response. That's -- there's more contradicting
3 statements on that tape, but I'll settle for --

4 THE COURT: All right. She's gonna try to find it.
5 We'll take just a quick break, like four minutes. See if
6 you can find it. You can come up here with her and make
7 sure y'all are at the right spot, and then I'll bring
8 them back in.

9 (Ms. Simmons and Mr. Temple confer.)

10 (A recess was taken.)

11 THE COURT: Mr. Temple, is it all right if she stays
12 here, starts, and tell her to stop and she'll do it?

13 THE DEFENDANT: You're in charge. You're the boss.

14 THE COURT: I'm glad somebody recognizes it. But I
15 don't want to play any more than you want to hear, that
16 you want them to hear.

17 All right. You can bring them in.

18 Just say "stop" and she'll stop.

19 MS. SIMMONS: And then I'll sit down.

20 (The jury entered the courtroom at
21 approximately 3:17 p.m.)

22 THE COURT: Thank you, ladies and gentlemen.
23 Go ahead, Mr. Temple.

24 THE DEFENDANT: Can I tell them why?

25 THE COURT: Yeah. You can go ahead and tell them

1 why. Sure.

2 THE DEFENDANT: Your Honor, this is one of the
3 inconsistencies that I noticed. This was the 9-1-1 tape,
4 when the victim alleged she called the police. And this
5 is the conversation. This is like at the end of the
6 tape. It says -- the 9-1-1 operator said, do you
7 remember -- no -- he says, he says, he asked the
8 question: Do you remember did he have any weapons? And
9 he said something like when he, looking like there's
10 something more during that statement.

11 The victim stated, Um, he used a knife to cut my tie
12 one time. Um, I didn't see it. I don't know.

13 9-1-1 says, Well, he said, I don't know.

14 Then she says what they did and I could not find it
15 here. This supposed -- this blank portion is supposed to
16 have been read like this: I don't know what he did
17 with -- no; it says: I don't know what they did, not he,
18 with the knife and I could not find it in here. That's
19 what it says. The statement said, I don't know what they
20 did.

21 Your Honor, if I did this crime, kidnapping,
22 criminal sexual conduct, I stole a car, why is the
23 evidence show speaking, the evidence itself speaking of
24 more than one people? And she says during the whole
25 event that it was one assailant. Nobody else was

1 mentioned. So why is, why wasn't it noted in the
2 beginning that -- I mean, this right here shows itself
3 inconsistent. Then it said it's involving more than one
4 person. So if she's lying here, I mean, what else is she
5 lying about?

6 But you can play the tape, ma'am, please.

7 (Whereupon, the 9-1-1 recording was played by
8 Ms. Simmons for the jury.)

9 THE DEFENDANT: Could you rewind that part?

10 MS. SIMMONS: (Complies.)

11 (The 9-1-1 recording continued to be played
12 by Ms. Simmons for the jury.)

13 THE COURT: Do you want to stop it?

14 THE DEFENDANT: Yes, sir.

15 MS. SIMMONS: That was the 9-1-1 CD.

16 THE DEFENDANT: That's another inconsistent thing I
17 was gonna bring up during, on direct examination. But
18 there's many others as well. Like I said, when --

19 Well, you told me not to go into that so I'm not.

20 But just consider all the facts. That's all I ask.

21 Thank you.

22 THE COURT: Yes, ma'am.

23 CLOSING STATEMENT ON BEHALF OF THE STATE (FACTS):

24 MS. ADAMS: Catherine McGough will never forget the
25 nightmare that she endured on Mother's Day of this year.

1 4:38 Sunday afternoon, broad daylight, she was literally
2 at the wrong place at the wrong time. Because when she
3 punched her code in and saw the Defendant walking out,
4 the Defendant, Dennis Temple, also saw her. Because that
5 entry log showed him coming in three minutes later. She
6 knew what he wanted because he saw Catherine alone in her
7 car. And he gave her time to get to her unit and start
8 unloading, and he approached her. He saw she was visibly
9 flustered.

10 And he leaves for just a few seconds to go back to
11 his unit. He's prepared, because he knows what he wants,
12 and it's Catherine, and he's not taking no for an answer.
13 He had a belt flung over his shoulder. He tries to get
14 her to go to his unit willingly with, Will you help me
15 move something? Because he knows what he wants, and it's
16 Catherine.

17 And when she doesn't go, he's prepared, because he
18 has a belt around his shoulder and then he puts it around
19 her neck and drags her to his unit. The evidence is
20 overwhelming. I cannot say it enough, ladies and
21 gentlemen.

22 And when he gets her back, he rapes her, he rapes
23 her again with the bottle of the cleaning solution, he
24 steals her car, he ties up her feet. Catherine wasn't
25 going anywhere.

1 And when you get back in that jury room, I want you
2 to look at all the evidence. I want you to look at all
3 the pictures again. And I want you to notice something
4 about Catherine's car, because the car really is
5 important, it says a lot. Catherine told you when she
6 last saw her car, there was stuff still in the trunk.
7 Those pictures, when the car was recovered, there's
8 nothing in the trunk. And her mother's Mother's Day gift
9 is in the back seat. Catherine left it in the trunk.

10 The Defendant was coming back. He knew what he had
11 to do.

12 It truly does not get any worse than this. When you
13 think about Catherine's D.N.A. being on the inside of a
14 pair of gloves and a hoodie that she never touched, her
15 D.N.A. got there because he touched her. He touched her
16 when he strangled her with his bare hands, he touched her
17 when he punched her, he touched her when he wrapped the
18 belt around her neck and drug her across the parking lot
19 like an animal. He touched her when he forced her on to
20 his mattress in his unit. He touched her when he gagged
21 her repeatedly throughout a nine-hour ordeal.

22 He touched her when he tied her up. He touched her
23 when he hogtied her. He touched her when he pulled her
24 tired body to the edge of his mattress. He touched her
25 when he pulled her shorts and panties down. He touched

1 her when he raped her aggressively and violently, just
2 like she said. And he touched her when he raped her the
3 second time with the bottle in an attempt to destroy the
4 evidence, his semen that he left inside of her. And then
5 when he touched those gloves, he left Catherine inside
6 those gloves.

7 It is time for Catherine's nightmare to end, and it
8 ends right here, right now with y'all. You find this
9 man, Dennis Temple, guilty, guilty as charged. Thank
10 you.

11 THE COURT: All right. Ladies and gentlemen, does
12 anyone need a break before I charge you on the law? If
13 you do, that's fine.

14 A JUROR: (Shook head.)

15 A JUROR: (Shook head.)

16 THE COURT'S CHARGE ON THE LAW:

17 THE COURT: All right. Ladies and gentlemen, thank
18 you very much for your patience. And now it's time for
19 me, as I told you at the beginning of this trial, to
20 charge you on the law. As I told you at the time we
21 began, you and I have very different roles. You have had
22 to listen to the testimony in this case. You will have
23 in the jury room anything that's been admitted into
24 evidence, so anything that's up here that's marked up
25 here you will have. And you have to make a determination

1 about what the facts are.

2 As the Judge I have been required during the course
3 of this trial to make several determinations on legal
4 matters, and, quite frankly, one of the biggest things
5 I've had to do is put together this charge on the law.

6 First let me tell you the same thing that I told you
7 at the beginning of the trial. You will have with you in
8 the jury room these indictments. The fact that a
9 defendant has been indicted in this state should never be
10 discussed by you. These indictments are literally, as
11 you will see, pieces of paper that start the process that
12 ends here today. So you will have them with you, but
13 please don't discuss them. Please understand that the
14 presumption of innocence that Mr. Temple has about him
15 remains with him. As I told you earlier, I used the
16 example as the robe of righteousness or innocence. That
17 robe of innocence and that presumption of innocence is
18 still about his shoulders and will remain about his
19 shoulders until you, the jury, make a determination after
20 due deliberation that that robe of righteousness or
21 innocence should be taken from him.

22 And I also told you and I'll tell you in a few
23 minutes again in a more formal way, the State has the
24 burden of proving each and every element of the crimes
25 charged and must meet that burden.

1 All right. Ladies and gentlemen, the indictments
2 charge the Defendant with two counts of criminal sexual
3 conduct, first degree; kidnapping, and grand larceny of a
4 motor vehicle. I want to remind you again, the fact that
5 the Defendant was arrested, charged and indicted in this
6 case is not evidence in this case and cannot be
7 considered by you as evidence of guilt in this case. Nor
8 does it create any presumption or inference of guilt.
9 The documents simply state the formal charges against the
10 Defendant and also are the formal written instrument
11 which contains those charges.

12 As I said, there are several different charges
13 contained in these indictments. Each charge is a
14 separate and distinct offense. What you will need to do
15 as a jury is you must decide the guilt or innocence of
16 each charge separately.

17 And what I'm gonna ask you to do, Mr. Foreman, and
18 I'll explain to you a little bit more at the very end of
19 this charge, but on the back of each indictment there's a
20 portion that says verdict. All I'll need you to do is
21 write "not guilty" or "guilty" on each separate
22 indictment for each separate charge, sign your name, put
23 the date, and that will be sufficient.

24 Ladies and gentlemen, again, as I've charged you
25 before and told you, the Defendant has pled not guilty to

1 each indictment, and that plea puts the burden on the
2 State to prove the Defendant guilty. A person charged
3 with committing a criminal offense in South Carolina is
4 never required to prove themselves innocent. I charge
5 you that it's an important rule of law that the Defendant
6 in a criminal trial, no matter what the seriousness of
7 the charge may be, will always be presumed to be innocent
8 of the crime for which the indictment was issued unless
9 guilt has been proven by evidence satisfying you of that
10 guilt beyond a reasonable doubt.

11 The presumption of innocence, I charge you, is not
12 merely a legal theory, it's not just a legal phrase.
13 It's a substantial right to which every Defendant is
14 entitled to unless you, the jury, are satisfied from the
15 evidence of the Defendant's guilt beyond a reasonable
16 doubt.

17 You may have a question, what is reasonable doubt?
18 Reasonable doubt is the kind of doubt that would cause a
19 reasonable person to hesitate to act.

20 Now, ladies and gentlemen, I charge you, there are
21 two types of evidence which are generally presented
22 during a trial, there is direct evidence and
23 circumstantial evidence. Direct evidence is testimony of
24 a person who claims to have actual knowledge of a fact,
25 such as an eyewitness. It is evidence which immediately

1 establishes the main fact to be proved.

2 Circumstantial evidence is proof of a chain of facts
3 and circumstances indicating the existence of a fact. It
4 is evidence which immediately establishes collateral
5 facts from which the main fact may be inferred.

6 Circumstantial evidence is based on inference and not on
7 personal knowledge or observation.

8 I charge you that the law makes absolutely no
9 distinction between the weight or value to be given
10 either direct or circumstantial evidence, nor is a
11 greater degree of certainty required of circumstantial
12 evidence than of direct evidence. You should weigh all
13 the evidence in this case, and after weighing all the
14 evidence, if you are not convinced of the guilt of the
15 Defendant beyond a reasonable doubt, I charge you that
16 you must find the Defendant not guilty.

17 Ladies and gentlemen, I charge you that necessarily
18 as a part of your duties you must determine the
19 credibility of witnesses who have testified in this case.
20 Credibility simply means believability in South Carolina
21 under the law. It becomes your duty as jurors to analyze
22 and evaluate the evidence and determine which evidence
23 convinces you of its truth.

24 In determining the believability of witnesses who
25 testified, you may believe one witness or you may believe

1 none of the witnesses. You can believe a portion of what
2 a witness tells you and disregard the remainder of the
3 witness's testimony. You can believe a portion of any
4 person's testimony and disregard the remainder of that
5 testimony.

6 Ladies and gentlemen, I charge you the Rules of
7 Evidence ordinarily do not permit witnesses to testify as
8 to opinions or conclusions. An exception exists for
9 witnesses we call expert witnesses. A witness who by
10 education and experience has become expert in some art,
11 science, profession or calling may state an opinion as to
12 relevant and material matter in which the witness claims
13 to be an expert and may also state the reasons for that
14 opinion.

15 You should consider an expert opinion received in
16 evidence in this case, and, like any other evidence, give
17 it the weight that you think that it deserves. If you
18 decide that the opinion of the expert witness is not
19 based on sufficient education and experience, or if you
20 conclude that the reasons given in support of the opinion
21 are not sound, or that the opinion is outweighed by other
22 evidence, you may disregard the opinion in its entirety.

23 An expert witness's testimony is to be given no
24 greater weight than that of other witnesses simply
25 because the witness is an expert. Further, you are not

1 required to accept an expert's opinion, even though it is
2 not contradicted.

3 Now, ladies and gentlemen, as I said several times,
4 I charge and instruct you and emphasize that the fact
5 that the Defendant did not testify is not a factor to be
6 considered by you in any way in your deliberations and in
7 your consideration of the question of the guilt or
8 innocence of the Defendant. It must not be considered by
9 you in any manner whatsoever.

10 The Defendant, Mr. Temple, in this case has the
11 Constitutional right to remain silent, and the assertion
12 of this right must not be considered by you in
13 deliberations. I repeat that under your oath you are to
14 draw no conclusion whatsoever from the fact that the
15 Defendant in this case did not testify. The fact that
16 this Defendant did not testify should not even be
17 discussed by you in the jury room.

18 The burden, as I stated, is on the State. The
19 Defendant is not required to prove his innocence. The
20 burden of proof remains on the State to prove his guilt
21 beyond a reasonable doubt.

22 Now, ladies and gentlemen, an issue in this case is
23 the identification of the Defendant as the person who
24 committed the crimes charged. The State has the burden
25 of proving identity beyond a reasonable doubt. You must

1 be satisfied beyond a reasonable doubt of the accuracy of
2 the identification of the Defendant before you may
3 convict the Defendant.

4 Identification testimony is an expression or belief
5 or impression by a witness. You must determine the
6 accuracy of the identification of the Defendant. You
7 must consider the believability of each identification
8 witness in the same way as any other witness. You may
9 consider whether the witness had an adequate opportunity
10 to observe the offender at the time of the offense.

11 This will be affected by things like how long or
12 short a time was available, how far or close the witness
13 was, the lighting conditions, and whether the witness had
14 the chance to see or know the person in the past. Once
15 again, I instruct you that the burden of proof is on the
16 State in every element, to prove every element of the
17 crime charged, and this specifically includes the burden
18 of proving beyond a reasonable doubt the identity of the
19 Defendant as the person who committed the crime. If
20 after examining the testimony you have a reasonable doubt
21 as to the accuracy of the identification, you must find
22 the Defendant not guilty.

23 Now, ladies and gentlemen, in order to establish
24 criminal liability, criminal intent is required. For
25 example, the mental state to be proven by the State for a

1 particular crime might be purpose, intent, knowledge,
2 recklessness or criminal negligence. Criminal intent
3 must be proven by the State beyond a reasonable doubt.

4 Criminal intent is always a matter that must be
5 determined by you, the jury, from the circumstances
6 surrounding the situation. There is obviously no way to
7 prove intent to a mathematical certainty. There is no
8 way we can dissect the Defendant's mind to determine what
9 a person had in mind. So the law says that criminal
10 intent may be inferred from the circumstances shown to
11 have existed at the time of the alleged crime. This is
12 how you make a determination of whether or not the
13 element requiring intent was present.

14 It's not necessary to establish intent by direct or
15 positive evidence. But intent may be established by
16 inference in the same way as other facts, by taking into
17 consideration the acts of the parties and all other facts
18 and circumstances of the case.

19 I charge you that criminal intent is a mental state,
20 a conscious wrongdoing. It's up to you to determine what
21 the Defendant intended to do based on the circumstances
22 shown to have existed. Criminal intent can arise from
23 action or by failure to act. It may arise from
24 negligence, recklessness or indifference to duty or to
25 consequences that is considered by the law to be the

1 equivalent of criminal intent.

2 Now, ladies and gentlemen, the Defendant is charged
3 with two counts of first degree criminal sexual conduct.
4 When two or more acts of criminal sexual conduct occur at
5 or about the same time, each act, each act is a separate
6 crime rather than one continuing crime.

7 The first element that the State must prove beyond a
8 reasonable doubt to prove criminal sexual conduct in the
9 first degree is that the Defendant engaged in a sexual
10 battery with the victim. A sexual battery is sexual
11 intercourse, cunnilingus, fellatio, anal intercourse or
12 any intrusion, however slight, of any part of a person's
13 body or of any object into the genital or anal openings
14 of another person's body, except when the intrusion is
15 accomplished for medically recognized treatment or
16 diagnostic purposes.

17 If you find that the State has not shown beyond a
18 reasonable doubt that a sexual battery occurred, you
19 would stop deliberating and your verdict would have to be
20 not guilty. If you find a sexual battery did occur, you
21 must then decide whether the State has proven beyond a
22 reasonable doubt one or two of the following
23 circumstances: That the Defendant used aggravated force
24 to accomplish the sexual battery.

25 I charge you that aggravated force means the use of

1 physical force or physical violence of a high and
2 aggravated nature to overcome the victim. This includes
3 the threat of using a deadly weapon. Or the State must
4 prove that the Defendant committed the sexual battery
5 while the victim was also the victim of forcible
6 confinement, kidnapping, robbery, extortion, burglary,
7 housebreaking, or any other similar act or offense.

8 Now, ladies and gentlemen, the subject -- the
9 Defendant is also charged with kidnapping in violation of
10 16-3-910 of the South Carolina Code. The State must
11 prove beyond a reasonable doubt that the Defendant
12 knowingly and unlawfully seized, confined, inveigled,
13 decoyed, kidnapped, abducted or carried away another
14 person without the authority of law. To do a thing
15 unlawfully is to do it willfully against the law.
16 Knowingly under the law means that, with knowledge,
17 consciously and not accidentally. Seize means to take
18 hold of a person suddenly or forcibly. Confine means to
19 limit, restrict or enclose within bounds, imprison, or
20 shut or keep in. Inveigle means to lure, entice or lead
21 astray by false representation, promises or other
22 deceitful means. Decoy means to lure by, or as if by
23 decoy. A decoy is something to entice a person into a
24 trap. Kidnap is to remove a person against his will by
25 unlawful force or by fraud. Abduct means to carry off

1 secretly or by force for an illegal purpose. Carry away
2 means to remove.

3 The State does not have to prove that the Defendant
4 did all of these things. Instead, if you find beyond a
5 reasonable doubt that the Defendant did any of these
6 things, you may find the Defendant guilty of kidnapping.
7 Something done without the authority of law is something
8 the law does not sanction, permit, allow, condone or
9 provide justification for. The kidnapping does not have
10 to be for personal or monetary gain or for any illegal
11 purpose. It may be for any reason whatsoever.

12 Now, ladies and gentlemen, the Defendant is also
13 charged with grand larceny of a motor vehicle. The State
14 must prove to you beyond a reasonable doubt that the
15 Defendant took a motor vehicle that belonged to someone
16 else against the will or without the consent of the other
17 person. The slightest removal of the vehicle or the
18 complete possession of the motor vehicle, even for an
19 instant, by the Defendant is enough to show a taking or a
20 carrying away of the motor vehicle.

21 The State must also prove beyond a reasonable doubt
22 that the Defendant intended to permanently deprive the
23 owner of the motor vehicle. Finally, the State must
24 prove that the value of the motor vehicle taken was
25 \$5,000 or more.

1 Now, ladies and gentlemen, there are several
2 different verdicts that you can find as you begin your
3 deliberations. You can find the Defendant guilty or
4 innocent of each individual crime set forth in these
5 indictments. But as I said earlier, you have to look at
6 each indictment separately. So you find him guilty or
7 innocent on one and then you move to the next. How you
8 go about that is up to you. Which one you take first is
9 up to you. But you have to address each one
10 individually. Your verdict has to be unanimous. You
11 have to all agree on the guilt or innocence of this
12 person.

13 What I'm gonna do is I'm gonna send you back now and
14 ask you not to begin your deliberations. I'm gonna give
15 both parties the opportunity to ask me to charge
16 something else. They have not had input into what my
17 charge is. If I decide to change or alter or add to my
18 charge or subtract from it, I'll bring you back in and do
19 that.

20 If I decide to leave my jury charge on the law as it
21 is, in just a few minutes we'll deliver to you all the
22 evidence and the indictments.

23 Mr. Foreman, as I said, if you look on the back -- I
24 think it's pretty clear -- but it's in the bottom
25 left-hand portion of this and it says "Verdict." On each

1 indictment you need to write "guilty" or "not guilty" and
2 sign your name.

3 And again, if you have a question or a problem,
4 communicate with me through the pad, just write out the
5 problem or question, sign your name, put the time on it
6 and knock on the door and they'll bring it to me.

7 If you want me to recharge any portion of this
8 charge, I'll be happy to do it. If you want me to read
9 the whole thing to you again, I'd be happy to do it.
10 Whatever you need, I'll do, as long as the law allows me
11 to do that. If you ask me a question that I can't
12 answer, or won't answer, I'll bring you back in and tell
13 you I can't answer it or won't answer it. So I'll
14 address any problem you have.

15 If you need any portion of the testimony replayed,
16 we can arrange that. It's all on tape. We have to find
17 it, so it might take us a minute. So what I will need
18 you to do now is each of you except for the two
19 alternates go back to the jury room and give me just a
20 minute. I suspect that in just a few minutes I'm going
21 to deliver all the evidence and these indictments, and at
22 that point you can begin your deliberations.

23 Mr. Bibb, here's a pad.

24 (Whereupon, the jury left the courtroom at
25 approximately 3:46 p.m., except for the two

1 alternate jurors.)

2 **THE COURT:** I need you all to step back there, too.
3 But you can't go in the jury room. Y'all just wait out
4 in the hall and I'll be out in just a second.

5 (Whereupon, the two alternate jurors left the
6 courtroom.)

7 I never had that happen. I didn't know who they
8 were.

9 All right. From the State, any additions,
10 subtractions, or alterations?

11 **MS. SIMMONS:** No, Your Honor. It seems to be what
12 we were previously provided.

13 (The Defendant conferred with Mr. Tavernier
14 off the record.)

15 **THE COURT:** Anything from Mr. Temple? I'll give you
16 a minute if you need it.

17 **THE DEFENDANT:** Um, yes, Your Honor. You might have
18 covered this issue, but I'm not quite sure. The fact
19 that informing the jury that anything that I said in my
20 opening as well as the State may not be considered as
21 evidence?

22 **THE COURT:** The fact that the opening and closing
23 aren't evidence?

24 **THE DEFENDANT:** Yes.

25 **THE COURT:** I mean, I told them that once before. I

1 don't mind bringing them back in and telling them again
2 if you want me to, again, in the abundance of caution.

3 (The Defendant conferred with Mr. Tavernier
4 off the record.)

5 THE DEFENDANT: Yeah. Also in the testimony that in
6 regards to the witnesses...

7 (The Defendant conferred with Mr. Tavernier
8 off the record.)

9 THE DEFENDANT: My questions during...

10 (The Defendant conferred with Mr. Tavernier
11 off the record.)

12 MS. SIMMONS: Judge, if I may, I can maybe clear it
13 up.

14 THE COURT: Again, it's a smaller courtroom.

15 I think the issue is that you might want me to
16 instruct them that at any time in your questioning you
17 use the first person "I" instead of referring to the
18 perpetrator, they should disregard that.

19 THE DEFENDANT: Yeah. Mr. Tavernier told me that
20 previously, but I forgot.

21 THE COURT: That's all right.

22 Any objection to that?

23 MS. SIMMONS: Judge, no objection to that.

24 THE COURT: All right. In the abundance of caution,
25 I'm gonna tell them that. Okay.

1 Bring them back in one more time.

2 (The jury entered the courtroom at
3 approximately 3:50 p.m.)

4 THE COURT: Y'all have extra gloves, don't you?

5 MS. SIMMONS: Yes, Your Honor.

6 MS. ADAMS: Yes, Your Honor.

7 THE COURT: Ladies and gentlemen, I did want to tell
8 you a couple of things, two things, actually. I'm sure I
9 told you this, but I want to reiterate that anything said
10 by the State or the Defendant in their opening or closing
11 arguments are not evidence and shouldn't be considered as
12 evidence.

13 Also I want to address something that doesn't come
14 up often but has in this case. In any situation in which
15 the Defendant is questioning a witness and they use the
16 first person "I" instead of "the alleged perpetrator" or
17 "the person who did this" and refer to themselves, you
18 should disregard that, too. Obviously that's a difficult
19 syntactic question, but just disregard that.

20 I'll also tell you I'm gonna send gloves back. If
21 you want to touch any evidence, I'll have gloves for you.
22 If you don't want to, that's fine, you don't have to.

23 So that would be the only change I would make. So
24 in just about two minutes you'll have all the evidence
25 and you can finally begin your deliberations. I

1 appreciate your patience. Go back there one last time.

2 And if the two alternates would just wait in the
3 hall, I'll be right out.

4 (Whereupon, the jury left the courtroom to
5 the jury room and the two alternates left the
6 courtroom to wait in the hallway at
7 approximately 3:52 p.m.)

8 THE COURT: Mr. Temple and Mr. Tavernier, y'all come
9 up and make sure all this evidence has been marked and
10 we'll send it back with the indictments and we'll just
11 let them go.

12 MS. SIMMONS: Judge, I'm gonna separate the Court's
13 exhibits into a folder and put them somewhere else.

14 (Whereupon, the jury began their
15 deliberations at approximately 4:00 p.m., and
16 a verdict was reached at approximately 4:15
17 p.m.)

18 THE COURT: All right, ladies and gentlemen, they do
19 have a verdict.

20 Let me say this, and I sort of jokingly said earlier
21 that I'm glad somebody recognized I was in charge. I
22 want to say something that I mean, and I don't want to
23 have to prove to anybody that I mean it. But I won't
24 tolerate one word of outburst, no matter what the verdict
25 is, from either side, from the victim's or the

1 Defendant's side, anything. I just don't -- that's a pet
2 peeve of mine, I don't take it. And so I told the
3 officers if you make a sound or you make a disruption,
4 they are taking you into custody, okay? Fair warning.
5 All right.

6 You can bring them in.

7 (The jury entered the courtroom at
8 approximately 4:31 p.m.)

9 THE COURT: All right, Mr. Foreman, I understand you
10 have a verdict?

11 THE FOREMAN: Yes, Your Honor.

12 THE COURT: If you would hand it to Mr. Bibb.

13 THE FOREMAN: (Complies.)

14 THE COURT: Thanks.

15 All right. You can publish it.

16 VERDICT OF THE JURY:

17 THE CLERK: 2010-GS-37-889, the *State versus Dennis*
18 *Temple*, indictment for criminal sexual conduct, first
19 degree: Guilty.

20 2010-GS-37-886, *State versus Dennis Temple*, grand
21 larceny: Guilty.

22 2010-GS-37-888, the *State versus Dennis Temple*,
23 kidnapping: Guilty.

24 2010-GS-37-887, the *State versus Dennis Temple*:
25 Guilty.

1 Ladies and gentlemen of the jury, if this was your
2 verdict and is still your verdict, please signify by
3 raising your right hand.

4 The record will reflect that all 12 raised their
5 hands.

6 THE COURT: Ladies and gentlemen, I have to send you
7 out for the last time. I'll be back to speak with you
8 personally in just a few minutes. Thank you.

9 (Whereupon, the jury left the courtroom at
10 approximately 4:33 p.m.)

11 THE COURT: Any motions or other matters from the
12 State?

13 MS. ADAMS: No, sir, Your Honor.

14 THE COURT: Mr. Temple?

15 DEFENDANT'S MOTIONS:

16 THE DEFENDANT: Yes, sir. I would like to renew all
17 of my previous motions.

18 THE COURT: Okay. And I'll consider them renewed
19 and incorporate all of your arguments as if you made them
20 all today. And you are protected on all of those
21 motions.

22 THE DEFENDANT: And judgment not...

23 THE COURT: Notwithstanding the verdict?

24 THE DEFENDANT: Yes. Not guilty.

25

1 COURT'S RULING ON DEFENDANT'S MOTIONS:

2 THE COURT: All right. And that motion is denied,
3 but you are protected.

4 All right. What I'm gonna do is I'm gonna go back
5 and I'll give them the option of coming back in here.

6 Have you got all the paperwork?

7 MS. ADAMS: Yes, sir.

8 THE COURT: Give me about four to five minutes and
9 I'll be back in.

10 (Whereupon, the Court left the courtroom at
11 approximately 4:34 p.m., went in and spoke
12 with the jury, and the Court returned to the
13 courtroom at approximately 4:42 p.m.)

14 THE COURT: How long has Mr. Temple been in jail?

15 THE DEFENDANT: Um...

16 THE COURT: Do you know how many days, Mr. Temple?

17 MS. ADAMS: Your Honor, I believe it's been since
18 May the 11th.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. All right.

21 Come on up, Mr. Temple.

22 MS. ADAMS: Your Honor, the victim's family would
23 like to address the Court.

24 THE COURT: I would be happy to hear from anybody
25 before I pass sentence.

1 Yes, ma'am.

2 THE VICTIM: This, this is impossible for me to put
3 in words, to explain how this has affected me. And no
4 amount of time in prison is gonna make up for what
5 happened. But I will not be at peace knowing that at any
6 point he is free to walk the streets to hurt me or anyone
7 else again.

8 THE COURT: Let me just say to you that I've been a
9 judge for 10 years and I was a lawyer for 20. And I mean
10 this sincerely. I think you may be the bravest person
11 I've ever seen in the courtroom.

12 THE VICTIM: Thank you.

13 THE COURT: I mean, I've seen a lot of men that
14 were -- you know, I've got a brother who's been to Iraq
15 four times, and I think he would say the same thing. So
16 I wish you the best. All right.

17 VICTIM'S FATHER: Your Honor, I'm Catherine's dad.
18 I haven't prepared anything to say, but I have a lot to
19 say.

20 I'm not as strong as Catherine. What Dennis Temple
21 did is so appalling, it is so shocking, that it's
22 difficult to talk about it. He attacked her in broad
23 daylight at a public place and put her through nine hours
24 of the worst nightmare a person can imagine.

25 She could have died at any point that time. She

1 could have suffocated, she could have been strangled.
2 But she survived and it's a miracle she survived. It's a
3 testament to her strength and her wit and her
4 determination.

5 THE COURT: Yes, I agree.

6 VICTIM'S FATHER: But, Your Honor, it's important
7 for her healing process. It's been her dream to attend
8 Clemson University since the tenth grade. And she was
9 living that dream until Mother's Day. And from that
10 point on it's been a nightmare. She can't attend school.
11 She has posttraumatic stress disorder, she's had
12 flashbacks, panic attacks, can't sleep.

13 I mean, will she recover? We don't know. Will she
14 ever be able to get back on track? I mean, hopefully. I
15 know I would never bet against her, because the same
16 strength that got her here will get her through it.

17 But it's important to her that Dennis Temple get the
18 maximum sentence, whatever the law will allow, the
19 maximum. If he ever walks the street, and I don't think
20 anybody can be safe on the street with Dennis Temple,
21 especially no woman will be safe, okay? So, I mean, I'm
22 asking you, I'm pleading with you, give Dennis Temple the
23 maximum the law will allow.

24 The bottom line is if he doesn't deserve the
25 maximum, then, my gosh, what would somebody have to do to

1 get the maximum? I can't even imagine. Please, show him
2 no mercy, show him no compassion, because he showed
3 Catherine none. He deserves the maximum. So please give
4 him what he deserves. Thanks.

5 THE COURT: All right.

6 VICTIM'S SISTER: Your Honor, my name is Carmen, I'm
7 one of Catherine's sisters. (Crying.) What has been
8 taken from my sister and my family can't be measured and
9 can't be gotten back.

10 There are numerous times that she could have died,
11 but she survived thanks to her strength and her
12 perseverance, and by the grace of God that there was a
13 phone in there. She saved her own life.

14 But every part of my life and my family's life has
15 changed. My relationship with my husband of 10 years, my
16 ability to perform my job. Everything has changed. I
17 have trouble sleeping, I have headaches, nausea, muscle
18 pain. And now I have a heart condition. I was diagnosed
19 just a couple of weeks ago. I'm on medication for
20 depression, I'm on medication to slow my heart rate and
21 decrease my blood pressure. The weight on my heart is
22 very heavy, literally.

23 What happened was horrific and should never have
24 happened. Men are afraid that women will make fun of
25 them or reject them. Women are afraid that men are gonna

1 kill them. One in four women are victims of sexual
2 assault. There are four women in my family, and
3 Catherine was the one.

4 I'm asking you today to give Temple the maximum
5 sentence possible or more for what he's done to Catherine
6 and what he's done to my family so that he can never,
7 ever, ever again get his disgusting evil hands on another
8 woman. Thank you.

9 THE COURT: Thank you.

10 VICTIM'S MOTHER: Your Honor, this is my family, and
11 yes, it has affected us greatly. But I know through
12 Catherine's strength and ours that we will heal. We are
13 a small family and we will move on and we will heal.

14 But he has to be in jail off the street. We have to
15 feel safe for a very -- we have to go face the rest of
16 our lives. Face him with the maximum penalty so that we
17 can move forward.

18 THE COURT: Anything else from the State? What is
19 his record?

20 MS. ADAMS: Your Honor, he has a conviction for
21 possession of cocaine and possession with intent to
22 distribute cocaine from '93, proximity in '95, D.U.S.
23 second in '95, malicious injury to personal property in
24 '95, simple assault in '95. He received 10 years in 2001
25 for strong arm robbery, fraudulent check in 2007, petit

1 larceny in '09. And he's got a false information to law
2 enforcement out of Georgia, Rome, in 1992. And those are
3 his convictions. He does have pending charges in
4 Greenville.

5 THE COURT: Anything else from the State?

6 MS. ADAMS: No, Your Honor.

7 THE COURT: Ma'am, did you want to say anything?
8 Back there? Come on up. If you would give us your name
9 for the record.

10 DEFENDANT'S SISTER: Yes. My name is Andrianna
11 Temple.

12 THE COURT: Yes, ma'am.

13 DEFENDANT'S SISTER: And I'm Dennis Temple's sister.
14 Does this come out?

15 THE COURT: Probably not. I can hear you. You're
16 okay. You don't need to talk into that. I'm okay.

17 DEFENDANT'S SISTER: I just want to say that Dennis
18 and I basically raised ourselves and that we have no
19 family that we can really depend upon. And I also want
20 to say that no man can judge and say what's gonna become
21 of a life. I was raised in the ghetto streets. I now
22 possess a Bachelor's Degree in Business, a Master's
23 Degree in Management, and a Ph.D.

24 So no one can say what can become of a life. A
25 person can turn their lives around. As a matter of fact,

1 Dennis was on his way to enter into a paralegal program
2 and then looking into going to law school. He had goals
3 set for his life.

4 And I ask and pray for mercy. That we let God be
5 the judge. And that we give mercy in this court today
6 because he deserves an opportunity to have children and
7 have a family and to pursue a career and to do those
8 things that we enjoy every day in our lives. So I ask
9 for mercy.

10 **THE COURT:** All right. Thank you, ma'am.

11 Mr. Temple, anything you want to say before I do the
12 sentence?

13 **THE DEFENDANT:** Your Honor, I still declare my
14 innocence of these charges. I think that if I would
15 have -- since I've been locked up in the Oconee County
16 Detention Center, I have been put in an eight-by-six
17 cell. I have not really been able to defend myself
18 against these charges until recently. Six months in an
19 eight-by-six cell. I have not had the access to a
20 lawyer. I feel that -- I mean -- that's all I got to
21 say, Your Honor.

22 **THE COURT:** All right. You know, I'm a little bit
23 speechless. First I would say that this victim is
24 extraordinarily strong and I suspect that she will be
25 okay.

1 Mr. Temple, I've been with you in the courtroom
2 since May. And, as I said, I've been a judge for 10
3 years. I was sitting up here thinking yesterday what you
4 could have done with your life if you had done the right
5 thing. And I deal with lawyers who probably don't have
6 your I.Q. And it's just the saddest thing to me. I
7 mean, I just, you know, it's just -- apart from all that
8 this victim went through, it's just sad. I look at your
9 sister back there. I've been watching her this week.
10 She cares about you. And I don't know why you got to
11 this point.

12 But one of the things that I'm most affected by is
13 you have a right to a trial and you exercised that right
14 and everyone tried to make sure that it was fair. But
15 you put this victim through the trauma of having to come
16 back and testify and relive it. And that means something
17 to me. And you didn't have to do that. And I think the
18 jury's verdict was correct. And I'm sure, as you said
19 last week, you were a hundred percent certain that the
20 Court of Appeals will overturn the verdict. They'll get
21 their opportunity.

22 SENTENCE OF THE COURT:

23 THE COURT: What I'm gonna do on each one of these
24 things: The maximum on the C.S.C. first is 30 years, the
25 maximum on kidnapping is 30, and the maximum on grand

1 larceny is 10. What I'm gonna do is sentence you on the
2 criminal sexual conduct to 30 years; on the second
3 criminal sexual conduct, 30 years to run consecutive; on
4 the kidnapping charge, 30 years to run consecutive; and
5 on the grand larceny charge, 10 years to run consecutive.

6 Good luck to you.

7 MS. ADAMS: Thank you, Your honor.

8 THE DEFENDANT: Thank you, Your Honor.

9 THE COURT: Thank you.

10 Let me also put on the record something about
11 Mr. Tavernier, who has been sitting here at my order.
12 And I mean this sincerely. Do an Order for me. I
13 appreciate what you did, I appreciate you sitting there
14 and being available. I appreciate all the time you put
15 into it. The State appreciates it, too, I'm certain.
16 And make sure you do an Order and I'll make sure you're
17 gonna get -- it wasn't wasted time.

18 All right. Thank you very much. We're adjourned.

19 MS. ADAMS: Thank you, Your Honor.

20 (Whereupon, the trial in the *State of South*
21 *Carolina versus Dennis Temple* was concluded
22 at approximately 5:00 p.m.)

23 ** End of Requested Certified Transcript of Record **

24

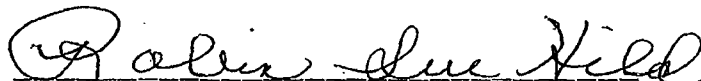
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Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, FCRR, RPR, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Oconee County, South Carolina, on the 15th day of December, 2010.

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

September 9, 2011


Robin Sue Hild, FCRR, RPR
Circuit Court Reporter



Division of Inpatient Services
Forensic Evaluation and Treatment Services
Building #6
7901 Farrow Road
Columbia, South Carolina 29203
Information: (803) 935-5600
Fax: (803) 935-5544

November 1, 2010

11/1/10

Lindsey Simmons
Assistant Solicitor
415 S. Pine Street
Walhalla, SC 29691

Re: The State of South Carolina vs. Temple, Dennis
DMH Case #: 957-0351
Oconee County, Court of General Sessions

Dear Assistant Solicitor Simmons:

In accordance with the court order issued by the Honorable Alexander Macaulay, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

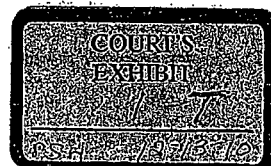
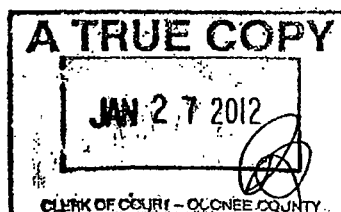
This 6 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

11/1/10
Date

Jeffrey E. Musick, Ph.D., ABPP
Jeffrey Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: Kurt Tavernier, Attorney at Law, 110 E. Benson Street, Anderson, SC 29624.

JM/tl



JEM

COMPETENCY TO STAND TRIAL EVALUATION
SCDMH FORENSIC EVALUATION SERVICE

DATE OF EVALUATION: October 18, 2010

PRESIDING: Richard L. Frierson, M.D., Professor of Clinical Psychiatry
University of South Carolina School of Medicine

SECOND EXAMINER: Scott Weyant, M.D., Resident in Psychiatry.
University of South Carolina School of Medicine

DIAGNOSES: AXIS I: Cocaine Dependence, in a controlled environment.
 AXIS II: Antisocial Personality Disorder with Prominent Paranoid
 Personality Disorder Traits.
 AXIS III: No Diagnosis.

OPINION REGARDING COMPETENCY TO STAND TRIAL: Competent.

DISPOSITION: Mr. Temple has been returned to the Oconee County Detention Center.

IDENTIFYING INFORMATION: Dennis Temple is a 37-year-old African American male who was seen at the Forensic Evaluation Center pursuant to a court order from the Oconee County Court of General Sessions. This court order requests an evaluation of his competency to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976). He is currently charged with Criminal Sexual Conduct First Degree (two counts), Kidnapping, and Grand Larceny.

LIMITATIONS OF CONFIDENTIALITY: Prior to participating in this evaluation, Mr. Temple was informed of the limitations of confidentiality. Specifically, he was informed that the examiners were employees of the Department of Mental Health and were not paid by his attorney or by the solicitor. He was also informed that the examiners could be called to court to testify at a competency hearing. He was told that a report would be submitted to the court and given to his attorney, the solicitor, and the judge in his case. He understood this information and voluntarily agreed to participate in the evaluation.

SOURCES OF INFORMATION:

1. Court order requesting the evaluation.

TSM

TEMPLE, DENNIS
957-0351

OUTPATIENT EVALUATION

2. Arrest warrant #N-136670 for Criminal Sexual Conduct First Degree.
3. Indictment for Criminal Sexual Conduct First Degree.
4. Additional indictment for Criminal Sexual Conduct First Degree.
5. Indictment for Kidnapping.
6. Arrest warrant #N-136669 for Kidnapping.
7. Arrest warrant #N-136668 for Grand Larceny.
8. Indictment for Grand Larceny.
9. Case report summary.
10. Detailed call for service report.
11. Statement of Catherine McGough.
12. Statement of Lori McAlister.
13. Statement of Tandria Moon.
14. Statement of Celina Victoria Nichols.
15. Statement given by an unknown jail inmate.
16. Second statement given by an unknown jail inmate.
17. Third statement given by an unknown jail inmate.
18. Fourth statement given by an unknown jail inmate.
19. Search warrant.
20. Bank account records of Catherine McGough.
21. Crime scene photos.
22. NADA data for trade of Honda Accord.
23. Medical records from the Oconee Medical Center related to the alleged victim.
24. Records from the South Carolina Law Enforcement Division laboratory.
25. Inmate request dated September 22, 2010.
26. Additional inmate request dated September 22, 2010.
27. Inmate request dated September 1, 2010.
28. Inmate request dated August 31, 2010.
29. Inmate request dated August 24, 2010.
30. Inmate request dated July 28, 2010.
31. Inmate request dated June 29, 2010.
32. Inmate request dated June 25, 2010.
33. Transcription of a court hearing in the Anderson County Circuit Court.
34. Motion for a change of venue.
35. Magistrate's Court bond information form.
36. National Crime Information Center (NCIC) record for the defendant.
37. Medical records from Anderson-Oconee-Pickens Mental Health Center.
38. Prior competency and criminal responsibility evaluation conducted at William S. Hall Psychiatric Institute on March 13, 2001.
39. Medical records from the South Carolina Department of Corrections.
40. A 2 hour and 15 minute clinical forensic interview on today's date.

JSM

TEMPLE, DENNIS

957-0351

OUTPATIENT EVALUATION

CLINICAL AND PSYCHIATRIC HISTORY: Mr. Temple has no history of prior psychiatric hospitalizations. He had brief contact with the Anderson-Oconee-Pickens Mental Health Center on March 22, 1995 where he was diagnosed with Cocaine Dependence. He was also evaluated at William S. Hall Psychiatric Institute for competency to stand trial and criminal responsibility on March 13, 2001. At that time, he was facing charges of Strong Armed Robbery, Assault and Battery with Intent to Kill, Possession of a Weapon during Commission of a Violent Crime, Grand Larceny, Failure to Stop for a Police Officer, and Resisting Arrest. The results of that evaluation indicated that he was diagnosed with Cocaine Dependence and was opined to be competent to stand trial, to have criminal responsibility, and to have been capable of conforming his behavior to the requirements of the law. Mr. Temple denies other psychiatric treatment or contacts.

Medical records from the S.C. Department of Corrections indicate that he has not received mental health services while incarcerated.

SUBSTANCE USE HISTORY: Mr. Temple was vague in reporting his substance use history. However, he reports that in 1997 he was addicted to cocaine. He reports that he had difficulties functioning without it. He often sold drugs to support his own habit. He had estimated that he could spend approximately \$1,000 a month on cocaine. More recently, he estimates he uses crack cocaine once a week. His history tolerance to the effects of this substance as well as an inability to stop using would meet the diagnostic criteria for Cocaine Dependence.

He also reports occasional cannabis use but denies any personal, social, or occupational difficulties related to his use of cannabis. He denies the use of other illicit substances but has taken opioids and analgesics for back pain at times.

MEDICAL HISTORY: His medical history is significant for a surgical repair of abdominal gunshot wounds that occurred in 1991. He was allegedly shot five times. He denies the history of head injury with loss of consciousness.

FAMILY HISTORY: Mr. Temple was born to Shirley and Dan Temple. His mother is 57 years of age and is on disability for "bipolar disorder." This has not been confirmed independently by Mr. Temple's report. His father is currently in prison for distribution of drugs. He is the fourth of five siblings. One of his brothers is in prison for murder. He reports that he has one sister who was also diagnosed with Bipolar Disorder. When asked to discuss the diagnosis of Bipolar Disorder in his mother and his sister, he was unable to do so and unable to describe the symptoms which led to that diagnosis.

SOCIAL HISTORY: He was born in Oconee County and lived in New York, Atlanta, and Alabama. He denied early developmental difficulties. He states he had a terrible childhood due to witnessing frequent violence and drug activity in his home. He denied a history of physical or sexual abuse as a child. He states that at age 14 or 15 he left South Carolina to go to New York to live with his father. He states that his father was hiding out in New York, avoiding pending legal charges in South

TEMPE, DENNIS
957-0351

OUTPATIENT EVALUATION

Carolina. He states that his father taught him how to sell drugs. He states that he completed the 9th grade at Seneca High School but did receive a GED from United Ministries in Greenville. He reports behavioral difficulties including stealing at age 13. He also reported cruelty to animals and truancy. He has never married and his longest relationship was described as lasting three years. He denies having any children. He has worked at manufacturing, auto body, fencing, retail, and restaurant businesses. He reports that his longest job was 1 - 2 years for a fencing company in New York. He has been to prison several times. He did a few months on a possession with intent to distribute case back in 1993. He then received a YOA sentence in 1993. He states that he violated his YOA probation by being arrested for malicious injury to personal property in 1995. Finally, in 2000 he received a ten year sentence for strong armed robbery.

MENTAL STATUS EXAM: On today's date, he was alert and oriented to person, place, day of the week, month, and year. He estimated the date was the 17th rather than the 18th. He was neatly groomed and cooperative with the interview. He made good eye contact. He was occasionally vague in answering questions and his vagueness appeared to be purposeful. He was able to register three objects and he had no difficulty recalling all three objects after five minutes. He was able to recall significant past personal information and we found no evidence of clinically significant long or short-term memory impairment. His fund of knowledge was in the average range. He demonstrated the capacity for concentration and he was able to perform a calculation. His ability to think abstractly was fair. His judgment to a hypothetical situation was fair. He initially described his mood as "sleepy." However, he rated it as a 1 on a scale of 1 - 10 being 1 being the worst he has ever felt in his life. However, he was noted to be smiling while he gave this answer and the answer appeared to be disingenuous. He denied suicidal or homicidal ideation. He reports occasional auditory hallucinations of "a voice telling me to do things or don't do things." He states that when he filed a motion to have his charges dismissed, he heard a voice telling him "be cautious in your pursuit." His description of "voices" does not fit a pattern seen in major mental illness. He denied visual hallucinations. He made a fantastical report of a bug inside of him roaming around that is allowing him to be tracked by satellite. However, when asked specific about this potential delusion, he could not provide specific information.

DIAGNOSTIC FORMULATION: As mentioned previously, Mr. Temple reports symptoms of Cocaine Dependence. Additionally, he had early onset of antisocial behaviors and his antisocial behaviors have continued into adulthood. Therefore, we are assigning a diagnosis of Antisocial Personality Disorder. What is notable, however is how quickly Mr. Temple reads demeaning messages into benign remarks made by other people. He has suspected that his past three lawyers, without sufficient basis, are exploiting, harming or deceiving him. He tends to read demeaning or threatening meanings into benign remarks or events and appears to bear grudges. These symptoms are consistent with underlying paranoid personality pathology as well as his antisocial personality pathology.

CONCLUSION REGARDING COMPETENCY TO STAND TRIAL: Mr. Temple was aware of the charges against him and he appreciates their seriousness, including the potential sentence he

JEM

TEMPLE, DENNIS
957-0351

OUTPATIENT EVALUATION

could receive if he were to be convicted. He labeled that the persons who work in court are the attorney, the solicitor, the judge, the bailiff, and the court reporter. He states that the job of the judge is "adjudicate disputes between parties -- apply the law." He states that the judge should make sure that each lawyer is proceeding within the proper procedures. He also understood the role of the judge in deciding a sentence. He states that the job of the solicitor is to "prosecute cases with justice." He was able to define the role and function of an attorney. He was able to discuss the difficulties he has had working with attorneys so far. It appears from his discussions that he may have unreasonable expectations of unusually favorable treatment from his attorney. His difficulties in forming trusting relationships with his attorney are likely due to his underlying personality pathology, but not mental illness. He states that the jury is "people who decide the fate of the defendant." He states that there were "12 - 20" jurors on a jury. He understood that they all had to agree to find him guilty. However, he mistakenly thought that if several of them did not agree to find him guilty, it would result in an acquittal rather than a mistrial. He was able to define the pleas of *guilty* and *not guilty*. He understands what a plea bargain is and would be competent to accept or reject a plea offer in his case. He was able to solve a hypothetical problem involving the courtroom. He did not appear willing to discuss evidence in his case because he states that "everything they attempted to use was a violation of the fourth amendment." He realizes that there is the possibility that he could be convicted. He added, "They do it every day -- court systems make mistakes." He stated that his desired outcome was to "be vindicated and exonerated."

From reviewing his legal writings, Mr. Temple has a good understanding of several constitutional amendments. However, although he has a legal knowledge that is greater than the vast majority of defendants that undergo competency evaluation, he appears unwilling to accept the limitations of his knowledge base. For example, he believes that his charges should have been dropped because he was not indicted within 90 days of his arrest. However, he refuses to listen to reasoning that this might not be grounds for getting his charges dismissed. It appears that Mr. Temple does not wish to "face the music" rather than being unable, secondary to mental illness, to face the music. It is our opinion that he has significant factual understanding of the legal system and the present ability to rationally consult with his attorney *if he so chooses*.



Richard L. Frierson, M.D., DFAPA
Professor of Clinical Psychiatry
University of South Carolina School of Medicine

RLF/khr

D: 10/18/10

RT/EM: 10/19/10

F/EM: 10/29/10 (RLF)



TEMPLE, DENNIS

957-0351

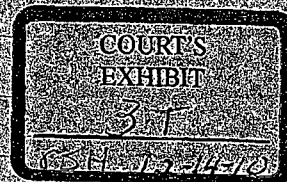
OUTPATIENT EVALUATION

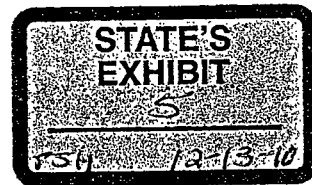
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE 40036

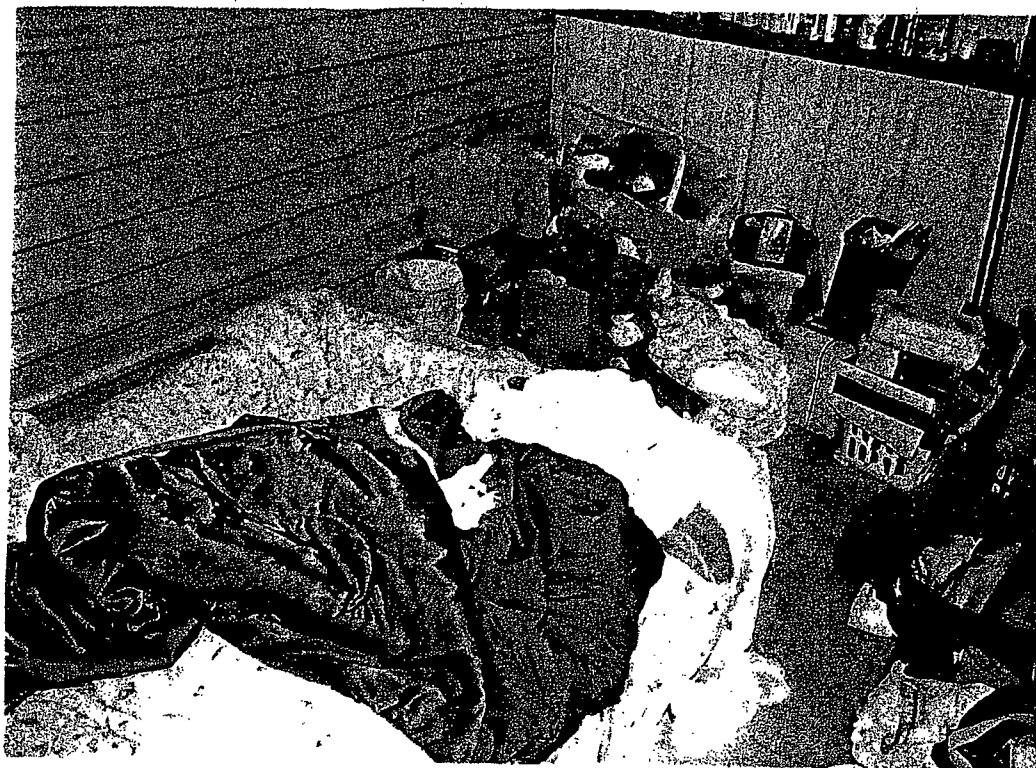
Restroom

break

Danell Smith









All-Safe Storage Co.

864-885-1006
P.O. Box 1174
Seneca, SC 29679

Mail Payments
Post Office Box 11
Seneca, SC 291

8496-#

Gate Code: _____

RENTAL AGREEMENT

This RENTAL AGREEMENT ("Rental Agreement") is made this day of 3-22-10, by and between All-Safe Storage - Seneca ("Lessor"), "Tenant", whose name and address appear hereinafter, for the rental of a self-storage unit as defined by the laws of the state wherein the storage unit is located identification number 175. Said unit is rented with the express understanding and agreement that the relationship created hereby between the parties is of Landlord and Tenant, and no bailment or deposit of goods for safekeeping is intended or created hereunder.

Lessor and Tenant hereby agree that Lessor rents to Tenant and Tenant rents from Lessor that certain self-storage unit identified herein. Tenant has inspected storage unit and acknowledges that the container is satisfactory for the intended use by Tenant.

Tenant: Dennis Temple

Phone: _____

Address: _____

Credit Card Info.: _____

Driver's License #: _____

a. Tenant shall have access to the storage unit at Lessor's storage property only during specified hours which are normally 6:00 am to 9:00 pm 7 days a w

1. **TERM:** The term of this Rental Agreement shall be for thirty (30) consecutive days (herein referred to as "monthly") beginning as of the date first above w and shall continue on a month-to-month (30 day) tenancy until terminated. Rental charges for the initial rental period shall be due in advance on the date first a written and subsequent rentals shall be due in advance on the first day of the month and subsequent anniversaries of that date. Tenant must pay to Lessor each mo rental in advance without deduction, prior notice, demand or billing statement, in the amount set forth herein. The minimum rental period shall be thirty consecutive days. Tenant will not be entitled to a refund of any prepaid rent under any circumstances, whether or not the storage unit continues to be in use by it. ~~Storage of hazardous materials in unit is prohibited by law, and Tenant shall not store, or permit to be stored, any hazardous ma~~ of any kind in the container. "Hazardous Materials" are defined, for purposes of this Rental Agreement, as any hazardous or toxic chemical, gas, liquid, substance, ma explosive, or waste that is regulated under any local, state or federal law or regulation. Tenant shall comply with all laws, regulations, rules and ordinances of any govern authorities governing the use, location and address of placement of the container at any location other than the Lessor's designated storage area.

8. **PACKING AND PACKAGING/INSURANCE DISCLOSURE:** Tenant assumes full responsibility and liability for packing Tenant's property into uni removing property from unit. Tenant further acknowledges that Lessor shall not be responsible or liable for any damage to Tenant's property for any reason, w damage occurs while it is stored at Tenant or Lessor's designated location. Tenant acknowledges that he has read and understands the provisions of this paragrap agrees to comply with its requirements.

9. **ACCESS TO UNIT AT LESSOR'S FACILITY STORAGE:** Tenant will provide driver's license number to Lessor at the time of initial rental of unit. number will be used by Lessor to identify Tenant for Tenant to gain access to Lessor's designated storage location and to the rented unit. This identification be given by Tenant to Lessor when requesting access. Tenant agrees that Lessor shall have the right to refuse access to any person who does not provid correct access identification. Tenant may authorize his representative(s) to have access by notifying Lessor in advance and providing the driver's lic number herein referenced. **DRIVER'S LICENSE NUMBER OR OTHER IDENTIFICATION ACCEPTABLE TO LESSOR (IF OTHER THAN DRIVER'S LICEN STATE TYPE OF IDENTIFICATION)** _____

LESSOR AND TENANT ACKNOWLEDGE AND AGREE TO ADDITIONAL TERMS AND CONDITIONS PRINTED ON THE REVERSE SIDE OF T AGREEMENT. IN WITNESS WHEREOF, the parties hereto have executed this Rental Agreement on the date and year first above written, and agree to be boun all of the provisions herein contained.

LESSOR:

TENANT:

DATE: 3-22-10DATE: Dennis TempleSIGN & RETURN
WHITE COPY

3-22-10

ALL - SAFE STORAGE - SENECA

P.O. BOX 1174 SENECA, SC 29679 864-885-1006

transfer 10x15 4-17-10
 193 7 days @ \$ 1.50 / day = 10.00
 to April 45.00 + \$5.00
 Next month

NAME: Dennis Temple

total 55.00

25.00

30.00

pd

ADDRESS: _____

CITY: Seneca STATE: SC ZIP CODE: 29678

EMAIL: _____

HOME PHONE: _____ WORK PHONE: _____

UNIT NUMBER: 175 UNIT SIZE: 10x152nd contactGATE ACCESS CODE: 8496 #

CREDIT CARD # _____

EXP. DATE: _____ / _____ (____)

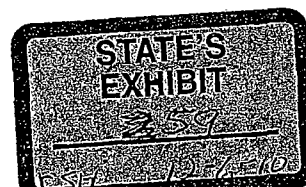
AUTOMATIC MONTHLY DRAFT: YES OR NO

Contract will arrive by mail within 3-4 business days and must be promptly
 signed and returned.

Customer is responsible for notifying ALL-SAFE STORAGE of any change
 of address.

CUSTOMER SIGNATURE: Dennis Temple

This signature certifies that I, the Lessee, have read the "sample" contract and agree to its terms and conditions. I also
 certify that it is my responsibility to return signed contract, and that it is my responsibility to notify ALL-SAFE STORAGE
 of any change of address.



RECEIPT

DATE	5-3-10	No.	071641
RECEIVED FROM	D. Temple		\$75.00
DOLLARS			
☐ FOR RENT # [REDACTED] ☐ FOR			
ACCOUNT	75-	☒ CASH	FROM 5-10 TO 6-1-10
PAYMENT	75-	☐ MONEY ORDER	
BAL. DUE		☐ CHECK	
		☐ CREDIT CARD	BY <i>door</i>

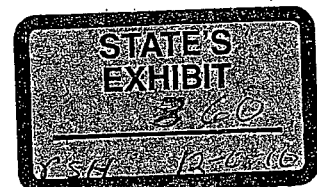
This is for Dennis Temple
Storage Fee \$75.00
193

\$75.00
5-3-10

Please call me once you
get this money!

RECEIPT

DATE	3-22-10	No.	204549
RECEIVED FROM	D. Dubble		\$30.00
DOLLARS			
☐ FOR RENT # 175 ☐ FOR			
ACCOUNT	30 -	☒ CASH	FROM 3-22-10 TO 5-1-10
PAYMENT	30 -	☐ MONEY ORDER	
BAL. DUE		☐ CHECK	
		☐ CREDIT CARD	BY <i>YCP</i>



Global Providers

Gucci, Coach, d&g, Fendi and d&b
handbags, Versace, Gucci, Ed
hardy, Fendi, Coach and Prada
Sunglasses, plus air jordan and air
force one shoes, Coogi pants

Call: dennis
107 Davis Mill Park Drive
Seneca SC 29678

864-276-8496
dennis.temple@yahoo.com
High quality products at a low price!

SC0370000, 2010-00012105

T/I: 4709/1

Type: EVIDENCE - GENERAL PROPERTY

Desc: ENV CONT 1 BUSINESS CARD FOR GLOBAL PROVIDERS.

196

G10



-EVIDENCE-

(TO BE OPENED BY AUTHORIZED PERSONNEL ONLY)

Submitting Agency: <u>Monroe County Sheriff's Office</u>	
Case No.: <u>1012105</u>	Item No.: _____
Date of Collection: <u>5-10-10</u>	Time of Collection: <u>8:45am</u>
Collected by: <u>S. Arndt</u>	Badge No.: <u>1265</u>
Description of Enclosed Evidence: <u>1</u> <u>Dennis Card, Global Provider</u>	
Location Where Collected: <u>600 Shiloh Rd</u> <u>Unit # [REDACTED]</u>	
Type of Offense: <u>CSC, Kidnapping</u>	
Victim's Full Name: <u>Catherine Mcgough</u>	
Suspect's Full Name: <u>Dennis Temple</u>	
Bag Sealed by: <u>Arndt, S</u>	Badge No.: <u>1265</u>

-CHAIN OF CUSTODY-

From	To	Date

STATE'S
EXHIBIT

64

SSH 12-14-10

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

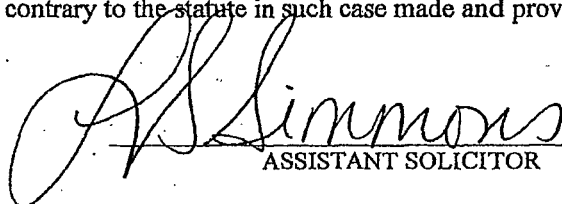
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010, the Grand Jurors of Oconee County present upon their oath:

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That **Dennis Maurice Temple** did in Oconee, on or about **May 9, 2010**, engage in a sexual battery with C.M. (9/28/1990), accompanied by the following circumstance(s): the Defendant did vaginally penetrate the victim with his penis and he did use aggravated force to accomplish the sexual battery and/or the victim submitted to sexual battery under circumstances where she was also the victim of forcible confinement or kidnapping, or any other similar offense of act. This is in violation of 16-3-652 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

N136670

ACTION OF GRAND JURY

*Chas. Adkins**True Bill*

Foreperson of Grand Jury

Date: *9-7-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS37 00889

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

SC Code: 16-03-0652

CDR Code: 0160

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 SEP -7 P 3:11

ENTERED
2010
COMPUTER

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

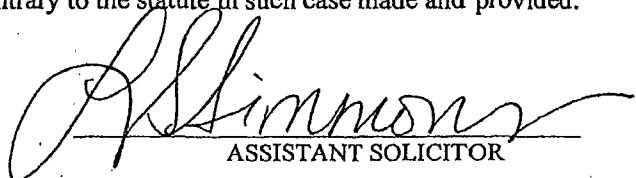
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010, the Grand Jurors of Oconee County present upon their oath:

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That **Dennis Maurice Temple** did in Oconee, on or about **May 9, 2010**, engage in sexual battery with C.M. (9/28/1990), accompanied by the following circumstance(s): the Defendant did penetrate the victim's vagina with an object (plastic bottle) and he did use aggravated force to accomplish the sexual battery and/or the victim submitted to sexual battery under circumstances where she was also the victim of forcible confinement or kidnapping, or any other similar offense or act. This is in violation of 16-3-652 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

DIAN136670

ACTION OF GRAND JURY

*Chris O'Neil**True Bill*

Foreperson of Grand Jury

Date: *9-7-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS37 00887

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

Criminal Sexual Conduct - First Degree

SC Code: 16-03-0652

CDR Code: 0160

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 SEP -7 P 3:11

LIVELY
3/11/11

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010 the Grand Jurors of Oconee County present upon their oath:

KIDNAPPING

That **Dennis Maurice Temple** did in Oconee County, on or about **May 9, 2010**, unlawfully seize, abduct, confine, inveigle, decoy, kidnap, abduct, or carry away C.M., without the authority of law. This is in violation of §16-3-0910 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

N136669

ACTION OF GRAND JURY

*Chavis Webb**True Bill*

Foreperson of Grand Jury

Date: *9-7-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010C-37 **00888**

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

KIDNAPPING

SC Code: 16-03-0910

CDR Code: 0095

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 SEP -7 P 3:11

ENTERED
AB
COMPUTER

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

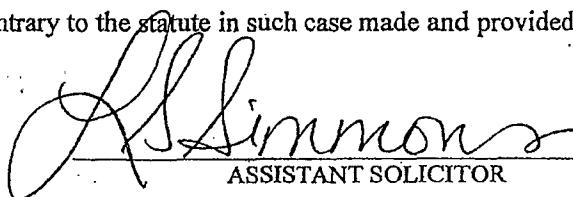
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010 the Grand Jurors of Oconee County present upon their oath:

GRAND LARCENY, VALUE OF \$5,000 OR MORE

That **Dennis Maurice Temple** did in Oconee County, on or about **May 9, 2010**, feloniously take and carry away the personal property of C.M. (09/28/1990), valued at more than \$5000, described as follows: 2008 Honda Accord, with intent to deprive the owner permanently of such property. This is in violation of §16-13-30(B)(2) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

N136668

ACTION OF GRAND JURY

*Chris O'Neil**True Bill*

Foreperson of Grand Jury

Date: *9-7-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS37 **00886**

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

GRAND LARCENY, VALUE OF \$5,000 OR MORE

SC Code: 16-13-0030(B)(2)

CDR Code: 0479

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

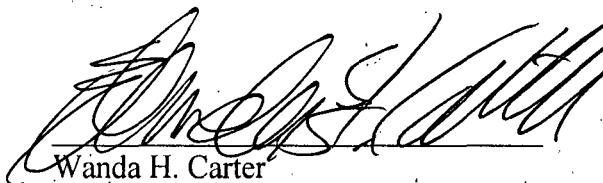
2010 SEP -7 P 3:11

ENTERED
LB
3/10/10

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

28th, of September



Wanda H. Carter

Deputy Chief Appellate Defender

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

ATTORNEY FOR APPELLANT