

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Clarendon County

R. Knox McMahon, Circuit Court Judge

VOLUME I OF II

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SC SUPREME COURT

DONNEIL WOODS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000131

APPENDIX

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

David Spencer
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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ORIGINAL

State of South Carolina

)
)County of
Clarendon)
)
)The State of South Carolina,
Plaintiffs

vs.

Trial
Indictment No. 08-GS-14-365Donniel Woods,
DefendantOctober 14th-16th 2008,
Manning, S.C.

BEFORE THE HONORABLE CLIFTON NEWMAN, JUDGE.

Ms. Amy S. Land,
Assistant Soilcitor for the StateMs. Deborah K. Butcher,
Attorney for the DefendantMargaret T. Sullivan
Court Reporter

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1 MS. LAND: Your Honor, this is The State
2 of South Carolina versus Donniel Woods. This
3 is Indictment 2008-GS-14-365. If I may, I will
4 pass forward the State's potential witness
5 list. And the Clerk has the original true
6 billed Indictment.

7 THE COURT: Ladies and Gentlemen, the
8 State has called for trial the case of the
9 State versus Donniel Woods. This case comes in
10 to Court as the result of an Indictment
11 returned by the Grand Jury of Clarendon County
12 charging Donniel Woods with Criminal Sexual
13 Conduct first degree, Kidnapping, and Strong
14 Armed Robbery.

15 He has pled not guilty of this charge. He
16 is presumed to be not guilty of this charge.
17 He cannot be found guilty of this charge unless
18 the state presents evidence which convinces a
19 jury of his guilt beyond a reasonable doubt. .

20 Mr. Donniel Woods, if you will stand and
21 face the jury panel. And, counsel, if you will
22 introduce yourself as well representing
23 Mr. Woods.

24 MS. BUTCHER: Hi, my name is Deborah
25 Butcher. I am one of the two Public Defender's

1 in Clarendon County. I represent Mr. Donniel
2 Woods.

3 THE COURT: And the state is represented
4 through counsel as well. If you will introduce
5 yourself, as well as anyone else you would
6 like.

7 MS. LAND: Thank you, Judge. My name is
8 Amy Land. I am an assistant solicitor here in
9 Clarendon county, obviously on this case.

10 THE COURT: Any member of the jury panel
11 related by blood or connected by marriage or
12 friendship, or any other relationship with any
13 of the lawyers involved in this case, or with
14 Mr. Woods? if so, please stand. Yes, ma'am.

15 THE JUROR: I am related to Donniel
16 Woods. Second cousin.

17 THE COURT: What is your name, please?

18 THE JUROR: Jenny Dozier.

19 THE COURT: And would that affect your
20 ability to be fair and impartial?

21 THE JUROR: Yes.

22 THE COURT: We will not consider you for
23 selection in this case. Stay with us. But you
24 won't be picked as a juror. Stay with us.
25 The following people may testify in this case.

1 If you are here, I need you to stand. Sheila
2 Summers. Face the jury panel when you stand.
3 Thank you. Todd Avant, law enforcement. D.J.
4 Marion, Reggie Nelson. Tywan Blackwell, Lisa
5 Blackwell, Buckley Mock. Marsha Nelson.
6 Barbara Proctor, Laura H. Miles. If you are
7 related by blood or connected by marriage or
8 friendship, or any other relationship with any
9 of those perspective witnesses, please stand.
10 Yes, ma'am, your name.

11 THE JUROR: Lauren Green. I know both
12 Buckley Mock and Marsha Nelson from working at
13 the hospital.

14 THE COURT: Would that affect your ability
15 to be a fair and impartial juror in this case?

16 THE JUROR: I don't think so.

17 THE COURT: your name please.

18 THE JUROR: Renee Larrimore.

19 THE COURT: Ms. Larrimore. Yes, ma'am.

20 THE JUROR: My husband works at the Fire
21 Department. He is a volunteer.

22 THE COURT: Your name, please.

23 THE JUROR: Monica Bruce.

24 THE COURT: Monica Bruce, would that fact
25 affect your ability to be fair and impartial?

1 THE JUROR: No, sir.

2 THE COURT: Yes, ma'am.

3 THE JUROR: Thank you. I work with
4 Marsha Nelson in the emergency room.

5 THE COURT: Your name please?

6 THE JUROR: Cindy Vincent.

7 THE COURT: Would that fact affect your
8 ability to be fair and impartial?

9 THE JUROR: No, sir.

10 THE COURT: Thank you for bringing that to
11 our attention. These offenses allegedly
12 occurred on or about June 23rd 2006. In what
13 area of the county?

14 MS. LAND: In the Alcolu area.

15 THE COURT: In the Alcolu area of the
16 county. If any member of the jury panel has
17 heard anything about this case, if you know
18 anything about this case, please stand. Okay.
19 You have already been set aside. Thank you
20 again.

21 If any member of the jury panel or any
22 member of your immediate family has ever been
23 the victim of a violent crime, please stand.
24 Yes, ma'am. Tell me the crime, please.

25 THE JUROR: My brother was murdered.

1 THE COURT: And your name, please.

2 THE JUROR: Carole Jackson.

3 THE COURT: Ms. Jackson, would that fact
4 affect your ability to be a fair and impartial
5 juror?

6 THE JUROR: I can't answer.

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

8 THE JUROR: My niece was molested as a
9 child.

10 THE COURT: And what is your name, please?

11 THE JUROR: Rachel Floyd.

12 THE COURT: Floyd?

13 THE JUROR: Floyd.

14 THE COURT: And would that fact affect
15 your ability to be a fair and impartial juror?

16 THE JUROR: No.

17 THE COURT: It would not. Thank you.
18 Yes, ma'am.

19 THE JUROR: My grandson has been in
20 trouble. He has been charged with second
21 degree lynching.

22 THE COURT: And your name, please?

23 THE JUROR: Sue Mitchum.

24 THE COURT: And would that fact affect
25 your ability to be fair and impartial?

1 THE JUROR: No, sir.

2 THE COURT: Thank you. We will not
3 consider Ms. Jackson for service in this case.
4 Your first name, Ms. Jackson?

5 THE JUROR: Carole.

6 THE COURT: Carole Jackson. Are there
7 any additional questions that the state or the
8 defense would like for me to pose?

9 MS. LAND: Not from the State, Judge.

10 MS. BUTCHER: No, Your Honor.

11 THE COURT: Does any member of the jury
12 panel know of any reason why you should you not
13 be selected as a juror in this case? Please
14 let me know at this time by standing. The
15 panel is now qualified. Give the clerk your
16 attention. We will proceed with jury
17 selection.

18 MS. BUTCHER: Your Honor, what are the
19 strikes, please?

20 THE COURT: The strikes are 5 and 10. In
21 this process, Ladies and Gentlemen, involve the
22 clerk, Ms. Roberts. What are you doing, Ms.
23 Clerk, somehow or another getting your numbers
24 randomly selected from a list of about 25 to
25 28.

1 THE CLERK: I need to do about 27.

2 THE CLERK: 27 names. They will be a
3 random selection. And she will call them out.
4 And have the State and the defense present or
5 strike you. Then we will know whether you are
6 seated on this jury.

7 THE CLERK: Juror No. 48 Tabitha Gardner
8 (F-W) Accepted, 105 Ruth Ann B. Riley (f-b)
9 accepted, No. 67 Sandra B. Kinard (f-w) defense
10 struck, No. 65 Arthur Jordan, III (m-w) defense
11 struck, 71 Erin M. Lane (m-w) accepted, No. 118
12 Shirley a. Smith (f-b) accepted, No. 125 Rodney
13 B. Welch (m-w) accepted, No. 87 Susie Mitchum
14 (f-w) defense struck, 16 Lillian Bradley (f-b)
15 accepted, No. 96 Lena B. Patel (f-o) defense
16 struck, No. 70 Renee Lawrimore (f-w) defense
17 struck, No. 116 Rufus Stukes (m-b) accepted,
18 No. 117 Winford Stukes, (m-b state struck, No.
19 35 Ramona Dow (f-b) accepted, No. 2 Mary W.
20 Anderson (f-b) state struck, No. 28 Rodderick
21 Crummel (m-b) state struck, No. 44 Lasha Floyd
22 (f-b) defense struck, No. 123 Michael Wallace
23 (m-b) state struck, No. 4 Karen D. Ardis, (f-w)
24 defense struck, No. 3 Edward B. Andrews (m-w)
25 accepted, 7 Judith K. Bennett (f-w) defense

1 struck, No. 82 Jill C. McFadden (f-w) defense
2 struck, No. 80 Judy L. McCray (f-w) accepted,
3 No. 19 Monica S. Bruce (f-w) defense struck,
4 No. 46 George Harold First, III (m-w) defense
5 struck. No. 113 Deborah R. Smith (f-b)
6 accepted, No. 23 Margery Chandler (f-w)
7 accepted, No. 122 Cynthia Vincent (f-w) defense
8 struck, No. 57 Janice Hughes (f-w) accepted.

9 THE COURT: Any matters of law regarding
10 jury selection?

11 MS. LAND: Not from the state, Your Honor.

12 MS. BUTCHER: None, Your Honor.

13 THE COURT: Ladies and Gentlemen, you have
14 been selected to be the jury in the trial of
15 this case. Those of you who are not selected,
16 we are going to excuse you all for the balance
17 of this day. We need you to call in after
18 6:00 p.m. to find out when you will need to
19 come back. After 6:00 p.m., not before. After
20 6:00 p.m. there will be a message for you.
21 Thank you very much. And we will see you
22 later.

23 Ladies and Gentlemen, if you will stand to
24 be sworn.

25 (Whereupon, the jury is sworn.)

1 THE COURT: This is the case of the State
2 versus Donniel Woods. As I stated earlier, the
3 case comes in to Court as a result of an
4 Indictment returned by the Grand Jury charging
5 him with criminal sexual conduct in the first
6 degree, kidnapping, and strong armed robbery.

7 The oath that you just took says you will
8 well and duly try this case and render a true
9 verdict according to the law and according to
10 the evidence so help you God. The oath that
11 you have taken, that's the oath that you are
12 expected to live up to during your jury
13 services. Jury service is a very sacred, and
14 specially reckoning right of privilege in these
15 United States. It's a right that is conferred
16 by the Constitution of the United States and by
17 the Constitution of the State of South
18 Carolina.

19 As jurors, you are therefore
20 constitutional officers. You are serving as a
21 result of your Constitutional Rights. And
22 whatever you decide to be the verdict in the
23 case, that's what the verdict in this case will
24 be. And so do not take your responsibility
25 lightly. And I am sure that you won't.

1 Because we have as jurors the honor and the
2 privilege and duty to sit in judgment of your
3 follow man in determining whether or not that
4 individual is guilty or not guilty of the crime
5 charged.

6 You should distinctly understand that the
7 fact that a person in this instances, Mr. Woods, has
8 been indicted in this case; that is not evidence in
9 this case. The defendant or any accused is
10 presumed to be not guilty of the charges that are
11 leveled against him or her. And that plea of not
12 guilty puts the burden on the State to prove the
13 defendant guilty.

14 The State must meet that burden of proving
15 guilt beyond a reasonable doubt. Only the 12 of you
16 are will deliberate, can decide guilt or innocence
17 in this case. Only you can decide the facts of this
18 case. That's why the 12 of you are selected. Or 13
19 are selected, but 12 will serve in deliberations.
20 And your role is to decide the facts of this case.
21 You decide the facts of this case based on the
22 evidence offered during the course of this trial,
23 through testimony and witnesses and through exhibits
24 or other things offered in to evidence.

25 Now just as only you can decide the facts

1 of this case, as the trial judge, I am the sole
2 judge of the law of this case. You must accept the
3 law exactly as I state it to you at this time,
4 during the trial, and in greater detail at the end
5 of the trial.

6 Now jurors are not allowed to engage in
7 any form of premature deliberations or discussion
8 concerning this case. That means you are not
9 allowed to discuss the case at all with each other,
10 anyone else, allow anyone to discuss it with you, or
11 in your presence until I tell you that it's time to
12 do so. That will be after you have listened to all
13 of the evidence, after you have listened to the
14 arguments of the lawyers, and after you have
15 listened to the charges on the jury instruction
16 regarding the law that you apply to the facts as you
17 determine the facts to be.

18 I look forward to working with you on this
19 case, and any other cases we may do here this week.
20 I will do all that I can to make this jury service
21 experience as beneficial, as fulfilling as possible.
22 I will try to keep the case moving. Give you breaks
23 frequently enough so that your focused attention
24 would be where it should be in this case. And we
25 will proceed at this time with opening statements

1 from the State.

2 MS. LAND: Thank you, Judge.

3 THE COURT: Ms. Land.

4 MS. LAND: First of all, I would like to
5 thank you for your jury service today. You are
6 probably the most important people in this
7 courtroom. You are the only people in this
8 case that gets to decide what happened. And
9 you will decide that through evidence that is
10 presented through that witness stand. And in
11 the form of documents and anything else that is
12 placed in evidence. Now those of you that got
13 summoned for jury duty and thought that it
14 might be a little like CSI or some of those
15 shows that we love to watch on TV, you're going
16 to be disappointed. Those shows are glamorized
17 replications of things that actually happened.
18 They last for an hour, minus commercials. And
19 just isn't real life.

20 They also have all kinds of fancy
21 technology, DNA, things like that, that don't
22 often happen in the real world. The evidence
23 that you will hear and that will be presented
24 to you mainly will come from the victim in this
25 case. Her name is Sheila Summers. And she is

1 seated back here behind my chair in the black
2 shirt. Sheila is a graduate of Morris College.
3 Had a friend here in Manning; has never lived
4 here in Manning, but visited here often.

5 She was at a friend's home. And on June
6 23rd 2006, that man, Donniel Woods, happened to
7 be there as well. And he asked her for a ride
8 up to the store. And she said, "Yeah, I will
9 be glad to take you." As most of us probably
10 would, as a friend of a friend while we're
11 visiting their home. That is when this
12 horrible, horrible event happened. He grabbed
13 the wheel after a point, pulled her over to a
14 dirt road. Made her perform oral sex on him.
15 Drug her into the woods and had intercourse
16 with her. Drove her to a second location and
17 raped her again.

18 And this is all going to be hard to
19 swallow because it was a very, very traumatic
20 event. It's going to hard for us to hear, but
21 I want you to imagine how It was for her to
22 live. And the evidence that you will hear,
23 will come from her. She will tell you what
24 happened to her. And one thing that you have
25 complete control over is judging the

1 credibility of the witnesses. You can believe
2 all of what they say or none of what they say.
3 You can believe somebody because they have the
4 reason to tell the truth or they can have a
5 reason not to tell the truth.

6 I submit to you Ms. Summers is here over
7 two years later, while her life has been on
8 hold because of this horrible tragedy, to tell
9 you the truth. She had no problems with
10 Donniel Woods; had no problems before this
11 date. Had no reason to make this up. She is
12 simply here to tell you what happened. What he
13 did. How he held her against her will. You
14 will also hear from Todd Avant who was the
15 investigator in this case. And you hear how
16 she told him this happened out on a dirt road.
17 Described where the dirt road was to the best
18 of her ability. Because if you remember, she
19 is not from here. She is not from Alcolu. She
20 doesn't know this area. How she told him, he
21 took my wallet out of my purse. Took the money
22 out it and threw it out of the car. And you
23 will hear how he found that wallet right there
24 where he threw it.

25 Ladies and gentlemen, you will hear this

1 and all the evidence from this witness stand.
2 And I ask to pay very, very close attention
3 because this is an important day for Sheila
4 Summers. This is her day in court. And Ms.
5 Butcher will get up here in a minute and tell
6 you that this is Donniel Woods' day in court.
7 But Sheila Summers is having her day as well.
8 It is her day for justice. And we ask that you
9 keep an open mind. Listen to all the evidence.
10 Think about people's credibility. Think about
11 why you believe what they are saying or why you
12 don't believe what they are saying, And what
13 reason they would have to say something that is
14 not true. Or what reason they would have to
15 tell the truth.

16 And I submit to you that after all of the
17 evidence is presented, at the end of this case
18 and the judge tells you what the law in South
19 Carolina is, that you will go back and find him
20 guilty of criminal sexual conduct, kidnapping
21 and strong armed robbery. Thank you.

22
23 MS. BUTCHER: May it please the court.

24 THE COURT: Ms. Butcher.

25 MS. BUTCHER: My name is Deborah Butcher.

1 I am one of the two public defenders in
2 Clarendon County. As a public defender, it is
3 my job defend the people of our State. I
4 defend you, your neighbors, others in the
5 community. And today I am representing
6 Mr. Donniel Woods. To give you a little bit of
7 background about Mr. Woods. He's lived the
8 last 7 to 9 years in Sumter. There with his
9 wife and two children.

10 MS. LAND: Your Honor, I am going to
11 object to this. I don't think that she can
12 tell them personal facts about the defendant's
13 life unless the defendant is going to...

14 THE COURT: Ms. Butcher.

15 MS. BUTCHER: Your Honor, I think those
16 are just very broad facts. I will not go in to
17 that any further though.

18 THE COURT: All right.

19 MS. BUTCHER: May it please the court,
20 thank you, Your Honor. Mr. Woods was accused
21 two years ago of these crimes. And he has been
22 waiting for a trial. He has been waiting for a
23 trial because he maintains that he is innocent.
24 And is asking for a trial. That's what he is
25 saying, I am innocent. Two years has been a

1 long time. And yes, as Ms. Land said, this is
2 his day in court also.

3 And he has been accused of some very
4 serious things, robbing, kidnapping and
5 criminal sexual conduct against Ms. Summers.
6 These, Ladies and Gentlemen, are things that
7 cannot be decided upon lightly. It is up to
8 the state to prove to each and every one of you
9 that he is guilty of these crimes beyond a
10 reasonable doubt. Beyond a reasonable doubt is
11 sort of a hard concept at times. A good trial
12 lawyer once described it as the state has to
13 show you the accused through a clear pane of
14 glass. At the end of this trial when you have
15 seen all of the evidence, and you look through
16 that glass and you cannot see clearly this
17 much, they have not met their burden, and you
18 must then find the defendant, the accused, not
19 guilty.

20 I have no job in this case to present to
21 you evidence of Mr. Woods' guilt or innocence.
22 Mr. Woods has no job or position to present to
23 you his innocence. The burden of proof of, and
24 production is wholly upon the state. As I
25 said, rape is a very horrible crime. But it is

1 a very horrible injustice to put an innocent
2 man in prison. Ladies and gentlemen, I thank
3 you for your time. I want you all to listen
4 very carefully to what is presented and what is
5 not presented in this case. Use your common
6 sense and use your logic. And I thank you
7 again for your time and attention. Thank you.

8 Your Honor, may we approach?

9 THE COURT: Ladies and gentlemen, I am
10 going to have you go to the jury room for a few
11 minutes. Please do not discuss the case.

12 (Whereupon, the following takes place
13 outside the presence of the jury.)

14 THE COURT: Yes, ma'am.

15 MS. BUTCHER: I apologize, Your Honor, I
16 just wanted to make sure the witnesses were
17 sequestered. I didn't realize you were going
18 to excuse the jury.

19 THE COURT: The defense moved to sequester
20 the witnesses.

21 MS. LAND: Yes, Your Honor.

22 THE COURT: All right.

23 MS. LAND: Your Honor, we don't have a
24 problem with that, but we would like a
25 reciprocal witness list and also her witnesses

1 to be sequestered.

2 MS. BUTCHER: Your Honor, I will be glad
3 to sequester any potential witnesses. I was
4 trying to reserve the right to put my witness
5 list up when I presented my case.

6 THE COURT: All right, the witnesses will
7 be sequestered except the victim and any
8 assisting officer, law enforcement officer.
9 The sequestration applies to the state and the
10 defense.

11 MS. BUTCHER: Your Honor, I don't believe
12 Mr. Todd Avant is the lead investigator. I
13 believe he was at the beginning of this case.
14 And then he was no longer employed. And I'm
15 not sure who took the case over. But I
16 understand he is not presently employed with
17 law enforcement in Clarendon County.

18 MS. LAND: Judge, he's not. But he was
19 the lead investigator at the time. He has all
20 of the evidence that is going to be presented
21 from the Sheriff's Office. He was the lead
22 investigator.

23 THE COURT: The state can select who the
24 state would like to be assisting officer.

25 MS. LAND: Your Honor, the victim's

1 advocate---

2 THE COURT: Why don't you all find out
3 whatever you want to find out about whom ever.

4 MS. LAND: Okay.

5 THE COURT: Anything else before we bring
6 the jury back?

7 THE COURT: None from the state.

8 MS. BUTCHER: None from the defense, Your
9 Honor.

10 THE COURT: You may bring the jury.

11 (whereupon, the following takes place
12 within the presence of the jury.)

13 THE COURT: The jury is back, you may call
14 your first witness.

15 MS. LAND: Thank you, judge. We would
16 call Sheila Summers.

17 Sheila Summers, Being first
18 duly sworn, testified as follows:

19 Direct Examination by Ms. Land:

20 Q Ms. Summers, I am going to stand over
21 here. Then I know if I can hear you, the jury can
22 hear you as well. Would you introduce yourself to
23 the jury please?

24 A My name is Sheila Summers.

25 Q And, Ms. Summers, how old are you?

Sheila Summers-direct by Land

1 A 24.

2 Q And where do you live right now?

3 A Right now I live in Salisbury, North
4 Carolina.

5 Q Do you recall June 23rd of 2006?

6 A Yes, I do.

7 Q During that time, where were you living?

8 A At that time I was living with my mother.

9 But I was also back and forth to North Carolina,
10 because I babysat my nephew during the summer.

11 Q So during the summer you lived in North
12 Carolina. And lived with your mother during the
13 school year?

14 A Yes, ma'am.

15 Q Okay. And where did your mother live?

16 A St. George, South Carolina.

17 Q Did you attend school during that time?

18 A June of 2006?

19 Q Uh-huh. (affirmative.)

20 A No, ma'am. I had already graduated in
21 May of 2006.

22 Q And where did you graduate from?

23 A Morris College.

24 Q What was your degree in?

25 A Bachelor in Fine Arts.

Sheila Summers-direct by Land

- 1 Q And are you currently employed at this
2 time?
- 3 A Yes, I am.
- 4 Q What do you do?
- 5 A I'm a machine operator and a hole driller.
- 6 Q And that's in Salisbury, North Carolina?
- 7 A Yes, sir.
- 8 Q Ms. Summers, do you have any children?
- 9 A No, I don't.
- 10 Q Are you married?
- 11 A No, ma'am.
- 12 Q During that time of 06, was it normal for
13 you to make trips to Manning, South Carolina?
- 14 A Yes, it was.
- 15 Q And what reason did you have for coming to
16 Manning?
- 17 A I had a friend that lived there.
- 18 Q Where -- what was this friend's name?
- 19 A Tywan Blackwell.
- 20 Q And where did you meet Mr. Blackwell?
- 21 A At Morris College.
- 22 Q Had you come prior to that date,
23 June 23rd, of 2006, to visit Mr. Blackwell?
- 24 A Yes, I did.
- 25 Q How many times did you think you had come

Sheila Summers-direct by Land

1 to visit him?

2 A Maybe 10 to 20 times.

3 Q So during those 10 to 20 trips, did you
4 become familiar with the Manning area?

5 A Somewhat.

6 Q And when you came to visit him, what part
7 of the county would you go to?

8 A Oh, you mean what part? Alcolu or either
9 Sumter where his mother lived.

10 Q And when you went to Alcolu, where would
11 you stay?

12 A At Troy Nelson's house.

13 Q And what was Troy's relationship to you
14 and Tywan?

15 A He was my friend to me, and to Tywan.
16 They were cousins.

17 Q And so that's where you stayed when you
18 stayed in Alcolu?

19 A Yes, ma'am.

20 Q Did you ever stay in Sumter?

21 A Yes, ma'am.

22 Q And when you stayed in Sumter, where did
23 you stay?

24 A At his mother's house?

25 Q Were you and Troy closer than friends?

Sheila Summers-direct by Land

1 A No, ma'am.

2 Q Okay. So you would just come and visit
3 and you would hang out?

4 A Yes, ma'am.

5 Q Would you call him one of your best
6 friends during that time?

7 A No, ma'am.

8 Q Just a good friend.

9 A Yes, ma'am.

10 Q Let's go to that date, June 23rd of 2006.
11 On that day or night, did you go to Troy Nelson's
12 house?

13 A Yes, I did.

14 Q And what was your reason for going there
15 that evening?

16 A I was there the day before and I left my
17 phone charger. And before I left, I told my mother
18 that I was going over there to get my phone charger.

19 Q And what time of day or night would you go
20 over there?

21 A It was after seven then when I left from
22 home. So I got there almost around 8 o'clock.

23 Q So when you left from home, do you mean
24 St. George?

25 A Yes, ma'am.

Sheila Summers-direct by Land

1 Q Okay. So you went from St. George to Troy
2 Nelson's home in Alcolu to get your charger?

3 A Yes, ma'am.

4 Q Charger.

5 A Phone charger.

6 Q And was anyone home when you got there?

7 A Troy was there. And Donniel Woods was
8 there.

9 Q Had you ever meet Donniel before?

10 A Yes, ma'am, once before.

11 Q And do you recall meeting him before what
12 the circumstances were?

13 A Ma'am?

14 Q When you met him before, do you recall
15 where you met him?

16 A Yes, ma'am. It was the same place.

17 Q The time that you met him, the very first
18 time, did anything unusual happen?

19 A We got into an confrontation.

20 Q Okay, why was that?

21 A It was about Florida or something. He was
22 talking about something, and I disagree with it.

23 Q Okay.

24 A That's all it was.

25 Q Okay. It's wasn't any kind of violent

Sheila Summers-direct by Land

- 1 confrontation?
- 2 A No, ma'am.
- 3 Q It was just a disagreement?
- 4 A Yes, ma'am.
- 5 Q And did you still consider Donniel an
- 6 acquaintance of Troy?
- 7 A Yes, ma'am.
- 8 Q Did you think of him as a bad person, or
- 9 have any bad feelings toward him?
- 10 A Not at the time.
- 11 Q Okay. Because of that argument, you had
- 12 no bad feelings towards him?
- 13 A No, I didn't.
- 14 Q And on June 23rd 2006, when you went to
- 15 Troy's, he was there. Did he ask you for a favor?
- 16 A Yes, he did.
- 17 Q What did he ask you?
- 18 A He asked me would I run him to the store
- 19 before I went home.
- 20 Q And what did you say?
- 21 A I said, yes, I would.
- 22 Q Did you mind driving him to the store?
- 23 A No, I didn't.
- 24 Q How far was the store from Troy's home?
- 25 A Not even 5 minutes.

Sheila Summers-direct by Land

1 Q And when you say the store, do you know
2 the name of the store?

3 A It was the Exxon right by the Shrimper.

4 Q Okay. So it's the Alcolu Exxon?

5 A Yes, ma'am.

6 Q Did you take him to the store?

7 A Yes, I did.

8 Q And did he go into the store, or did you
9 go into the store?

10 A I didn't go into the store with him, but
11 he did.

12 Q Do you recall what he bought?

13 A A beer.

14 Q And had he been drinking at Troy's?

15 A I don't know if he was drinking before
16 then. But when I got there, he wasn't.

17 Q And so you took him to the Alcolu Exxon
18 and he purchased a beer?

19 A Yes, he did.

20 Q And he came out. What happened after
21 that?

22 A When he came out, he asked me to take him
23 back to Troy's house. And I do remember him opening
24 the beer. And as we approached Troy's house and I
25 was about to turn the wheel, he grabbed my arm, and

Sheila Summers-direct by Land

1 he grabbed the wheel, and said, he forced me to
2 drive. And he said, "If you don't drive, I am going
3 to kill you."

4 Of course I asked him, what was he doing. And he
5 said, "Shut up and drive." So I became afraid and I was
6 crying. And I drove because I didn't want to die. So I
7 drove to the end of the paved road.

8 Q Did you know if he had a weapon?

9 A I don't know.

10 Q And when you say you drove to the end of
11 the paved road.

12 A Yes, ma'am.

13 Q Did you know what the name of that road
14 is?

15 A I don't know of the name of the road.

16 Q At that time were you familiar with that
17 area?

18 A With that particular part.

19 Q Okay. So you were familiar with it.

20 A With that road.

21 Q Okay. And when you left the paved road,
22 then you went on to a dirt road?

23 A Yes, he forced me to turn right on to the
24 dirt road.

25 Q How far up the dirt road did you drive?

Sheila Summers-direct by Land

1 A Not very far, maybe a mile at that. But
2 he told me to come to a stop.

3 Q And during that mile that you drove, was
4 he saying anything to you?

5 A I mean he was saying all kinds of things,
6 you know, if I didn't do what he said he was going
7 to kill me. And he was laughing and he was drinking
8 a beer. I mean, you know, with his right hand.
9 With the left hand he was still holding on to me. I
10 was very afraid, of course. When we did come to the
11 stop he told me to, "shut off the car." And I did
12 as I was told, because like I said, I was afraid. I
13 shut off the car. And he took my keys. He took my
14 phone. He took the battery out of the phone. And
15 put it in the console between the passenger and the
16 driver's seat. He also took my purse.

17 Q And after he took those things, what
18 happened?

19 A Excuse me?

20 Q I know this is difficult.

21 A After that happened, he still had me by
22 the arm, and he drug me from the driver's side to
23 the passenger side, out of the car. We were
24 standing outside the car. He then let my arm go.
25 And told me to undress. And when he let my arm go,

Sheila Summers-direct by Land

1 I did take off my shirt. And I felt like in my
2 mind, it was like an escape. So that's when I
3 tried -- I began running, and he ran after me. And
4 he caught me, and I fell. And he drug me by my hair
5 back to the car.

6 And after that, when we got back to the
7 car, he told me to take off my pants. And I took my
8 shoes as well as my pants. And I took off my shoes
9 and my pants. And then he grabbed me by my arm, and
10 he told me, "If I try to escape he is going to break
11 my face and he was going to and kill me." And he
12 drug me into the woods. And he told me to perform
13 oral sex on Him. And then he also raped me.

14 Q And that was in the woods?

15 A Yes, ma'am.

16 Q At that point in the woods during the oral
17 sex and the sexual intercourse, what were you
18 wearing if anything?

19 A It was a baby phat outfit.

20 Q You still had it on during the attack?

21 A No, I didn't.

22 Q Okay.

23 A I had on my bra, that was it.

24 Q And you had taken off your pants at his
25 demand?

Sheila Summers-direct by Land

1 A Yes, ma'am.

2 Q After, when you say he raped you, he had
3 actual intercourse with you?

4 A Yes, he did.

5 Q I am sorry, because I don't want this to
6 be too difficult. But during the intercourse, did
7 he place you on the ground? Tell the jury about how
8 it happened.

9 A He threw me on the ground on my back.

10 Q And he got on top---

11 A He held me down.

12 Q What were you saying, if anything, during
13 that?

14 A "Please don't do this. Let me go home.
15 Don't kill me. I want to go home to my family."

16 Q And what did he say?

17 A He told me to shut me up, or he was going
18 to kill me. And I would never see anybody again.

19 Q Did you feel scared at that time?

20 A Yes, I was.

21 Q Were you crying?

22 A Yes, I was.

23 Q After he finished raping you, do you know
24 if he ejaculated?

25 A Yes, he did.

Sheila Summers-direct by Land

1 Q And how do you know that?

2 A Because he did it on me.

3 Q Where on you?

4 A On my arm and my stomach.

5 Q And what did you do after that?

6 A He then pulled me up. He told me to stand
7 up. He had me by my arm still. And he told me to
8 put on my pants. I didn't know where my underwear
9 was. So I put on my pants. And he still had me by
10 the arm, and forced me to walk back to the car. So
11 we walked back to the car.

12 Q During that time or prior to that, had he
13 done anything with your wallet?

14 A Yes, he did. He took my wallet before we
15 went into the woods.

16 Q What if anything did he do with your
17 wallet?

18 A Ma'am?

19 Q What did he do with your wallet?

20 A He took the money out, I know that. But
21 after that, I didn't see the wallet. After the
22 incident, I didn't see the wallet after that.
23 Because he was going through it when we went through
24 the woods.

25 Q Did he allow you to put your shirt back on

Sheila Summers-direct by Land

1 once you got back to the car?

2 A No, ma'am, because he didn't know where it
3 was.

4 Q Okay. So you couldn't find your shirt.

5 A I couldn't find my shirt.

6 Q And you couldn't find your underwear.

7 A No, ma'am.

8 Q So you had on your bra and your pants?

9 A Yes, ma'am, that was it.

10 Q Did you do anything to clean yourself?

11 A Nothing.

12 Q After he had ejaculated on you, on your
13 arms, did you wipe it or anything?

14 A No, ma'am.

15 Q When you got back in the car, who got in
16 the driver's seat?

17 A He did.

18 Q And where were you?

19 A When he got back -- well I got in the car
20 first. Of course, like I say, he had me by the arm.
21 Then he made me get in from the driver's side to the
22 passenger side. And then that's when he get in the
23 car.

24 Q Did he drive the car?

25 A Yes, he did. But before proceeding to

Sheila Summers-direct by Land

- 1 drive, he backed up and got stuck.
- 2 Q The car got stuck?
- 3 A Yes, It did.
- 4 Q Was it your car that you were driving that
- 5 evening?
- 6 A Yes, ma'am.
- 7 Q And what kind of car was it?
- 8 A A 97 Ultima.
- 9 Q When the car got stuck, what happened?
- 10 A He tried, you know, to move the car, but
- 11 it wouldn't move. And he forced me to get out. He
- 12 told me if I tried to run, he was going to kill me.
- 13 And he forced me to get out and try to push the car
- 14 while he was trying to, you know, while he was
- 15 stepping on the gas.
- 16 Q Did you do what he asked you to do?
- 17 A Yes, I did, because I was afraid.
- 18 Q And at that point, were you still crying?
- 19 A Yes, I was.
- 20 Q And you still just had your bra and your
- 21 pants on?
- 22 A Yes, ma'am.
- 23 Q What kind of pants were they?
- 24 A It was nylon.
- 25 Q Nylon.

Sheila Summers-direct by Land

1 A A Nylon outfit.

2 Q Shorts or pants?

3 A Pants.

4 Q Where if anyone, did you -- were you able
5 to get the car unstuck?

6 A Yes, ma'am.

7 Q And did you get back in your vehicle?

8 A Yes, I did.

9 Q And where did he take you?

10 A He took me down -- further down a dirt
11 road. And I don't recall that area, because I've
12 never been down that road that far. He took me down
13 that -- he took me further down the dirt road. And
14 we approached like a pathway going off to the left.
15 It was some kind of pathway. I don't -- I just
16 remember a pathway leading to an open field. And
17 he parked the car there and then he raped me again.

18 Q At that point, was it dark out?

19 A Yes, ma'am.

20 Q How far from the original location did you
21 go?

22 A I would say maybe about a 7-minute drive.

23 Q And you say he raped you again. Where did
24 that rape occur?

25 A In the back seat.

Sheila Summers-direct by Land

1 Q Did he force you into the back seat?

2 A Yes, he did.

3 Q And when you say intercourse, did he --
4 how did your pants come off?

5 A He took them off.

6 Q And were you on the bottom in the back
7 seat?

8 A Yes, I was.

9 Q And once again, he was on top of you?

10 A Yes, ma'am.

11 Q Did you feel like he was using force to
12 overpower you?

13 A Yes, ma'am.

14 Q What was he saying if anything during the
15 second attack?

16 A He was just saying if I try to get away he
17 was going to kill me. Which I did try to escape
18 again because I tried to kick him, and I tried to
19 open the door. And, of course, he was stronger than
20 me and I could not escape.

21 Q Did he ever strike you?

22 A Yes, he did, he choked me.

23 Q When did that happen?

24 A That happened the first time that I tried
25 to -- when he got -- after the first incident, and I

Sheila Summers-direct by Land

1 remember a car coming. After we got unstuck, I
2 remember a car coming and he stopped in the road.
3 And he said if you try to scream or yell and try to
4 get this person's attention, I am going to kill you.
5 And the car did approach. And I did try to scream
6 and yell. I tried to escape, and that's when he
7 choked me.

8 Q And when you say he choked you, he had his
9 hands around your neck?

10 A He had his arms around my neck.

11 Q Were you able to breath during that time?

12 A Not as much.

13 Q Was it painful?

14 A Yes, it was.

15 Q Let's go back to the second time he raped
16 you in the back of the car. Did he ejaculate a
17 second time?

18 A Yes, he did.

19 Q Where did he ejaculate that time?

20 A On me again.

21 Q Where on your body?

22 A On my stomach.

23 Q After that, what did he do?

24 A After that, he made me go climb from the
25 back to the front. And while he drove back to the

Sheila Summers-direct by Land

1 pathway and on to the dirt road. And as we drove,
2 he said, "I am sorry." And will you forgive me.
3 "Here is my number," and all this. He was saying
4 all kind of crazy things to me. Of course I was
5 still crying.

6 Q And when he said to give you his number,
7 did you do that?

8 A Yes, I did. Because I didn't know if he
9 had a cell phone of his own. And I felt if I gave
10 him the wrong phone number that he might would kill
11 me or try something greater.

12 Q And would you say that you were compliant
13 with him throughout this incident because of fear?

14 A Yes.

15 Q After the second time that he kept saying
16 that he was sorry, was there a time that he got out
17 of the car?

18 A Only to leave.

19 Q Okay. What did he do at the point? Where
20 was he and what did he do?

21 A At that time, he drove to the end of the
22 dirt road. And we was back on the paved road. And
23 he kept saying, "Do you want to go to my father's
24 house to wash." and I said, "No, I just want to go
25 home." You know, I was still pleading for my life.

Sheila Summers-direct by Land

1 And he got out of the car and ran.

2 Q And so he left you right there?

3 A Yes, ma'am.

4 Q What did you do from that point?

5 A And then I drove as fast as I could down
6 the road back to Troy's house. I did try to call
7 but there was no reception at the time. When I got
8 back to Troy's house nobody was there.

9 Q How did you get your phone working again?

10 A When I got to the end of the paved road.

11 Q What did you do?

12 A I called Tywan.

13 Q Did you put the battery back in?

14 A Yes, I put the battery -- I took the
15 battery out of the console and put it back in the
16 phone. And I called Tywan. And then I called
17 Reggie, and I told him what happened. And he said
18 come meet him at the TA.

19 Q And that's what used to be Jerry's truck
20 stop.

21 A Yes, ma'am.

22 Q When you went there, was it TA or Jerry's
23 Truck stop?

24 A TA.

25 Q When you talked to Tywan, what was your

Sheila Summers-direct by Land

1 demeanor?

2 A I was crying. I was hysterical. And I
3 was trying to tell him what had happened. It hung
4 up. I don't know if it disconnected, or I don't
5 know what happened. That's when I called Reggie,
6 and I told him what happened. And, you know, that's
7 when he told me to meet him at the TA.

8 Q And did you meet him at the TA?

9 A Yes, I did, and I was throwing up.

10 Q When did you begin throwing up?

11 A Once I got there.

12 Q Did you throw up in the car?

13 A No, outside the car.

14 Q Were you taken to the hospital?

15 A Yes, I was.

16 Q Who took you to the hospital?

17 A Reggie Nelson.

18 Q And did he take you in his car or your
19 car?

20 A My car.

21 Q And when you got there, did he sit with
22 you for awhile?

23 A Just for a little while.

24 Q Did Tywan come to the hospital?

25 A No, ma'am.

Sheila Summers-direct by Land

1 Q Did any family member come to the
2 hospital?

3 A His mother.

4 Q And what did she do?

5 A She just, you know, sat with me until I
6 left.

7 Q At that time, were you still pretty upset?

8 A Yes, I was. I was still crying and very
9 upset.

10 Q Did you have any injuries?

11 A Yes, I did.

12 Q What were they?

13 A I had scratches on my chest. On my arms,
14 my legs, my back, my feet.

15 Q What did they do at the hospital?

16 A They did a rape kit. They had a rape kit.

17 Q And do you remember who was in the room
18 with you when this was performed?

19 A Ms. Teresa Blackwell, Todd Avant, a male
20 nurse, and a female nurse.

21 Q And so Ms. Teresa Blackwell is Tywan
22 Blackwell's mother, is that correct?

23 A Yes, ma'am.

24 Q And she was in there with you?

25 A Yes, ma'am.

Sheila Summers-direct by Land

1 Q And what did you do after they finished
2 doing the rape kit at the hospital?

3 A They gave me some medication, and I was
4 released.

5 Q Did you drive home?

6 A Yes. My father came and got me.

7 Q He came and got you?

8 A Yes, ma'am.

9 Q What did you do with your car?

10 A I followed my dad home.

11 Q And did you have a conversation with
12 Investigator Todd Avant about what happened?

13 A Yes, I did.

14 Q And did you tell him what you told this
15 jury today?

16 A Yes, I have.

17 Q Did you describe to him the first dirt
18 road that Donniel took you to?

19 A Yes, ma'am, I did.

20 Q And did you attempt to describe the second
21 location?

22 A Yes, I did.

23 Q Was that one a bit harder for you to
24 describe?

25 A Yes, it was.

Sheila Summers-direct by Land

1 Q Why is that?

2 A Because I had no knowledge of it. I
3 wasn't familiar with the area.

4 Q At that time, did you know Donniel as
5 Donniel?

6 A Button.

7 Q You called him button?

8 A Yes, that's what everybody else called
9 him.

10 Q And that was what the group of them called
11 him.

12 A Yes, ma'am.

13 Q And did investigator Avant show you a
14 photo lineup?

15 A Yes, he did.

16 Q In that photo lineup, were you able to
17 identify the person that had raped you twice?

18 A Yes, I was.

19 Q Is this a copy of that lineup that you
20 were shown?

21 A Yes.

22 Q And what are those markings?

23 A It is my signature and the date that I
24 identified him.

25 MS. LAND: Your Honor, I would like this

Sheila Summers-direct by Land

1 admitted as State's Exhibit No. 1.

2 MS. BUTCHER: No objection.

3 THE COURT: It's admitted without
4 objection.

5 (Photo lineup marked State's exhibit No.
6 1.)

7 Q At that time, did you know his name was
8 Donniel?

9 A Not at that time.

10 Q You only knew he was button?

11 A Yes, ma'am.

12 Q And you looked at these -- this picture of
13 six individuals and identified this person as the
14 one that raped you?

15 A Yes, I did.

16 Q Ms. Summers, is the person that made you
17 perform oral sex on him in the courtroom today?

18 A Yes, he is.

19 Q Where is he?

20 A Right there.

21 Q Is that the person that raped you?

22 A Yes, it is.

23 Q And he raped you twice?

24 A Yes, he did.

25 Q Have you ever accused anyone of committing

Sheila Summers-direct by Land

1 rape on you?

2 A No, ma'am.

3 Q This is the first Indictment like this in
4 your life?

5 A Yes, ma'am.

6 Q Would you say this has been pretty
7 traumatic for you?

8 A Yes, it has been.

9 Q Are you still suffering today because of
10 what he did?

11 A Yes, ma'am, I am.

12 Q In what ways?

13 A I am depressed a lot. Sometimes I can't
14 sleep. I have flashbacks. I still cry to this day
15 about It.

16 MS. LAND: I beg this court's indulgence
17 just one moment. Please answer any questions Ms.
18 Butcher may have.

19 MS. BUTCHER: Your Honor, may we approach?

20 (Whereupon, the attorneys confer with the
21 judge at the bench.)

22 THE COURT: Ladies and Gentlemen, please
23 go to the jury room for a few moments. Please
24 do not discuss the case.

25 (Whereupon, the following takes place

1 outside the presence of the jury.)

2 MS. BUTCHER: Your Honor, I would request
3 the victim's Rap Sheet. I did send Brady and
4 Rule 5. And my understanding is that I can get
5 that from the state after that person has
6 testified.

7 THE COURT: Ms. Land.

8 MS. LAND: Your Honor, I don't believe
9 that that's the law. I Don't think she has a
10 record, but I've never specifically been asked
11 for that. I don't think it's part of Rule 5.

12 THE COURT: Do you have means of getting a
13 Rap Sheet?

14 MS. LAND: I do. Yes.

15 THE COURT: How long would that take?

16 MS. LAND: They can tell us if she has
17 anything. If she has something, they'll have
18 to bring it over here. But 15 to 20 minutes.

19 THE COURT: Ms. Butcher, is this your
20 understanding of trial procedure that you take
21 a 15 or 20 minute break after a person
22 testifies to go to the Sheriff's Department for
23 a Rap Sheet?

24 MS. BUTCHER: No, Your Honor. It was my
25 understanding that the state has -- is supposed

1 to produce that after they put a witness on,
2 the victim. If the victim is to testify.
3 Which this victim did.

4 THE COURT: Any witness or just the
5 victim?

6 MS. BUTCHER: The victim, your Honor.

7 THE COURT: And your understanding is
8 based on what?

9 MS. BUTCHER: Just the reading of the
10 rules of trial procedure, Your Honor. I have
11 no basis to back that up, but that's my
12 understanding, that by requesting, if I sent
13 Rule 5 and Brady, and she puts up the victim.
14 I am to get the Rap Sheet. I understand she is
15 to turn the defendant's Rap Sheet over prior to
16 that.

17 THE COURT: I don't have that
18 understanding, but we are at that moment. So
19 we have to get it and do whatever means you all
20 have to get it.

21 MS. LAND: I have to get her birthday and
22 Social Security number.

23 MS. BUTCHER: Thank you, Your Honor.

24 THE COURT: Step down you cannot discuss
25 your testimony during while we are waiting

1 until this Rap Sheet comes.

2 (Whereupon, the court takes a short
3 recess.)

4 THE COURT: Ma'am, if you will come around
5 and take the chair here again. Madam Bailiff,
6 have the jurors come out.

7 (Whereupon, the following takes place
8 within the presence of the jury.)

9 THE COURT: Ladies and gentlemen of the
10 jury, we are going to excuse you for lunch at
11 this time. I will have you come back at 2:15.
12 We will take a lunch break until 2:15. Have a
13 good lunch. Please do not discuss the case.
14 No one is allowed to talk to you about it or in
15 your presence. We'll see you back at 2:15.
16 Please come directly all the way straight into
17 the jury room when you come in. 2:15. See you
18 then.

19 (Whereupon, the jury goes to lunch.)

20 THE COURT: At 2 o'clock we have a guilty
21 plea?

22 MS. LAND: Yes, sir.

23 THE COURT: We will be in recess until 2
24 o'clock. Step down, but you can't talk with
25 anyone about your testimony.

1 (Whereupon, the court takes a lunch
2 recess.)

3 (Whereupon, the trial commences on
4 Wednesday, October 15, 2008 at 2:00 p.m.)

5 MS. LAND: Your Honor, regarding this case
6 of Donniel Woods, our next witness is
7 Investigator Todd Avant. Former Investigator
8 Todd Avant. He had a conviction---

9 THE COURT: Just a moment. Where is
10 Mr. Donniel Woods?

11 MS. BUTCHER: I called and made sure he
12 was brought over, Your Honor. I believe he is
13 here. Let me make sure.

14 THE COURT: Who is this guy here from
15 SCDC?

16 MS. LAND: He's a witness in this case.
17 Your Honor, as far as the witness, who is Todd
18 Avant, Ms. Butcher has made it clear to
19 Investigator Avant that she plans mentioning
20 the charge of possession of an illegal gambling
21 machine. He did plead guilty to that charge.
22 He has since been pardoned. And I do not
23 believe that there is any rule of law that
24 allows her to ask him about it.

25 THE COURT: Well we have a witness on the

1 witness stand at this time. We will deal
2 with...

3 MR. BUTLER: Your Honor, just for the
4 record, what I did is, I had to bring it up. I
5 am sorry. You know, and I wasn't aware he had
6 been pardoned, Your Honor.

7 THE COURT: Now are you aware of it,
8 apparently. Unless you question the veracity
9 of what Ms. Land has stated as an officer of
10 the Court.

11 MS. BUTCHER: I'm sorry, say again, your
12 Honor.

13 THE COURT: Now you know that he has been
14 unless you question the veracity of Ms. Land,
15 who just made that statement as an officer of
16 the court.

17 MS. BUTCHER: Your Honor, I was -- that's
18 fine, Your Honor. I won't bring it up.

19 THE COURT: Let's see now. Are you ready
20 to proceed, Ms. Butcher?

21 MS. BUTCHER: I'm sorry, Your Honor.

22 THE COURT: Are you ready to proceed?

23 MS. BUTCHER: I am ready to proceed, Your
24 Honor.

25 THE COURT: We will take a three-minute

1 break and then we are going to roll.

2 (Whereupon, the court takes a short
3 recess.)

4 THE COURT: If you will come and take your
5 seat. If you will bring the jury.

6 (Whereupon, the following takes place
7 within the presence of the jury.)

8 THE COURT: Ladies and gentlemen, I am
9 sorry the proceedings have been delayed. It
10 was certainly beyond our control. We are ready
11 to go now. You have heard direct examination.
12 Cross examination. You may proceed.

13 MS. BUTCHER: Thank you, Your Honor. Good
14 afternoon.

15 MS. LAND: Your Honor, may we approach
16 briefly before she gets started?

17 (Whereupon, the attorneys approach the
18 bench and confer with judge.)

19 Cross Examination by Ms. Butcher:

20 Q Ms. Summers, I am going to ask you a few
21 questions if you don't mind. First, and some of
22 these may be cross over to what the Solicitor asked
23 you yesterday. If they do, I just want to make sure
24 I understood correctly. First, I want to -- I
25 didn't hear the testimony. Explain how long was the

Sheila Summers-cross by Butcher

1 length of time between when you left the company of
2 Mr. Woods and went to the hospital?

3 A Excuse me?

4 Q Well you said that you and Mr. Woods got
5 together and left for the Exxon around 8 or 9
6 o'clock, is that correct?

7 A It was a little bit before 8 o'clock.

8 Q Oh, so it was more like, okay, it was
9 before 8:00 o'clock.

10 A Yes, it was.

11 Q Let me ask it this way. How long were you
12 all together, about an hour, hour and a half?

13 A No, ma'am.

14 Q How long was that?

15 A It was hours.

16 Q How long?

17 A Three at the most.

18 Q Three hours at the most. At the very
19 most?

20 A Yes.

21 Q So you left before seven?

22 A No. You said I left from where?

23 Q You just stated that you left with Mr.

24 Woods. I said between eight and nine. You said,

25 no, it was before eight.

Sheila Summers-cross by Butcher

1 A I said a little before eight.

2 Q A little before eight. I apologize. I
3 didn't mean to say seven. It was before
4 8:00 o'clock. You just said it was no more than
5 three hours that you were in his company?

6 A Yes, ma'am.

7 Q Okay. Now do you recall how many officers
8 you spoke with about this incident either from the
9 time you arrived at the hospital and after that?

10 A I spoke with Mr. Todd Avant.

11 Q Was that the first one, and where did you
12 speak with him?

13 A I spoke with him at the hospital.

14 Q Anyone else at the hospital?

15 A DJ.

16 Q DJ?

17 A DJ. I believe that was his name.

18 Q Do you recall his full name?

19 A No, I don't. That's what he told me to
20 call him.

21 Q Do you know his last name if I said his
22 last name? If I -- Marion? Do you recall? If you
23 don't recall that's fine.

24 A No, I don't recall.

25 Q Okay. You just know it was DJ. Who else

Sheila Summers-cross by Butcher

1 did you speak with?

2 A That's all I can remember.

3 Q How about after the hospital? After you
4 left the hospital?

5 A After I left, there were a few officers
6 around my car, but I do not recall their names.

7 Q Let's just go forward in time. Who else
8 did you speak with concerning this case?

9 A Nobody. But do you mean at the hospital
10 or?

11 Q No, no. Forward in time. I know you
12 spoke with the Solicitor. You have spoken with
13 Mr. Avant.

14 MS. LAND: Your Honor, if she could ask
15 the questions instead of telling her who she
16 spoke with.

17 MS. BUTCHER: Your Honor, she's already
18 stated that she has spoken....

19 THE COURT: Just a moment. Pose the
20 question.

21 Q Could you please state all of the officers
22 or investigators that you spoke to from the time
23 that you were at the hospital until today?

24 A Mr. Avant and DJ.

25 Q You haven't spoken to any other

Sheila Summers-cross by Butcher

1 investigators?

2 A The officer that you are referring, are
3 you referring to officers?

4 Q Anyone with the Sheriff's Department.

5 A Lawyers?

6 Q No. Anyone with the Sheriff's Department.
7 Investigators.

8 A Mr. Avant and DJ.

9 Q Thank you. When was the last time you
10 spoke with Investigator Avant?

11 A About the situation?

12 Q Yes.

13 A Let's see, it had to be last -- earlier
14 this year.

15 Q Do you recall what month?

16 A No, not this year. I mean it was last
17 year when I came back in June, because they had
18 General Sessions. And that was the last time I
19 talked with him about it.

20 Q So that's the time you were shown that
21 photo lineup?

22 A No.

23 Q When were you shown the photo lineup?

24 A I was shown the photo lineup a few days
25 after the incident had occurred.

Sheila Summers-cross by Butcher

1 Q Okay. And this is the photo lineup?

2 A Yes.

3 Q Okay. So that would have been around June
4 of 2006?

5 A Yes.

6 Q You said you dated Mr. Blackwell. That
7 was correct?

8 A I said he was a good friend of mine.

9 Q He was a good friend. You stated you
10 spent the night with him.

11 A I spent the night at Ms. Troy Nelson's
12 house.

13 Q Okay. How long have you been good friends
14 with Mr. Blackwell?

15 A Since 2002.

16 Q Do you know if Mr. Blackwell uses drugs?

17 A No, I don't.

18 MS. LAND: Your Honor, I object to that
19 question.

20 THE COURT: She said she doesn't know.

21 Q Do you know if Mr. Blackwell has ever gone
22 to prison for drugs?

23 A No.

24 Q You have no knowledge of that?

25 A No, I don't.

Sheila Summers-cross by Butcher

1 Q And you said this was Troy Nelson's house?

2 A Yes, It was.

3 Q How long did he live there?

4 A I don't know that.

5 Q How long do you know that he lived there?

6 A From the time that I came around, it was

7 only a few months that I've known that he stayed

8 there.

9 Q Okay. And that was a few months prior to
10 June 2006?

11 A Yes.

12 Q And you're saying he lived there. He had
13 his stuff there, his belongings there. That's where
14 he dwelled?

15 A Yes.

16 Q How often did you come and go from that
17 house?

18 A Just a few times, not many.

19 Q How often was Donniel Woods there?

20 A I only recall seeing him twice.

21 Q Can you come a little closer to how often
22 you were at that house? A few times? Not many?
23 Five?

24 A 5, 8 times at the most.

25 Q No more than 8?

Sheila Summers-cross by Butcher

- 1 A No more than 8.
- 2 Q Okay. Ms. Summers, you said that Mr.
- 3 Woods forced you to perform oral sex on him.
- 4 A Yes, he did.
- 5 Q Did He ejaculate?
- 6 A Yes, he did.
- 7 Q What happened with that?
- 8 A What happened with what?
- 9 Q What happened to the semen? Did it spill
- 10 out?
- 11 A On me.
- 12 Q It spilled out on you?
- 13 A Yes, It did.
- 14 Q Where were you at the time?
- 15 A When he ejaculated on me?
- 16 Q Yes.
- 17 A Once in the woods, and the second time in
- 18 my car.
- 19 Q Did it spill out onto the car too?
- 20 A Maybe.
- 21 Q Where on you did it spill out?
- 22 A On my stomach.
- 23 Q On your stomach. Upper or lower?
- 24 A Upper and lower.
- 25 Q About how far down? You can use my hand.

Sheila Summers-cross by Butcher

- 1 You can tell me lower or higher.
- 2 A On my stomach, ma'am. Where your hand is.
- 3 Q Did it go below my hand too?
- 4 A Some.
- 5 Q Below my hand now?
- 6 A No.
- 7 Q How about this hand above it?
- 8 A No.
- 9 Q So around in here?
- 10 A Yes.
- 11 Q The other times that he ejaculated, you
- 12 stated it spilled out upon you. Can you describe
- 13 where it spilled out then?
- 14 A The same place.
- 15 Q Okay. Near your arms?
- 16 A Not that I recall.
- 17 Q Shoulders?
- 18 A Not that I recall.
- 19 Q Did any of it get on your clothes?
- 20 A No, because I had none on me when the
- 21 incident happened.
- 22 Q Did you have a bra on?
- 23 A Yes, that was all I had on.
- 24 Q Okay. And when I did like this, would
- 25 that include the bra?

Sheila Summers-cross by Butcher

1 A Some of it.

2 Q Okay. So some would have gone into your
3 bra.

4 A You said the areas that's in between.

5 Q Okay. Would it be more accurate for my
6 hand to be here, or here? This is where I had it.

7 A You didn't have it that high the first
8 time.

9 Q Okay, then I apologize. You think I had
10 had it more like this?

11 A Yes, ma'am.

12 Q You also stated that Mr. Woods threw you
13 to the ground and raped you, correct?

14 A Yes, he did.

15 Q Did you struggle to get free?

16 A Yes, I did.

17 Q How did you struggle, did you hit him?

18 A Yes, I did try to.

19 Q Were you successful in hitting him?

20 A Some.

21 Q Where did you hit him?

22 A On his chest. I tried to kick him. But
23 of course he was stronger than me.

24 Q Were you able to scratch him any?

25 A Not that I recall. Maybe.

Sheila Summers-cross by Butcher

- 1 Q Maybe. So he had you on the ground
2 struggling. And you were struggling. And you
3 testified that you had scratches on your chest and
4 your back. And I believe your arms also, is that
5 correct?
- 6 A Yes, and my feet.
- 7 Q Your feet. Your arms,---
- 8 A My chest.
- 9 Q Your chest. And your back. And I would
10 like for you to describe each of those and the
11 scratches that you incurred. You can start with
12 your back. Were they deep? Were you bleeding?
- 13 A No, I wasn't like bleeding. But I did
14 have scratches.
- 15 Q Okay. How long were those?
- 16 A The only scratches that was bleeding was
17 the scratch that was on my leg.
- 18 Q Okay. Where on your leg was that?
- 19 A I still have the mark.
- 20 Q Where on your leg is that?
- 21 A It's above my ankle.
- 22 Q Above your ankle. Okay. So you had
23 scratches on your back. How many scratches were on
24 your back?
- 25 A It was a few on my lower back.

Sheila Summers-cross by Butcher

1 Q Uh-huh. (affirmative.)

2 A A few on my right here.

3 Q Uh-huh. (affirmative.)

4 A And I had scratches on my arm in this
5 area. And I had scratches on my chest. I had
6 scratches on my feet, which you can't see those from
7 over there. But I had scratches on my feet and a
8 scratch on my leg.

9 Q So you were pretty scratched up.

10 A Yes, I was.

11 Q Those scratches came from being on the
12 ground in the woods.

13 A Yes. Yes, and Him.

14 Q You stated also he raped you in the car?

15 A Yes, he did.

16 Q How large a car was that?

17 A It wasn't a very large car.

18 Q Did you get injured in the car in any way?

19 I guess I am talking about the seat belts and stuff.

20 A With the seat belts?

21 Q Yes. You know the seat belt that you
22 would hook. Did anything like that that's in the
23 car injure you?

24 A No.

25 Q Then you weren't pressed against anything

Sheila Summers-cross by Butcher

1 like that.

2 A In my door.

3 Q Did you receive any injuries from that?

4 A My back began aching after that.

5 Q But no visible injuries.

6 A No.

7 Q Were you effective at all in fighting him
8 off?

9 A In what ways?

10 Q Well were you able to get free from him in
11 any of those struggles?

12 A Never.

13 Q Did you receive any injuries to your face?

14 A No, I didn't.

15 Q Was the ground wet or was it dry? Do you
16 remember?

17 A It wasn't wet.

18 Q It wasn't wet. So you didn't get any mud
19 on you?

20 A No, dirt.

21 Q You ended up with dirt all over you?

22 A Yes.

23 Q Was it on just your back, or was it on
24 your stomach too? Was it on your face? Was it in
25 your hair?

Sheila Summers-cross by Butcher

1 A In my hair. On my back. My legs. All
2 over my body.

3 Q So there was dirt all over your body.
4 Would it have been a situation where there was like
5 a lot of small debris on the ground that scratched
6 you up also, like trigs and stuff like that?

7 A That could have been possible.

8 Q The reason I am asking is because your
9 hair is curly. And I know I have had curly hair as
10 a child. And If I was on the ground, those sorts of
11 things would get stuck. Did that happen?

12 A My hair wasn't curly at the time.

13 Q Okay. You also stated the car got bogged
14 down at some point. It got stuck?

15 A Yes, It got stuck.

16 Q Okay. How did y'all manage to get that
17 out unstuck?

18 A He forced me to get out while he put
19 his -- while he was in the car, trying to get out.
20 He forced me to get out and push.

21 Q So you were able to push a car out?

22 A No, I wasn't. I mean, I wasn't able to.

23 Q Then how did it get unstuck?

24 A He forced me to push.

25 Q Okay. I am little confused. You said

Sheila Summers-cross by Butcher

1 that he forced you to push it out. My question was,
2 were you able to push it out?

3 A No, I was not able to push my car from
4 being unstuck; the car from being unstuck. I said,
5 he forced me to get out and push. I wasn't able.

6 Q So then how did it get unstuck? Did he
7 then have to push it out?

8 A He just kept -- he just continued to do
9 what he was doing. He never got out.

10 Q What was he doing?

11 A He was pressing on the gas.

12 Q When he pressed on the gas, did the tires
13 spin and not dig the hole deeper?

14 A I mean I was outside.

15 Q So you were inside the car when it became
16 unstuck?

17 A Yes.

18 Q So you all were stuck. He asked you, he
19 forced you to get out of the car and go push---

20 A Yes.

21 Q ---while he's in the car?

22 A Uh-huh. (affirmative.)

23 Q You pushed, correct? Did you push?

24 A Yes, lightly.

25 Q Lightly?

Sheila Summers-cross by Butcher

1 A Uh-huh. (affirmative.)

2 Q You didn't really try to get it unstuck?

3 A No, I didn't.

4 Q So then you get back in the car, and he
5 continues to press on the gas and suddenly it goes?

6 A Yes.

7 Q Did you ever take a shower before you went
8 to the hospital?

9 A No, I didn't.

10 Q You didn't? Let's go back to earlier that
11 day. When you first went to the home, who all was
12 there?

13 A Troy Nelson.

14 Q Uh-huh. (affirmative.)

15 A Donniel Woods.

16 Q Donniel Woods. Who else?

17 A That was it.

18 Q Did you -- do you know Reggie Nelson?

19 A Yes, I do know Reggie Nelson.

20 Q Was he there?

21 A No, he wasn't.

22 Q Did you see him at all that night?

23 A I saw him after the incident.

24 Q Where did you see him after the incident?

25 A At TA.

Sheila Summers-cross by Butcher

1 Q Was that also called Jerry's Truck Stop?

2 A I believe it was once called that.

3 Q Okay. Travel of America, is that what
4 that stands for?

5 A I don't recall what it stands for, but it
6 has TA.

7 Q So who all -- who came to the TA truck
8 stop on that night?

9 A Reggie.

10 Q And who else?

11 A That's all that I recall. Just Reggie.

12 THE COURT: Speak louder, please.

13 A Reggie.

14 Q Now your testimony earlier was that Tywan
15 Blackwell and Troy and Reggie met you at the truck
16 stop, correct?

17 A No, I didn't.

18 Q You did not say that you called Tywan and
19 Reggie and told them what happened? And you met
20 them at Jerry's Truck Stop?

21 A I said Tywan Blackwell was at the
22 apartment. I meet Reggie at that TA. That's what I
23 said.

24 MS. BUTCHER: Your Honor, could we have
25 that played back?

Sheila Summers-cross by Butcher

1 MS. LAND: I have no problem with that,
2 judge.

3 THE COURT: You want the court reporter to
4 play back testimony?

5 MS. BUTCHER: That's okay.

6 Q Your testimony is that Reggie met you at
7 the truck stop.

8 A Yes.

9 Q Okay. What was going on at that house
10 when you arrived there? You said Donniel was there?
11 Who else?

12 A Troy.

13 Q What was going on?

14 A Nothing really. I mean I just came to get
15 my phone charger.

16 Q Can you sort of describe what occurred?

17 A Like I said, I came to get my phone
18 charger. And he asked me to take him to the store.

19 Q What time was that when you arrived at
20 their house?

21 A It was before 8:00 o'clock.

22 Q Do you recall what Donniel and Troy were
23 doing?

24 A Nothing.

25 Q Were they watching TV?

Sheila Summers-cross by Butcher

- 1 A Nothing when I came in.
- 2 Q Were they watching TV?
- 3 A I believe Donniel was.
- 4 Q Okay. If you don't recall, you can just
- 5 say I don't recall. And it's okay. It has been two
- 6 years okay. Were drugs sold out of this house to
- 7 your knowledge?
- 8 A No, not to my knowledge.
- 9 Q But you've been there about 8 times
- 10 before?
- 11 A Yes.
- 12 Q Do you use illegal drugs?
- 13 A No, I don't.
- 14 Q You do not. Have you ever?
- 15 A No.
- 16 Q Never used illegal drugs?
- 17 A No, ma'am.
- 18 Q Were you screened for drugs when you went
- 19 to the hospital that night? You were not screened
- 20 for drugs?
- 21 A No, just the rape kit.
- 22 Q You were not screened for drugs.
- 23 A Not to my knowledge, I wasn't.
- 24 Q If I hand you part of medical records
- 25 would that refresh your memory? Would you like to

Sheila Summers-cross by Butcher

1 look?

2 A Yes.

3 Q Did you testify as to---

4 MS. LAND: Your Honor, may I look at
5 those before she introduces it to the---

6 MS. BUTCHER: Your Honor, I haven't
7 introduced it.

8 THE COURT: Just ask the question. You
9 may ask the question.

10 Q Did you test positive for marijuana?

11 A That's not what it says.

12 Q Does it say you tested positive---

13 MS. LAND: Judge, she is asking her
14 specific questions about this document.

15 THE COURT: All right. Share with the
16 Solicitor any documents you present to your
17 witness. Ladies and gentlemen, I am going to
18 have you go to the jury room for just a few
19 moments. Do not discuss the case while you are
20 there. I want to tell you we will probably
21 stay late today. So you will have notions
22 about where you will have to call and check in
23 with. Thinking about we'll make phone calls
24 available. If you need to make them, we will
25 need to stay late and work on this case. We

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1 may also order dinner for you or something else
2 to eat. We know you have been here since 2:00.
3 Please do not discuss the case. Please go the
4 jury room.

5 (Whereupon, the following takes place
6 outside the presence of the jury.)

7 THE COURT: Yes, ma'am.

8 MS. BUTCHER: Your Honor, they are her
9 medical records. She doesn't have to know what
10 the scientific name for marijuana. I can ask
11 her if she testified positive for something I
12 am having trouble pronouncing. But,
13 tetrahydrocan---

14 MS. LAND: Cannabinol..

15 MS. BUTCHER: Thank you, cannabinol.

16 MS. LAND: Your Honor, If she wants to get
17 the medical expert that took that sample and
18 produce a chain of custody and have that
19 medical expert come in and testify, we have no
20 problem with it being admitted. As to showing
21 her a test that she didn't even know that she
22 took, and asking her if she tested positive,
23 she does not have the qualifications to do
24 that.

25 THE COURT: Yes, ma'am.

Sheila Summers-cross by Butcher

1 MS. BUTCHER: Your Honor, they're her
2 medical records. She received a bill. I can
3 certainly -- I mean she doesn't -- the
4 question, did your medical records indicate
5 that you tested positive for this, she can
6 certainly answer.

7 THE COURT: Well hasn't she answered the
8 question already that she, first of all; that
9 she wasn't tested for drugs as far as she
10 knows. She did not test positive for drugs as
11 far as she knows. And now you want to show her
12 what to cross examine her.

13 MS. BUTCHER: My understanding is, she
14 said she didn't know if she was tested for
15 drugs.

16 THE COURT: She said she wasn't as far
17 knows.

18 MS. BUTCHER: Okay. And I asked her if
19 this would refresh her memory. She then looked
20 at them and stated that it didn't say
21 marijuana. I think I can ask her.

22 THE COURT: Well what you think you can
23 ask her is what I presume you -- would want,
24 have me to rule on.

25 MS. BUTCHER: Yes, Your Honor.

Sheila Summers-cross by Butcher

1 THE COURT: Which is what?

2 MS. BUTCHER: I am wanting to ask her if
3 her medical records indicate that she tested
4 positive for tetrahydro---

5 MS. LAND: Cannabinol.

6 MS. BUTCHER: ---cannabinol.

7 THE COURT: And the State's position is
8 what?

9 MS. LAND: Your Honor, there is no chain
10 of custody. These are pieces of paper that I
11 don't where she got. I don't know if they took
12 blood. I don't if they took urine. I don't
13 know how they got these tests. Nobody knows.
14 It's not -- if she wants to bring the medical
15 expert in here and show a chain of custody and
16 have them analyze those records, she is more
17 than welcome to do that. But to show this
18 young girl a piece of paper that says a word
19 that the lawyer can't even pronounce, and ask
20 if she tested positive for marijuana is
21 ludicrous.

22 THE COURT: Let me see the document.

23 MS. BUTCHER: Your Honor, this second one
24 is a bill where she paid for a test. And those
25 do have her name on it from Clarendon County

Sheila Summers-cross by Butcher

1 Memorial.

2 MS. LAND: And, Your Honor, if you will
3 note, it also says there, ecstasy would not
4 show up on this test, handwritten. So she is
5 showing her a document that I couldn't possibly
6 have admitted in to evidence if I wanted to.

7 MS. BUTCHER: Your Honor, I did request---

8 THE COURT: Just a moment.. I don't need
9 any argument on every -- these voluntary
10 arguments serve no useful purpose. If there is
11 a need for argument, I will request argument.
12 I sustain the objection.

13 MS. BUTCHER: Thank you, judge.

14 THE COURT: Anything else before the jury
15 comes back?

16 MS. LAND: Not from the state, judge.

17 THE COURT: Bring the jury back.

18 (Whereupon, the following takes place
19 within the presence of the jury.)

20 THE COURT: The objection is sustained.
21 You may proceed.

22 MS. BUTCHER: Thank you, Your Honor.

23 Q Were you aware that that house was
24 basically a crack house where drugs were sold?

25 MS. LAND: Your Honor, I am going to

Sheila Summers-cross by Butcher

1 object to that question. She has asked it
2 several times. She has said no, that drugs
3 were not sold out of that house to her
4 knowledge. And to suggest something like
5 this---

6 THE COURT: No speaking objections. The
7 objection is sustained.

8 Q Are you aware that Reggie Nelson has
9 pending drug charges?

10 A No.

11 MS. LAND: Judge, again, they are not
12 convictions.

13 THE COURT: Objection is sustained. No
14 speaking objections. You don't have to have a
15 speech when there is an objection.

16 MS. LAND: Thank you.

17 THE COURT: Make an objection, I'll rule
18 on it. I'll request argument if I want to hear
19 argument. Next question.

20 Q You spoke with officer Marion at the
21 hospital and Officer Avant, correct?

22 A I don't recall Marion. DJ and Avant.

23 Q I'm sorry.

24 A DJ and Avant.

25 Q DJ, I'm sorry. You spoke with Officer DJ

Sheila Summers-cross by Butcher

1 and, Officer Avant, correct? At the hospital?

2 A Yes, I did.

3 Q Do you recall you told Officer Marion, I
4 mean, Officer DJ that Reggie brought you to the
5 hospital?

6 A I told Officer Avant.

7 Q That Reggie brought you to the hospital?

8 A Yes.

9 Q Did you tell anybody that Troy brought
10 you?

11 A Troy never brought me to the hospital.

12 Q Okay. So you don't recall telling anybody
13 about it?

14 A I didn't tell anybody that.

15 Q You did not. Did either of the Nelson
16 brothers or did Reggie give you a reason, did he
17 stay with you at the hospital?

18 A For a little while.

19 Q For a little while. Did he give you a
20 reason for not staying any longer?

21 A No.

22 Q Do you recall how long he stayed with you?

23 A It was only for a few minutes.

24 Q Did he go in to the hospital with you?

25 A Yes, He did go in to the hospital with me.

Sheila Summers-cross by Butcher

1 Q Did he stay with you until you were seen
2 by a physician?

3 A No, he didn't.

4 Q What time did you arrive at the hospital?

5 A And It was late. Maybe like eleven.

6 Close to 12.

7 Q Close to 12? Okay. So you were admitted
8 to the hospital about 12:00 o'clock?

9 A I don't recall exactly the time. It was
10 between 11 and 12.

11 Q When you went in, were you upset?

12 A Yes, I was.

13 Q Who did you go to, do you remember?

14 A I don't recall. I don't know any names.

15 Q Did you go to a nurse or a doctor? Do you
16 recall?

17 A When I first went inside?

18 Q Yes.

19 A When I went to the desk.

20 Q Can you speak up?

21 A So I can get admitted.

22 Q You went to the desk and you told them
23 what happened?

24 A I didn't tell them. I told them that I
25 had just been raped, yes.

Sheila Summers-cross by Butcher

1 Q Okay. Where did they take you from there?

2 A They took me to a room.

3 Q Can you speak up just a little, because I
4 can't hear you.

5 A To a room.

6 Q They -- so they admitted you and took you
7 to a room?

8 A Yes.

9 Q So you -- I'm trying to get the time frame
10 here. You said and you went with Mr. Woods a little
11 before eight. Seven something. You were with Him
12 for no more than three hours.

13 A It could have been.

14 Q Is that correct? That's what you said, no
15 more than three.

16 A That's what I said.

17 Q And then a little while, how long did it
18 take for -- so you immediately called Reggie and
19 Troy? Or Reggie and Tywan Blackwell?

20 A Tywan?

21 Q Yes.

22 A Yes. Once I got service, yes I did.

23 Q Okay. They met you and went to the
24 hospital. And that---

25 A I met Reggie.

Sheila Summers-cross by Butcher

1 Q Reggie, I am sorry. Reggie. And you got
2 to the hospital. It took about an hour from when
3 you left Mr. Woods' company to get to the hospital.

4 A No, it didn't take an hour.

5 Q It took less than an hour?

6 A Yes, it did.

7 Q So you are saying you went to the hospital
8 probably before 12? All right I am saying eight.
9 You said it was before eight. I am just going to
10 count from 8, 9, 10, 11. You were with Mr. Woods
11 less than an hour. It would have put you at the s
12 hospital prior to 12, correct?

13 A Yes, I guess.

14 MS. BUTCHER: That's all this questions I
15 have.

16 Redirect Examination By Ms. Land:

17 Q Ms. Summers, I am just going to touch on a
18 few subjects that Ms. Butler touched on. When the
19 car got stuck, what part of it got stuck, the front
20 part or the back part?

21 A The back part.

22 Q And when he asked you to get out and push
23 it from the back you did?

24 A Yes, I did.

25 Q But that is not when it became unstuck?

Sheila Summers-redirect by Land

1 A No, ma'am.

2 Q When did it become unstuck?

3 A Once I got back in the car and he started
4 trying -- pushing on the gas.

5 Q Okay. Now she also asked you several
6 questions about the hospital and talking with
7 Investigator Avant. When you got to the hospital
8 they took you back to a room?

9 A Yes, they did.

10 Q What were you wearing when you got to the
11 hospital?

12 A A bra and panties.

13 Q And did they -- did you stay like that, or
14 did they gave you some sort of clothing?

15 A They give me a paper shirt or a sheet.
16 Not a sheet, but it was made of paper. One of those
17 they put on top, because I had only a bra.

18 Q Did you get cold in the hospital?

19 A Yes, I did.

20 Q Do you recall if they ever gave you a
21 blanket or anything of that nature?

22 A Yes, they did.

23 Q And did you wrap that blanket around you?

24 A Yes, I did.

25 Q And can you show the jury how you did

Sheila Summers-redirect by Land

1 that? I mean did you have it draped over the front?

2 Or did you have it like this?

3 A I had it draped over. But I had it all

4 over my body to make....

5 THE COURT: Ma'am, you have to speak where

6 everyone can clearly hear what you say. You

7 need to talk louder. If you can't talk

8 louder, you can talk all the way in to the mic.

9 Proceed.

10 Q And I'm a cold natured person. I've been

11 cold in the courtroom since we've started the trial.

12 Are you that way as well?

13 A Yes, ma'am.

14 Q Were you cold in the hospital?

15 A Yes, ma'am.

16 Q Do you recall what you would do with your

17 arms to try to keep warm?

18 A I would wrap them around myself.

19 MS. BUTCHER: Your Honor, I object. I

20 think she is leading the witness. I believe

21 she simply needs to ask the question and not

22 lead her in direction.

23 THE COURT: The objection is sustained as

24 to improper redirect.

25 Q You told Ms. Butcher that you spoke with

Sheila Summers-redirect by Land

1 Investigator Avant, is that correct?

2 A Yes, I did.

3 Q How long after you got to the hospital did
4 you speak with him?

5 A It wasn't long because he came in
6 immediately.

7 Q And prior to speaking with, had you
8 already had your exam?

9 A No, I hadn't. I didn't.

10 Q Did it take the person that did the exam
11 some time to get there?

12 A Yes, I did.

13 Q Do you have any idea how long it took?

14 A Maybe a little over an hour, because I was
15 there for a while.

16 Q And during that time you were just
17 sitting. Were you sitting on a bed or in a chair?

18 A In a bed.

19 Q With the paper gown as a blanket wrapped
20 around you.

21 A As well as my pants, yes.

22 MS. LAND: That's all the questions I
23 have. Thank you.

24 THE COURT: Anything further?

25 Recross Examination by Ms. Butcher

Sheila Summers-redirect by Land

1 Q Going back to the time that it took the
2 person to get to you, was about an hour before they
3 did the rape kit?

4 A It was a little -- it was an hour before
5 she got there. It was a little over an hour when
6 she got there.

7 Q An hour before she got there. If I were
8 to tell you that the rape kit was done at 3:35 in
9 the morning, would that accurate?

10 A It would be possible.

11 Q If you arrived at that hospital an hour
12 before, that would put you there about 2:30.

13 A No, ma'am. It didn't take an hour to get
14 there.

15 Q So they did the rape kit about 3:30, is
16 that correct?

17 A I am not sure as to the exact time.

18 Q But now you're saying you could have
19 gotten to that hospital around 2:30 that night. Did
20 you get there at 2:30 or did you get there around,
21 before 12?

22 MS. LAND: Your Honor, I believe she is
23 badgering the witness. She stated she doesn't
24 know what time exactly she got there, or how
25 long it took the nurse to get there. Or what

Sheila Summers-recross by Butcher

1 time the nurse performed the rape kit.

2 MS. BUTCHER: Your Honor, she states---

3 THE COURT: The objection is overruled.

4 No speaking objection.

5 MS. BUTCHER: Thank you, Your Honor.

6 THE COURT: No voluntary responses.

7 MS. BUTCHER: Thank you, Your Honor.

8 THE COURT: Answer the question, ma'am.

9 Just ask her the question if you want her to
10 answer the question. Just a moment, ma'am.

11 Answer the question, ma'am.

12 A Repeat the question, please.

13 Q You stated that you arrived at that
14 hospital before 12:00 o'clock. Are you now, is that
15 your testimony still?

16 A I believe that was the time. Like I said,
17 it was late.

18 Q Are you aware that your medical records
19 indicate a different time that you arrived at that
20 hospital?

21 MS. LAND: Judge, I object.

22 MS. BUTCHER: I am asking if she is aware
23 of it. They are her medical records.

24 A No, I am not.

25 Q You are not.

Sheila Summers-recross by Butcher

1 A No, I am not.

2 Q If I were to tell you that they state that
3 you arrived there at 2:30, would you deny that?

4 A I wouldn't deny that, because I am not
5 aware of the time. They have all the records.

6 Q Ms. Summers, what did you do between the
7 time that you left the company of Mr. Woods and
8 arrived at the hospital?

9 A Excuse me?

10 Q Was there not more like a 3-hour gap
11 between the time you left the company of Mr. Woods
12 and the time you arrived at the hospital?

13 A No.

14 MS. BUTCHER: No further questions.

15 THE COURT: Ma'am, you may step down.

16 MS. LAND: Your Honor, we would call Todd
17 Avant.

18 THE COURT: Mr. Avant.

19 Todd Avant, being first duly
20 sworn, testified as follows:

21 Direct Examination by Ms. Land:

22 Q If you will, state your name for this jury
23 please.

24 A Richard Todd Avant.

25 Q And where are you employed at this time?

Todd Avant-direct by Land

1 A At the present?

2 Q The present time.

3 A Self employed.

4 Q Okay. And you own your own business, is
5 that correct?

6 A Yes. Party world.

7 Q During this time which was June of 2006,
8 where were you employed?

9 A Investigator with the Clarendon County
10 Sheriff's Office.

11 Q How long had you been an investigator with
12 the Sheriff's Office?

13 A 5 years.

14 Q And is that the total of your employment
15 with the Sheriff's Office? Did you start as an
16 investigator?

17 A No, ma'am, I started in 1999, as a regular
18 patrol officer.

19 Q And you worked your way up to through the
20 ranks. You became an investigator?

21 A Yes, ma'am. I became an investigator in
22 2002.

23 Q In order to become a law enforcement
24 officer, specifically a deputy with the Clarendon
25 County Sheriff's Office, what sort of training did

Todd Avant-direct by Land

1 you receive?

2 A I trained through the criminal justice
3 academy in Columbia.

4 Q Tell the jury a little bit about that.

5 A It's nine weeks of various training, as
6 far as shooting, driving, law. Evidence collection
7 and stuff like that, and evidence processing.

8 Q And after becoming an investigator, did
9 you have some specialized courses in evidence
10 collection and things of that nature?

11 A Yes, ma'am.

12 Q Do you recall this incident that took
13 place on June 23rd 2006?

14 A I do.

15 Q How did you become aware of the situation?

16 A Clarendon dispatch notified me to report
17 to the hospital. They had had a sexual assault
18 occur. And I had deputy DJ Marion there at CMHDR.

19 Q And who is deputy DJ Marion?

20 A He was on one of patrol officers with the
21 Clarendon County Sheriff's Office. He's since moved
22 on and moved to Texas now.

23 Q At that time he was anything other than a
24 road patrol officer?

25 A No, ma'am.

Todd Avant-direct by Land

1 Q So it wouldn't be his duties or
2 responsibilities to ask questions, collect evidence
3 or anything of that nature.

4 A He would take the initial report. And he
5 would assist the investigators with the case.

6 Q And when you responded, what would you
7 describe your duties and responsibilities to be?

8 A Initially talk to the victim. Preserve
9 the crime scene, try to collect evidence and follow
10 through with the case.

11 Q When you first got to the hospital, what
12 did you do?

13 A I spoke with Deputy Marion first. I
14 talked with him. He explained to me what Ms.
15 Summers told him happened. And then went and spoke
16 with Ms. Sheila Summers.

17 Q Do you recall what she was wearing when
18 you spoke to her?

19 A I am not positive, but I think she just
20 had a regular robe on that the hospital issued.

21 Q But she was not sitting there in bra and
22 panties?

23 A No, ma'am.

24 Q And if she was, would that have stuck out
25 in your mind?

Todd Avant-direct by Land

1 A It would have. I probably would not have
2 entered the room being a female, you know, in that
3 situation.

4 Q Is that something that you were very
5 careful of in these sort of assault situations?

6 A Yes, ma'am. You don't want to make the
7 victim feel any more uncomfortable than they already
8 are.

9 Q When you spoke with her that night, what
10 did you learn?

11 A That she had came down to a residence in
12 the Alcolu area of Hotel Street at a friend's home.
13 And I believe it was the Nelson residence, if I
14 recall. And that they were hanging around. And a
15 fellow named Button asked her for a ride to the
16 store. She drove him up there to get some beer.
17 And on the way back to the house, he forced her to
18 drive down a dirt road. And then forced her to
19 perform oral sex on him. And then intercourse. And
20 then later on he had intercourse with her a second
21 time.

22 She told me that he grabbed the wheel.
23 And that she was scared of him. And he was much
24 bigger and stronger than she was, so she complied
25 with his wishes.

Todd Avant-direct by Land

1 Q What was her demeanor while you were
2 speaking with her?

3 A Upset.

4 Q Was she crying?

5 A She was.

6 Q Was she able to speak about it easily and
7 freely?

8 A No.

9 Q When she said Button, did you know who she
10 speaking of?

11 A Not at the time, I did not.

12 Q And did she know his proper name?

13 A No, ma'am, she did not.

14 Q How were you able to determine that Button
15 is Donniel Woods?

16 A I actually had a call and the person
17 didn't give me their name. I guess, said they were
18 scared of him. And it was one of his family
19 members. They said they were a family member.

20 MS. BUTCHER: Objection. speculation.

21 THE COURT: Objection is sustained. As to
22 hearsay.

23 Q Did you learn that Button was Donniel
24 Woods?

25 A I did.

Todd Avant-direct by Land

1 Q And once you learned that, what if
2 anything did you do?

3 A I notified sled, and they produced me a
4 photo lineup with his picture in it.

5 Q This has been put into evidence as State's
6 Exhibit No. 1. When you determined who Button was,
7 did you have sled make up that photo lineup?

8 A I did.

9 Q And the person identified as subject No.
10 3, is that the person who you identified as Donniel
11 Woods?

12 A That's correct.

13 Q And when did you show this to Ms. Summers?

14 A June 29th 2008. It has got her signature
15 on it.

16 Q Do you recall the time when you showed it
17 to her?

18 A The exact time, no, ma'am, I do not.

19 Q Do you recall the circumstances? Did you
20 go to her home. Did she come to Manning?

21 A She came to the Sheriff's Office.

22 Q And who was in the room when you showed
23 her, do you recall?

24 A I do not.

25 Q And when you showed her, was there any

Todd Avant-direct by Land

1 sort of discussion or any sort of leading on your
2 part or anyone else's?

3 A No, ma'am, not at all.

4 Q What is your typical policy when you show
5 somebody a photo lineup?

6 A I, of course, give it to them and let them
7 make that determination. I can't recall if somebody
8 was listening in there. Typically there's usually
9 somebody in there with us. Being two years I don't
10 remember who was present. But as well as I
11 remember, It didn't take her but just a minute to
12 pick him out of the lineup.

13 Q And you said typically it's your policy
14 just to show them the lineup and let them pick it.
15 Is that what you did on this occasion?

16 A That's correct.

17 Q And she indicated the person that raped
18 her, by signing her name, and indicating the date?

19 A That's correct.

20 Q When you spoke with Ms. Summers that
21 night, were you able to get some idea of where this
22 had occurred?

23 A She told me she was from St. George, and
24 was not familiar with the area known as Alcolu. And
25 she gave me a description. She said she went down

Todd Avant-direct by Land

1 hotel street and got to the stop sign and made a
2 right on the dirt road. By then I had a visual
3 picture that it was Brogdon Road. She said she went
4 down a short piece and then made a left into the
5 woods. And so I had a visual idea, but it was still
6 very vague.

7 Q And when you spoke with her, what time of
8 day or night was it?

9 A It was after midnight.

10 Q Did you attempt to go to the scene that
11 evening?

12 A To the Brogdon Road area---

13 Q Right.

14 A ---where it occurred? Yes, ma'am, I sure
15 did.

16 Q Were you able to collect any evidence or
17 anything of that nature that night?

18 A Yes, ma'am. We, Deputy Marion and I both
19 went out there while they were doing the sexual
20 assault kit on Ms. Summers. Those kits tend to take
21 awhile. Sometimes as you well know, our hospital is
22 not as efficient. And it takes them a while to get
23 things done. So while they were performing that
24 kit, Deputy Marion and I went out to the Brogdon
25 Road area.

Todd Avant-direct by Land

1 We began riding up and down trying to
2 locate the scene. They are many cuts and paths to
3 the left of Brogdon Road, which is a very long dirt
4 road in itself. As it became daylight, we saw the
5 spot where a car looked like it had been stuck. And
6 I believe Deputy Marion actually found that spot.
7 He called. We parked -- I parked out on the road.
8 We began walking down the road down into the woods.
9 And there appeared to be a hunting club along the
10 road. And we discovered her wallet down there on
11 the edge of the road.

12 Q At that point had the sun come up?

13 A Yes, ma'am.

14 Q And so just so that the jury has an idea
15 of the time line, do you know what time you
16 responded to the hospital?

17 A I am not positive, but I think it was
18 around 2 a.m.

19 Q And do you recall how long you spoke to
20 the victim?

21 A It wasn't very long. I just let her brief
22 me on it. I didn't dwell on it very much, because I
23 didn't want her to relive the traumatic experience
24 she had already been through.

25 Q And you were able from that conversation

Todd Avant-direct by Land

1 to get the information that you wanted?

2 A Yes, ma'am.

3 Q And are you familiar with the Alcolu area?

4 A Yes, ma'am.

5 Q So when she was giving you terms and
6 things of that nature, you knew kind of what she was
7 talking about?

8 A Basically, yes, ma'am. We still had a
9 hard time finding that location but....

10 Q How long do you think it took you and
11 Deputy Marion to find the location?

12 A It was sunrise before we actually found
13 the -- right at sunrise, because we found the spot
14 where the car had been stuck.

15 Q Okay.

16 A So talking probably 3 hours.

17 Q Did you have the opportunity to photograph
18 that scene?

19 A I did.

20 Q Let me show you first that picture. Can
21 you identify that picture?

22 A That's the victim's vehicle that is
23 located after -- as we drove there. And Deputy
24 Marion put tape around it.

25 Q And did you take that photograph?

Todd Avant-direct by Land

1 A I did.

2 MS. LAND: Your Honor, I would like to
3 have this admitted into evidence as State's
4 Exhibit No. 2.

5 THE COURT: What says the State?

6 MS. BUTCHER: No objection.

7 THE COURT: It's admitted without
8 objection.

9 (Photograph marked State's exhibit No. 2
10 into evidence.)

11 Q Tell the jury what that picture is and why
12 you photographed it?

13 A That is a picture of the victim's vehicle,
14 which is parked in a parking space at Clarendon
15 Memorial Hospital. And I photographed the tag of it
16 that we identified as her vehicle. Also on the back
17 of it appears to be something that's smudged or run
18 down the back of the vehicle. You can see the dew
19 on the vehicle. Being June, and also early in the
20 morning the dew had settled in. But also the dust
21 from the dirt road area.

22 MS. BUTCHER: Object, Your Honor. I don't
23 think he knows where the dust came from.

24 THE COURT: Do you know where the dust
25 came from?

Todd Avant-direct by Land

1 A No, sir.

2 THE COURT: That part of the response is
3 sustained.

4 Q So now if I can show you that picture.
5 Did you take that photograph?

6 A I did.

7 Q And that's an accurate representation of
8 the area that you and Deputy Marion went?

9 A That's correct. This picture here was
10 from Brogdon Road. Which shows the post here to the
11 left where the gate area, which the gate was open.
12 It shows a road back up in the wooded area here.
13 And this particular road here to the right, just
14 kind of like a turn around area. It's not actually
15 a road. It's not much further than the picture
16 shows. But it kind of zig zags back up in the woods
17 there.

18 MS. LAND: Your Honor, I would like to
19 have this picture admitted as State's No. 3.

20 MS. BUTCHER: No objection.

21 THE COURT: Admitted without objection.

22 (Photograph marked State's Exhibit No. 3
23 into evidence.

24 Q In relation to this picture if you can,
25 can you show the jury, and I know it's a small

Todd Avant-direct by Land

1 picture. But just describe to them with your words,
2 exactly where you saw the car was stuck and where
3 the wallet was found.

4 A The car was stuck further back on the
5 Brogdon area where they pulled off the road into
6 the -- onto this road here, which is a heads up in
7 to the wooded area. But the actual site below
8 embankment comes off a dirt road where -- that's
9 where the car was stuck at.

10 MS. BUTCHER: Objection. Your Honor, he
11 doesn't know that it was the car. I think he
12 can say a car appeared to have been.

13 A A car was stuck. There appeared to be
14 stuck. The wallet was found further back down this
15 little logging road here. Probably, I don't have
16 the exact distance or anything, but it was a little
17 ways back down that logging road.

18 Q Let me show you this picture, and see if
19 it helps give some perspective to that picture.. Did
20 you take that one?

21 A I did.

22 Q And what is that picture of?

23 A It's a picture of my vehicle parked onto
24 the Brogdon Road area. This is a Sandy area where
25 it appears where the road plows would tumble the

Todd Avant-direct by Land

1 dirt over to the left hand side. And right beside
2 my vehicle is where apparently a car had been stuck.
3 Or appeared to be stuck there.

4 Q Okay. And you took that photograph?

5 A I did.

6 MS. LAND: Your Honor, I would ask that
7 this be admitted as State's Exhibit No. 4.

8 (Photograph marked as State's Exhibit No.
9 4 into evidence.)

10 Q And that kind of hump of dirt, I would
11 describe it. Did it appear that a vehicle had been
12 stuck in that spot?

13 A Yes. I think there is another photo that
14 actually shows the dimension.

15 Q I am going to show you these two photos.
16 Did you take that?

17 A I did.

18 Q And is that the area where it appeared to
19 you a car had been stuck?

20 A Yes, ma'am.

21 MS. LAND: Your Honor, I would like these
22 admitted as State's 4 and 5. No. 5 and 6.

23 (Photographs marked State's Exhibit Nos. 5
24 and 6 into evidence.)

25 A You can see the grass.

Todd Avant-direct by Land

1 Q Okay. I am sorry, I am showing you what
2 has been put into evidence as State's 5 and 6.

3 A Correct.

4 Q If you will go over your explanation.

5 A As you can see, the photo here, it looks
6 like the vehicle apparently was stuck in the sandy
7 area here. A vehicle. And of course that's what
8 triggered our attention to that particular location
9 there. But that's why it is right beside my vehicle
10 in this area here.

11 Q Is the road itself a road that appears
12 pretty well traveled?

13 A Yes, ma'am.

14 Q And how about the spot where the car
15 appeared stuck?

16 A No.

17 Q Okay. And there is -- this is again a
18 picture that has been put into evidence State's
19 Exhibit No. 2. If that car was stuck in that pile
20 of dirt, would it be able to get out without a
21 pushing---

22 MS. BUTCHER: Objection. Speculation.

23 THE COURT: The objection is overruled.

24 Give your opinion about that.

25 A Yes. It's possible without having to have

Todd Avant-direct by Land

1 anybody push it out if you rocked it about back and
2 forth.

3 Q Okay.

4 A That being a front wheel drive car, I can
5 understand how front wheel drive cars don't react
6 too good in sand and stuff.

7 Q And in fact when she got back in the
8 passenger seat of the front of the car, would that
9 assist in getting it out more so than pushing?

10 A I am not sure.

11 Q Because of the weight in the front?

12 A It's possible.

13 Q These are three last pictures. Did you
14 take those photographs?

15 A I did.

16 Q And what are they photos of?

17 A Sheila Summers' wallet.

18 Q Where was -- did you find that wallet?

19 A I did.

20 Q Where did you find it?

21 A On down that dirt road in the vicinity of
22 Brogdon Road.

23 Q Was it in close proximity to the point
24 where the car was stuck?

25 A Um...

Todd Avant-direct by Land

1 Q Or what kind of proximity?

2 A It wasn't too far from it, but it was some
3 distance from where it got stuck, yes, ma'am.

4 Q And If I can hold those photographs. Your
5 Honor, at this point, I would like these admitted
6 into evidence State's exhibit 7, 8 and 9.

7 MS. BUTCHER: No objection.

8 (Photographs marked State's Exhibit Nos.
9 7, 8, 9.

10 Q When you found this wallet, did you know
11 it belonged to Sheila Summers?

12 A Her Social Security Card was out as you
13 can see in this photo. And it was open just like
14 it's sitting here on the ground.

15 Q And it identified her by name?

16 A Yes, sheila Summers.

17 Q Did she tell you at the hospital that he
18 had taken her wallet and thrown it?

19 A I believe she did, yes, ma'am.

20 Q And did she also tell you of getting
21 stuck?

22 A She did.

23 Q And so those were items that you were
24 looking for, that may assist you in your
25 investigation?

Todd Avant-direct by Land

1 A Correct.

2 Q So that the jury has a little bit of
3 understanding of where everything is, tell them
4 where Brogdon Road is in relation to Reggie Nelson's
5 house and the Alcolu Exxon?

6 A The Alcolu Exxon is located off of I
7 believe, 122/95 and highway 521. If you veer behind
8 the Alcolu Exxon down by the Post Office and make a
9 right, that's Hotel Street. You will cross over the
10 railroad tracks, past Phoenix School, which will be
11 on your left. And Reggie Nelson's house would be on
12 the right. Approximately a mile and a half down on
13 that paved road. A mile and a half, two miles down
14 that paved road. It turns in to one of the roads,
15 the dirt road that runs between 521 and Plowden Mill
16 Road. You make a right on to that dirt road. I
17 don't remember exactly how far down. You make a
18 left. That's where this incident here occurred at.

19 MS. LAND: I beg the Court's indulgence
20 one minute.

21 Q Investigator Avant, did you ever collect
22 Ms. Summer's bra for any sort of identification and
23 send it to sled or anything of that nature?

24 A No, ma'am.

25 MS. LAND: That's all the questions I

Todd Avant-direct by Land

1 have.

2 Cross Examination By Ms. Butcher

3 Q Mr. Avant, do you recall when you left the
4 employment of the Sheriff's Department?

5 A October of 2007.

6 Q October 2007. Did you work on this -- you
7 wouldn't have worked on this case after that?

8 A No, ma'am.

9 Q Do you know what officer picked it up from
10 you?

11 A If anybody would have, It would have been
12 Thomas Burgess. But I am not sure.

13 Q But your -- you just don't know.

14 A I do not know, no, ma'am.

15 Q You didn't happen to give your files to
16 anyone?

17 A Lieutenant Burgess got the file, yes,
18 ma'am.

19 Q But you didn't go over your cases with Him
20 so he would understand them?

21 A I did not.

22 Q Let's talk about the car first. You said
23 you found an imprint where a car had been bogged
24 down.

25 A Yes, ma'am.

Todd Avant-cross by Butcher

1 Q Or appeared to have been?

2 A Correct.

3 Q Which tire on that car had been bogged
4 down, or was it more than one that had been bogged
5 down?

6 A It looked like both of them.

7 Q Two tires? Front or back?

8 A I am not sure on that. Probably the
9 front.

10 Q What leads you to believe it was the front
11 tires?

12 A Because it was a front wheel drive car.
13 And I've seen how it does that.

14 Q You had known -- did you have any evidence
15 that this imprint was connected to that car?

16 A No, ma'am.

17 Q So what led you to believe it was the
18 front tires, or could you just not tell?

19 A It being a front wheel drive car.

20 Q You just said you did not know if that car
21 had made this imprint.

22 A That's correct.

23 Q So did you---

24 A A car made that imprint, that's correct.

25 Q Was there any way that you could have been

Todd Avant-cross by Butcher

1 able to tell if it was a front tire, a back tire?

2 A No, ma'am.

3 Q So you have no idea.

4 A No, ma'am.

5 Q Were there any footprints around where
6 those tire marks are bogged down?

7 A I don't recall.

8 Q If there had been, would you have taken
9 pictures of them?

10 A Yes, ma'am.

11 Q Would it be reasonable to say that there
12 were no footprints if you did not take pictures?

13 A Yes, ma'am.

14 Q Would you have failed in your duties in
15 investigating this crime if you did not take
16 pictures of the footprints around the crime scene?

17 A It's possible that I could have missed a
18 footprint, yes, ma'am.

19 Q Did you do any castings of these tire
20 prints to try to match them up to the car?

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

22 Q So you have no idea if they really match.
23 And you don't remember if there are any footprints?

24 A No, ma'am.

25 Q Would you have looked for footprints?

Todd Avant-cross by Butcher

1 A Yes, ma'am.

2 Q Would you have looked for footprints to
3 see who really pushed the car out? To see if....

4 A I am sorry?

5 Q Would you have looked to see who would
6 have pushed the car out? Would that have been a
7 reason to look for the footprints?

8 A I probably looked for some footprints,
9 yes, ma'am.

10 Q Would one of the reasons be to see who
11 pushed the car out?

12 A Probably not. Because the car obviously
13 got out, and she drove it to the hospital.

14 Q Wouldn't that have told you who was
15 driving the car out and who was pushing?

16 A I don't see where that would have made a
17 whole lot of difference in this situation.

18 Q As an investigator, did you ever run
19 across cases where people made false reports?

20 A Yes, ma'am.

21 Q Ever make false -- people make false
22 reports in situations of rape?

23 A Yes, ma'am.

24 Q So as an investigator, wouldn't you
25 investigate both sides of a story?

Todd Avant-cross by Butcher

1 A Yes, ma'am.

2 Q So therefore, would it not have been
3 important to know who pushed the car out, to know if
4 someone could have driven away? Locked the doors?

5 A See I don't even remember if she told me
6 she pushed the car out that night or not.

7 Q You usually do thorough investigations
8 when you investigate a crime, is that correct?

9 A To the best of my ability, yes, ma'am.

10 Q Did you talk to Mr. Tywan Blackwell?

11 A No, ma'am.

12 Q Did you talk with Mr. Reggie Nelson?

13 A No.

14 Q No. Did you talk to Mr. Donniel Woods?

15 A No.

16 Q Did you take fingerprints? Check for
17 fingerprints on the wallet?

18 A We did.

19 Q And what did that come up with?

20 A We didn't recover any.

21 Q No fingerprints on the wallet?

22 A No, ma'am.

23 Q Did you do a DNA analysis?

24 A If it's a sexual assault kit, yes, ma'am.

25 Q What were the results of that DNA

Todd Avant-cross by Butcher

1 analysis?

2 MS. LAND: Your Honor, I object.

3 MS. BUTCHER: I haven't asked the
4 question.

5 THE COURT: You asked for the results of
6 the DNA analysis. The objection is sustained.

7 Q What time was it again that you meet,
8 excuse me, Ms. Summers at the hospital?

9 A I think it was after 2 a.m. I am not
10 positive.

11 Q Okay. Around 2:00 a.m is fair?

12 A I think so, yes, ma'am. It was after
13 midnight definitely.

14 Q You didn't perform any rape kit?

15 A No, ma'am.

16 Q Would you know when they came in to
17 perform the rape kit?

18 A I spoke with the nurse there. I don't
19 have any time frame of when they performed it, no,
20 ma'am.

21 Q Okay. Did you check -- did Ms. Summers
22 tell you that Mr. Woods ejaculated in the car?

23 A I don't recall that that particular night.

24 Q You don't recall?

25 A No, ma'am. I was under the impression

Todd Avant-cross by Butcher

1 everything happened outside the vehicle.

2 Q You took notes and made up a report,

3 correct?

4 A Yes, ma'am.

5 Q Is this a copy of your report?

6 A Yes, ma'am.

7 Q Would you like to use it refresh your

8 memory?

9 A That would be fine. Okay.

10 Q Did you check -- did Ms. Summers tell you

11 that Mr. Woods ejaculated in this vehicle during

12 oral sex?

13 A I don't recall that.

14 Q Do you recall if she stated that they had

15 oral sex---

16 A I do---

17 Q ---in the car?

18 A I do not recall that.

19 Q Is that not what you put in your report?

20 A If that's what is in there, that's what

21 would be present. I mean that's what she was told.

22 Q Okay.

23 A Correct. But that was in 2006.

24 Q And you're just saying you don't recall---

25 A Right.

Todd Avant-cross by Butcher

1 Q ---now what you wrote down then.

2 A That's correct.

3 Q But what you wrote down then, is it fair
4 to say that would be an accurate accounting of what
5 you were told in your notes?

6 A That's correct.

7 Q Did she tell you that he cleaned himself
8 up in the vehicle?

9 A I don't even recall that. Is it in the
10 notes there?

11 Q Would you like to---

12 A Yeah, that's fine.

13 Q Do your notes indicate that he cleaned
14 himself up in the vehicle?

15 A Uh-huh. (affirmative.)

16 Q Would that have indicated to you that he
17 ejaculated while in the vehicle?

18 A No.

19 Q So---

20 A It says that they went down a logging
21 road. "Forced the victim to perform oral sex."

22 MS. LAND: Your Honor, before he reads any
23 further, if she is going to ask him to read off
24 this report, I would just ask that she admit it
25 into evidence.

Todd Avant-cross by Butcher

1 MS. BUTCHER: Your Honor, I don't have a
2 problem with that. That one is quite marked
3 up. And I can---

4 MS. LAND: I have got one that is not
5 marked up.

6 MS. BUTCHER: But I am not admitting it.
7 I mean....

8 THE COURT: You may proceed.

9 Q Did -- do your notes indicate that he
10 forced the victim to perform oral sex on Him? She
11 stated that when he finished, he was cleaning
12 himself up. She jumped out of the car. Would That
13 indicate to you that Mr. Woods ejaculated in the
14 car?

15 A No.

16 Q It would not.

17 A He could have done it on the outside, and
18 then got in the car and got something to clean it up
19 with.

20 Q Did you test the car for DNA?

21 A No, we did not.

22 Q You didn't test it for any semen?

23 A No, ma'am.

24 Q So you didn't---

25 A No. Not---

Todd Avant-cross by Butcher

1 Q In your notes, do you have Ms. Summers
2 state that Troy took her to the hospital?

3 A I know -- I don't have Troy in here.

4 Q Would you read the two sentences?

5 A I will. I am sorry, I will. "Troy took
6 her to the CMHER where she then notified Law
7 Enforcement."

8 Q Would you please describe the injuries
9 Ms. Summers reported to you?

10 A She had one cut on her ankle, I believe,
11 and some injuries around her neck area.

12 Q If she had any other injuries would you
13 have put them in your report?

14 A I don't know because I didn't examine her.

15 Q Did you ask her what her injuries were?

16 A I am sure I did.

17 Q And if she had told you all of them, would
18 you have put them in the report?

19 A Those are notes. And it's possible. And
20 if I did leave something out. But usually the nurse
21 or whoever is doing the kit on her would put all the
22 information down on the hospital report.

23 Q Okay. So as the investigator, you can
24 rely on that sexual assault kit to list all the
25 injuries that were on the victim.

Todd Avant-cross by Butcher

1 A I would hope so, yes, ma'am.

2 Q The only ones you put in your report were
3 the neck and back.

4 A And back.

5 Q Do you recall if she had dirt all over
6 her?

7 A No, ma'am.

8 Q If she had would you have put it in your
9 report?

10 A It's possible.

11 Q Did you have any questions about the
12 length of time between the rape and the time she
13 arrived at the hospital?

14 A I just asked her, you know, when it
15 happened. And, of course, when she got to the
16 hospital, of course, I was there. I did have some
17 questions about the time frame.

18 Q But you didn't ask her about them?

19 A I let her tell me about them, yes, ma'am.

20 Q Okay. Do you have the pictures of the
21 injuries that she had?

22 A No, ma'am, I do not.

23 Q Did you take pictures?

24 A I did not take any of her, of her
25 injuries. Typically the victim's advocate will come

Todd Avant-cross by Butcher

1 out and assist the victim at the hospital. And that
2 night Ronda Rainey had an emergency and was unable
3 to come to the hospital. And I don't know if I
4 failed to take them or whether DJ had taken them.
5 But I don't have any of her injuries.

6 Q That's a pretty important piece of
7 evidence though, wouldn't it be?

8 A It is.

9 Q Well do you recall, and I'm looking for,
10 and I know you probably can't give me an exact date
11 unless you can, of when you actually identified
12 "Button," as Donniel Woods.

13 A That night somebody told me who Button was
14 by his nickname. And that -- well she identified
15 him in the lineup on the 29th.

16 Q When you stated the date that she
17 identified, I could not hear the year. I just
18 couldn't hear you.

19 A 2006.

20 Q That was 2006?

21 A Yes, ma'am. Just a few days after the
22 incident occurred.

23 Q You also stated that for the back of the
24 car, you think, one reason you had taken pictures
25 because it appears that something was running down.

Todd Avant-cross by Butcher

1 Did you ever test that something to find out what it
2 was?

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

4 Q One more question about those tire tracks.
5 How deep were they?

6 A I didn't measure them.

7 Q So you don't know how far that car---

8 A No, ma'am.

9 Q ---was stuck?

10 A No, ma'am.

11 Q Do you recall if it was roughly or no?

12 A No, ma'am. It apparently wasn't stuck
13 real bad. I looked at some photos.

14 Q That's just your guess.

15 A That's my guess, yes, ma'am.

16 Q Looking at the photos, Mr. Avant, in your
17 opinion as an investigator, would you say you kind
18 of did a poor job on this one?

19 A No, ma'am.

20 Q Do you think that -- you didn't get the
21 photographs of her injuries.

22 A As I stated, typically the victim's
23 advocate does that. And I don't know if I thought
24 DJ had taken some when we first got there, or
25 whether or not I overlooked that. That would have

Todd Avant-cross by Butcher

1 been a mistake on my part, yes, ma'am.

2 MS. BUTCHER: No further questions.

3 Redirect Examination by Ms. Land:

4 Q These are the case notes or the case
5 summary that Ms. Butcher just gave you to look over
6 and review.

7 A Yes, ma'am.

8 MS. LAND: Your Honor, at this time I
9 would ask that this be admitted as State's
10 Exhibit no. 10.

11 THE COURT: What says the defense?

12 MS. BUTCHER: Your Honor, I would object.
13 May we approach?

14 (Whereupon, the attorneys approach and
15 confer with judge.)

16 THE COURT: The objection is sustained.

17 Q Well she asked you a lot about them.
18 Let's go over, this is a summary of what Ms. Summers
19 told you at the hospital, is that correct?

20 A That's right.

21 Q And the evidence that you collected?

22 A It's just a refresher for investigators to
23 tell what we did. And typically those notes very
24 seldom make it to court.

25 Q But in there you do state that you went in

Todd Avant-redirect by Land

1 to the hospital. And she told you that a person by
2 the name of Button wanted a ride to the Alcolu
3 Exxon?

4 A That's correct.

5 Q And did you know who that person Button
6 was?

7 A I did not.

8 Q But you do indicate in here that a family
9 member or friend of hers came to CMHER and
10 identified Button as Donniel Woods. And stated---

11 MS. BUTCHER: Objection, Your Honor. I
12 didn't ask that.

13 THE COURT: Pardon me?

14 MS. BUTCHER: I think she is going out of
15 the realms of cross in what she is asking.

16 THE COURT: The objection is to the form
17 of the question. And leading the witness.

18 Q Did you indicate in there how you learned
19 who Button was?

20 A I did.

21 Q Can you read that portion for me, please?
22 It's towards the bottom.

23 MS. BUTCHER: Objection, Your Honor. It's
24 not in evidence.

25 THE COURT: Objection is overruled.

Todd Avant-redirect by Land

1 Q "A family member or friend of hers came to
2 CMHER, and identified Button as Donniel Woods and
3 stated that,"---

4 MS. BUTCHER: Objection, Your Honor.

5 THE COURT: Just a moment, sir. You have
6 answered the question.

7 MS. BUTCHER: Thank you, your honor.

8 Q Now she also asked you about collecting
9 DNA. As the investigator is part of your job to
10 collect DNA from a victim or do any kind of physical
11 exam on the victim?

12 A No, ma'am.

13 Q Okay and you're not a doctor or a nurse or
14 any kind of medical professional, is that correct?

15 A No, ma'am.

16 Q Did you view or are you responsible for
17 analyzing any DNA that is collected?

18 A No, ma'am.

19 Q So anything that was found is beyond your
20 responsibility?

21 A That would be correct.

22 Q And beyond your control. Do you have the
23 expertise to explain to this jury how DNA is
24 collected or how often there is a match or anything
25 of that nature?

Todd Avant-redirect by Land

1 A I do not.

2 Q So any of those questions aren't because
3 you didn't do your job, it's simply that that is not
4 your job.

5 A That would be correct.

6 Q On that evening tell the jury one more
7 time what -- how she appeared to you. How Ms.
8 Summers appeared to you when you went to the ER and
9 spoke to her?

10 A Upset. Distraught.

11 Q Is it the kind of situation where you walk
12 in and start snapping pictures and asking her to
13 expose her neck and her legs and things of that
14 nature?

15 A No, ma'am. You don't want the victim to
16 go through any more. A lot of times with a male
17 investigator, a female will be very uncomfortable.
18 Especially after an incident like this occurred.

19 Q And is that typically why the victim's
20 advocate takes the pictures?

21 A That is correct.

22 Q And how many victim's advocates at that --
23 victim's advocates at that time were at the
24 Clarendon County Sheriff's Office?

25 A Well Ronda Rainey and Nancy Clark, I

Todd Avant-redirect by Land

1 believe, if I remember correctly, was out with some
2 type of personal problem. So we only had one at
3 that time.

4 Q Okay. So there were two of them employed.
5 Both of them female.

6 A Yes, ma'am.

7 Q And the one female who was on active duty,
8 so to say, had an emergency and simply---

9 A That is correct.

10 Q ---could not come. Have you ever before
11 that incident or after that incident had a situation
12 like that, where there was a rape, and a female
13 victim advocate could not attend?

14 A No, ma'am.

15 Q So this was an extremely unique situation.

16 A It was.

17 Q Were you secure in the fact that a doctor
18 or nurse or medical professional would come in and
19 observe her injuries if not take pictures of them?

20 A I would.

21 Q After Ms. Summers left the hospital that
22 night, did you allow her to take her vehicle home?

23 A I did.

24 Q And she drove that vehicle herself, is
25 that correct?

Todd Avant-redirect by Land

1 A That's correct.

2 Q And when she took that vehicle, is it fair
3 to say that you didn't know that there could be
4 evidence in the form of his DNA in the car?

5 A I did not know that at the time.

6 Q And if you had known that his possible
7 semen was in the back of the car, would you have
8 allowed her to take her vehicle?

9 A Probably not.

10 Q You just simply from what she told you,
11 did not get to.

12 MS. BUTCHER: Your Honor, I object. Very
13 leading.

14 THE COURT: Don't lead the witness.

15 Q Why did you allow her to take her vehicle?

16 A Because I didn't have anything else to
17 process in the vehicle. And it was time for her to
18 go home.

19 MS. LAND: Okay. Thank you. That's all
20 of the questions I have.

21 THE COURT: Anything further?

22 Recross Examination by Ms. Butcher:

23 Q Reviewing the medical exams is not your
24 role as an investigator?

25 A No, ma'am.

Todd Avant-redirect by Land

1 Q Would it -- but it would have been your
2 role as investigator to talk to Tywan Blackwell,
3 correct?

4 MS. LAND: Your Honor, that's beyond the
5 scope of cross.

6 THE COURT: Objection overruled. You may
7 answer yes or no.

8 A Yes.

9 Q It would have been your job to interview
10 Reggie Nelson, correct?

11 A If I could have located him, yes.

12 Q Did you try to locate him?

13 A I did. I went out to Alcolu, I could not
14 locate him.

15 Q And did you try to locate Troy Nelson?

16 A I did.

17 Q Did you speak with Him?

18 A I did not.

19 Q If would have been your job to speak with
20 Donniel Woods, correct?

21 MS. LAND: Your Honor, she is commenting
22 on her own client's right to....

23 THE COURT: Objection sustained.

24 Q It would have been your job to check for
25 fingerprints, correct?

Todd Avant-redirect by Land

1 A That's correct.

2 Q It would have been your job to check in
3 that imprint where a car was stuck, correct?

4 A We photographed it, yes, ma'am.

5 Q Is it not your experience that often
6 victims see a victim's advocate the next day? Maybe
7 even a week later after an incident?

8 A They do.

9 Q Would it have been your job to see if any
10 pictures were taken?

11 A If the victim's advocate took the
12 pictures, she would have submitted them in to
13 evidence herself.

14 Q Okay. So that wasn't that unique a
15 situation then?

16 A Do what now?

17 Q It was not unique that the victim didn't
18 see the victim's advocate as soon as she reported
19 it?

20 A It was unique that the victim's advocate
21 did not respond the night of the incident. That was
22 a unique situation.

23 Q But often they see them days and weeks
24 later, you said.

25 A I am sure she saw them after that.

Todd Avant-redirect by Land

1 MS. BUTCHER: Thank you. No further
2 questions.

3 THE COURT: You may step down, sir.

4 Ladies and Gentlemen we will take a break
5 now. Please go to the jury room. Do not
6 discuss the case. The clerk is going check
7 with you while you are in there, about getting
8 something to eat while we stay here a little
9 bit later. If someone needs to use the phone,
10 let the bailiff know and she will make that
11 arrangement.

12 (Whereupon, the following takes place
13 outside the presence of the jury.)

14 THE COURT: Ms. Butcher, anything?

15 MS. BUTCHER: Your honor, I would just
16 simply like the opportunity to speak with Tywan
17 Blackwell. As he has been brought over. I
18 understand he's locked in the Solicitor's
19 Office? If he wants to tell me or my
20 investigator that's one thing. But I would
21 like that opportunity, Your Honor.

22 THE COURT: Who is the next witness?

23 MS. LAND: He is, judge. He's not locked
24 in my office. I said you don't have to speak
25 with Ms. Butcher if you don't want to. She

1 attempted to talk to him out there. And he
2 goes, "I'm not talking with anybody."

3 THE COURT: If he is the next witness, he
4 can come sit over here.

5 MS. LAND: Okay.

6 THE COURT: He will be your next witness.

7 MS. LAND: Will you bring him in from my
8 office.

9 THE COURT: Anything else before we
10 proceed?

11 MS. LAND: Yes, sir. I do have one other
12 thing. I do believe that the jury needs some
13 sort of curative instruction about him not
14 speaking with Donniel Woods. Of course Donniel
15 Woods has the right not to speak to law
16 enforcement. He has been given his Miranda
17 Rights. He was incarcerated in Sumter County
18 the whole time. And I think that they were
19 mislead about Mr. Avant not doing his job
20 properly when Mr. Woods has all these rights
21 that the jury doesn't really know about.

22 THE COURT: Well it is premature to be
23 giving curative instructions regarding the
24 defendant's constitutional rights.

25 MS. BUTCHER: Your Honor, I was just going

1 to comment on that.

2 THE COURT: Well I have ruled.

3 MS. BUTCHER: And, Your Honor, my comment,
4 that would be curative upon a statement by the
5 defendant given to law enforcement. They have
6 a right to speak to law enforcement. And I
7 don't think he had attorney at the time. And
8 they read the Miranda Rights. And they
9 haven't---

10 THE COURT: I have ruled on the objection.
11 I am not going to gave a curative instruction.

12 MS. BUTCHER: Thank you.

13 THE COURT: Anything else?

14 MS. LAND: No, sir.

15 THE COURT: On the issue of the questions
16 by Ms. Butcher concerning certain people being
17 in jail at the time and in the house -- the
18 crack house at the time. Do you have a factual
19 basis to ask those questions?

20 MS. BUTCHER: The actual sentencing sheets
21 of these people.

22 THE COURT: You asked whether some had a
23 pending charge.

24 MS. BUTCHER: I have that also, Your
25 Honor. And they are certified. I also have a

1 witness, Your Honor, that will testify that
2 this was a crack house.

3 THE COURT: Okay we are on break.

4 MS. BUTCHER: Thank you, Your Honor.

5 THE COURT: This was the house that your
6 client was at?

7 MS. BUTCHER: Yes, Your Honor.

8 THE COURT: We will take a 15-minute
9 break.

10 (Whereupon, the jury takes a short
11 recess.)

12 THE COURT: Anything before we bring the
13 jury back?

14 MS. LAND: No, sir.

15 THE COURT: Are you ready for them to come
16 out? You may bring the jury.

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

19 MS. LAND: We would call Tywan Blackwell.

20 Tywan Blackwell, after being first

21 duly, testified as follows:

22 Direct Examination by Ms. Land:

23 Q If you would state your name for the jury.

24 A Tywan Blackwell.

25 Q Where do you live, Mr. Blackwell?

Tywan Blackwell-direct by Land

1 A I live in Sumter now.

2 Q Okay. You are in Department of

3 Corrections at this time?

4 A Yes, ma'am.

5 Q Tell the jury why you reside at the

6 Department of Corrections?

7 A Why? Because I sold drugs. And I am

8 paying the price for it now.

9 Q What sort of sentence are you currently
10 serving?

11 A I am serving a 10-year sentence.

12 Q And that's from an incident that occurred
13 in Sumter, is that correct?

14 A Yes, ma'am.

15 Q And you also have charges that occurred
16 here in Clarendon County?

17 A Yes, ma'am.

18 Q Did any of those charges occur from Troy
19 or Reggie Nelson's home?

20 A No, ma'am.

21 Q Do you know the defendant, Donniel Woods?

22 A Yes, ma'am.

23 Q How do you know him?

24 A My cousin.

25 Q They do -- what do they typically call

Tywan Blackwell-direct by Land

- 1 Donniel? What is his nickname?
- 2 A Button.
- 3 Q And do you know Sheila Summers?
- 4 A Yes, ma'am.
- 5 Q How do you know Ms. Summers?
- 6 A Me and her went to college together.
- 7 Q Are you a friend of Ms. Summers?
- 8 A Yes, ma'am.
- 9 Q And at one time were you pretty close with
- 10 her?
- 11 A Yes, ma'am.
- 12 Q And how often would you see her? What was
- 13 the nature of your relationship?
- 14 A We were boyfriend and girlfriend. And we
- 15 went to school together. And we, you know, we break
- 16 up but we always been friends.
- 17 Q And would she come to Clarendon County to
- 18 visit you?
- 19 A Yes, ma'am.
- 20 Q Did she come a lot?
- 21 A She would come often like on her way home.
- 22 Q She did what now?
- 23 A She would come often like on her way going
- 24 home.
- 25 Q Okay. She would stop off from her way

Tywan Blackwell-direct by Land

1 going home?

2 A Yes, ma'am.

3 Q And that was from Morris College to
4 Georgetown?

5 A No, ma'am. That was North Carolina going
6 home, you know. She would get off the interstate.

7 Q Okay. Did she know your family?

8 A Yes, ma'am. She knew my family.

9 Q And when you say, your family, who did she
10 know in your family?

11 A She knew all my cousins, you know.

12 Q How about Donniel, I assume you have known
13 him your whole life?

14 A Yes, ma'am.

15 Q And tell the jury exactly what your
16 relation is to him? How are you all related?

17 A His mother is my grandfather's brother. I
18 mean sister. His mother and my grandfather is
19 brothers and sisters.

20 Q Okay. His mother and your grandfather are
21 brother and sister.

22 A Yes, ma'am.

23 Q Growing up, did you spend time with Him?

24 A Somewhat.

25 Q In your adult life have you spent time

Tywan Blackwell-direct by Land

- 1 with Him?
- 2 A Yes, ma'am.
- 3 Q Would you also consider Mr. Woods a
- 4 friend?
- 5 A Yes, ma'am.
- 6 Q So you have no bridges to burn with him.
- 7 Nothing to gain or lose by being here today?
- 8 A I mean, no, ma'am. I a, just here. You
- 9 know, to tell the truth, you know.
- 10 Q And I sent for the people from the
- 11 Department of Corrections to bring you here, is that
- 12 correct?
- 13 A Yes, ma'am.
- 14 Q Have I promised you anything in exchange
- 15 for you testimony?
- 16 A No, ma'am.
- 17 Q And in fact, did I tell you that when you
- 18 leave here today, you will still serve the sentence
- 19 that you were sentenced to serve?
- 20 A Ma'am?
- 21 Q When you leave here today, you are still
- 22 going to serve out your sentence.
- 23 A Yes, ma'am. But -- you haven't said
- 24 nothing about that.
- 25 Q Do you recall when Ms. Summers came to

Tywan Blackwell-direct by Land

1 visit you on June 23rd of 2006?

2 A Yes, ma'am.

3 Q And do you remember receiving a phone call
4 from her?

5 A I think so.

6 Q Do you remember what her demeanor was when
7 she called you?

8 A She was on her way home. I think. She
9 was on her way home, and she would stop by and see
10 me.

11 Q Okay. And did she stop by and see you?

12 A Yes, ma'am.

13 Q Was there a time that she called you and
14 she was upset?

15 MS. BUTCHER: Objection. Withdraw.

16 A Not that I know of. Like what time?

17 Q On the evening of June 23rd, did she call
18 you at a time that she was upset?

19 A Not that evening.

20 Q At any time?

21 A At night.

22 Q Uh-huh. (affirmative.)

23 A At night when I had gotten up.

24 Q And what happened?

25 A She -- I was, I came to the apartments in

Tywan Blackwell-direct by Land

1 Manning.

2 Q What apartments are they?

3 A Manning Lane Apartments. And she came
4 around. And I just left from Alcolu. She came
5 around there, and she told me she had been raped and
6 she was crying.

7 Q And when you say she was crying, did she
8 have a tear or two running down her cheek, or would
9 you describe her as hysterical?

10 A She was shaking and crying.

11 Q She was very upset.

12 A Yes, ma'am.

13 Q Had you been at Troy and Reggie Nelson's
14 house earlier?

15 A Yes, ma'am.

16 Q And was your cousin Donniel Woods at that
17 residence?

18 A Yes, ma'am.

19 Q And you left.

20 A Yes, ma'am.

21 Q So you don't know what occurred after
22 that?

23 A No, ma'am.

24 Q When you got the phone call, was she
25 asking you to do something for her?

Tywan Blackwell-direct by Land

1 A I can't remember.

2 Q But you do remember that she wasn't her
3 usual self.

4 A Yes, ma'am.

5 Q Normally when you spend time with
6 Ms. Summers, what is her demeanor?

7 A She, you know, she is nice. She would
8 always talk. She would always talk to me. And she
9 will tell me, she would try to keep me right. She
10 always used to tell me, you know, the right stuff to
11 do when she know I was doing wrong, you know.

12 Q She kept you straight.

13 A Yes, ma'am.

14 Q Would you describe her as a happy person?

15 A Yes, sir.

16 Q And a good natured person?

17 A Yes, ma'am.

18 Q The phone call that you received from her
19 that night, had you ever gotten a phone call like
20 that from her?

21 A No, ma'am.

22 Q To your knowledge, did she have any reason
23 to make something like think up about Donniel Woods?

24 A No, ma'am. I don't think she would make
25 it up.

Tywan Blackwell-direct by Land

1 MS. LAND: That's all the questions I
2 have. Thanks. Well let me you ask you one
3 more.

4 Q You didn't go to the hospital, did you?

5 A No, ma'am, I called my mama to go up
6 there.

7 MR. LAND: That's all the questions I
8 have.

9 Cross Examination by Ms. Butcher:

10 Q About the only thing you remember is that
11 she said she was raped, correct?

12 A Yes, ma'am.

13 Q The State didn't offer you anything to
14 come over here and testify?

15 A No, ma'am. That's why I had to come to
16 court to be a witness.

17 Q So your testimony is that you met
18 Ms. Summers at the apartments, Manning Lane
19 Apartments?

20 A Yes, ma'am.

21 Q She drove up to Manning Lane Apartments?

22 A She wasn't driving.

23 Q Who was driving?

24 A It was, I don't know, one of my cousins.
25 I don't know which one was driving, but I know she

Tywan Blackwell-cross by Butcher

1 was on the passenger's seat. She was down in the
2 the seat shaking and crying.

3 Q Was it Troy?

4 A I don't know which one. I can't remember.
5 But I just remember when I went to the passenger
6 seat, that's when I saw her and I was shocked. I
7 couldn't believe it. You know.

8 Q Had -- do you know if Mr. Woods and Ms.
9 Summers had gotten into a fight prior to this
10 occasion?

11 A I don't know. I know, I can't remember.
12 I don't really recall them getting into a fight.

13 Q Had Ms. Summers hit Mr. Woods prior to
14 this occasion?

15 A No. I don't -- I don't know, you know,
16 who hit who or what, but, you know.

17 Q You don't know who hit who first?

18 A No.

19 Q Did they both hit each other?

20 A No, I can't remember. I really can't, you
21 know. I just know from what I seen, you know. I
22 can't remember what happened.

23 Q You just remember they got in a fight
24 earlier.

25 A No, they didn't get in any fight, because

Tywan Blackwell-cross by Butcher

1 I been there. It wasn't no fight, you know.

2 Q You don't recall Ms. Summers kicking

3 Mr. Woods?

4 A No, ma'am.

5 Q How much earlier was that a week, two

6 weeks?

7 A I imagine it was the same -- I don't know,

8 I think it was the same day. The same day.

9 Q Where did Troy and Reggie live? Where did
10 they live at that time?

11 A Over there down from my grandma's house.

12 Q Where is that?

13 A In Alcolu.

14 MS. BUTCHER: No further questions.

15 Redirect Examination By Ms. Land:

16 Q Tell me about the incident that happened
17 earlier from beginning to end. Everything that you
18 remember.

19 A I don't -- I can't remember who, what if
20 anything went on but, you know, as far as lick wise.
21 But I remember, you know, little words being said,
22 you know.

23 Q So you're telling this jury that licks
24 were thrown between these two individuals?

25 A I know it was a conflict, you know, but I

Tywan Blackwell-redirect by Land

1 wasn't there. You know, I was there, but I
2 wasn't -- I didn't see exactly what was going on at
3 the moment.

4 Q Uh-huh. (affirmative.)

5 A When I came in, I was like chill, you
6 know.

7 Q Were they using their words or were they
8 using their fists?

9 A I can't remember.

10 Q Okay. But----

11 A But I know there was arguing going on.

12 Q Okay. If one of them had struck the other
13 one, I mean hit them, would you remember that?

14 A Yeah, I would remember it.

15 Q I mean, because that would be pretty
16 severe, wouldn't it?

17 MS. BUTCHER: Your Honor, I object. He
18 said he never saw anything.

19 THE COURT: What's your objection?

20 MS. BUTCHER: He said he didn't see what
21 she's asking---

22 THE COURT: Do you have a legal basis for
23 your objection?

24 MS. BUTCHER: Speculation.

25 THE COURT: What she's saying? Who is

Tywan Blackwell-redirect by Land

1 saying what?

2 MS. BUTCHER: Speculation.

3 THE COURT: The objection is overruled.

4 You may proceed.

5 Q Okay. Well Ms. Koon might be right, you
6 didn't see anything.

7 A No.

8 Q There was no kicking and fighting and all
9 that, that you know of.

10 A No, ma'am.

11 Q Okay. And there might have been words
12 exchanged.

13 A Yes, ma'am.

14 Q Do you recall what it was about?

15 A I don't know. I know when I came in, I
16 just heard, "Don't touch me." You know.

17 Q Who said, "Don't touch me?"

18 A She said, "Don't touch me." When I came
19 around and I was like, "Chill, that's my cousin,"
20 you know. Because they were like standing up. And
21 I was like, "That's my cousin, chill out." You all
22 chill out. And I told him, I was like, "Leave her
23 alone." You know. I didn't know what happened,
24 because I think I was like down the hall, but I was
25 coming back into the living room. And they were

Tywan Blackwell-redirect by Land

1 kind of standing up. But I piece everything. You
2 know, and they just started like conversating.

3 Q Okay. So when you said you pieced
4 everything, they did chill. Everyone was getting
5 along.

6 A Yeah. We all sit on the couch, and, you
7 know, and they was talking.

8 MS. LAND: Okay. that's all the questions
9 I have.

10 MS. BUTCHER: No further questions.

11 THE COURT: You may step down, sir.

12 MS. LAND: Your Honor, we would call
13 Teresa Blackwell.

14 THE COURT: Any objection to this witness
15 being excused?

16 MS. BUTCHER: None, your honor.

17 MS. LAND: I have no objection.

18 Teresa Blackwell,
19 being first duly sworn, testified as follows:

20 Direct Examination by Ms. Land:

21 Q Can you introduce yourself to this jury,
22 please.

23 A My name is Teresa Blackwell.

24 Q And, Ms. Blackwell, just so the jury knows
25 how you are related to everyone, the young man that

Teresa Blackwell-direct by Ms. Land

1 just testified, that's currently in the South
2 Carolina Department of Corrections, what relation is
3 he to you?

4 A He's my son.

5 Q Okay. And how about the defendant,
6 Donniel Woods? Is he related to you?

7 A He's my first cousin.

8 Q What is that relation? Tell us who is
9 related in your family that makes you related?

10 A My daddy and his mother, are sisters and
11 brothers.

12 Q And do you know Ms. Summers?

13 A Yes, I do.

14 Q How do you know Ms. Summers?

15 A She attended Morris College. And I met
16 her by my son introducing me to her. And then she
17 started coming around and staying with me some
18 nights and we became good friends.

19 Q Okay. Would you say that Ms. Summers was
20 a very pleasant person?

21 A Yes, ma'am.

22 Q You enjoyed spending time with her?

23 A Yes, ma'am.

24 Q Do you have any problems with Mr. Woods
25 your cousin?

Teresa Blackwell-direct by Ms. Land

1 A No, ma'am.

2 Q Are you here today to tell the truth, and
3 tell what you know?

4 A Yes, ma'am.

5 Q You are not here to hurt or help anybody?

6 A No, ma'am.

7 Q Do you recall June 23rd 2006?

8 A No.

9 Q Well, I am sorry. Do you recall going to
10 the hospital with Ms. Summers for an incident that
11 occurred here in Manning?

12 A I didn't go with her.

13 Q Did you meet her there?

14 A I went after it happened.

15 Q Tell the jury what happened and what you
16 did?

17 A When I went there, and I told the people
18 who I was, they let me in the back. And when I went
19 in the back, she was crying. And so I hugged her.
20 And she was trembling and shaking and crying.

21 Q Do you recall what she was wearing?

22 A I can't even remember.

23 Q Do you recall if she was wearing anything?
24 Would you remember if she had been sitting there in
25 her bra and underwear?

Teresa Blackwell-direct by Ms. Land

1 A I don't know. I can't present what she
2 had on. I've had so much to happen with me and my
3 sons in the past year or two, until I just, I don't
4 even -- I can't remember.

5 Q That's all right. I just want you to
6 answer the things you can remember and answer them
7 truthfully. When you say she was crying---

8 A Uh-huh. (affirmative.)

9 Q ---was it a soft cry, a hard cry?

10 A It was a hard cry.

11 Q Was she very visibly upset?

12 A Yeah, she was crying hard. And she was
13 shaking and I was holding her. And I started
14 crying. But she was shaking so until she had me
15 shaking.

16 Q Did you hold her for a long time?

17 A Yes, I stayed with her the entire time.

18 Q And did you pound her and comfort her like
19 a loving friend would do?

20 A I tried.

21 Q Were you there when they performed the
22 rape kit?

23 A I can't remember her leaving out of the
24 room when I was there. I don't know. I don't know
25 if all that was done before I got there or if it was

Teresa Blackwell-direct by Ms. Land

1 done after I got there. I can't remember.

2 Q Do you recall how much time you spent with
3 her?

4 A We didn't leave Manning until the next
5 morning. It was daylight. Some time that morning.

6 Q So you were in the hospital with her until
7 at least the morning hours?

8 A Yeah, we walked out together.

9 Q And when you walked out, who else was with
10 you, do you recall?

11 A My daughter. My daughter drove me there,
12 but they never -- she never came in. She stayed in
13 her car. I don't know if she had a girlfriend with
14 her or not. I know it was me and my daughter. One
15 of my daughters.

16 Q Had you ever seen her that upset before?

17 A No, ma'am. She was always smiling.

18 Q Did you notice any cuts, scrapes,
19 abrasions or anything like that on her body?

20 A No, ma'am.

21 Q Were you looking for any?

22 A No, ma'am.

23 Q Was your role simply to be there and
24 comfort her?

25 A Yes, ma'am.

Teresa Blackwell-direct by Ms. Land

1 MS. LAND: Thank you.

2 Cross Examination by Ms. Butcher:

3 Q Hello, Ms. Blackwell. My name is Deborah
4 Butcher, and I represent Mr. Donniel Woods. Do you
5 recall what time you went to the hospital?

6 A No, ma'am.

7 Q Is there any way -- were you already in
8 bed?

9 A Yes.

10 Q What time do you usually go to bed?

11 A Different times, but I know I was in bed
12 asleep.

13 Q If I were to tell you it was between
14 2 and 3:00 a.m. would you think that might be right?

15 A I can't say.

16 Q Okay. It's been two years. You said you
17 did not notice any injuries on Ms. Summers?

18 A I wasn't looking for any injuries. And I
19 don't know if she had on a hospital gown or not.
20 But I wasn't looking for no injuries. But for
21 visual of just of her face, it was just tears. I
22 just -- I can't remember.

23 Q Do you remember if she was covered in dirt
24 or not covered in dirt?

25 A I can't even remember what she had on.

Teresa Blackwell-cross by Butcher

1 Q Where was Tywan Blackwell at this time, do
2 you know?

3 A No, ma'am.

4 Q Did you all try to get in touch with him?

5 A Did I try to get in touch with him?

6 Q Uh-huh. (affirmative.)

7 A No. I saw him that morning.

8 Q Uh-huh. (affirmative.)

9 A After the fact.

10 Q You saw---

11 A That's when I was on my way home.

12 Q Did he explain to you why he didn't come
13 up to comfort Ms. Summers himself?

14 A No.

15 Q Are you familiar with a house in Alcolu
16 where Tywan was staying?

17 A Staying at?

18 Q Uh-huh. (affirmative.) Was he staying in
19 a house in Alcolu?

20 A I wouldn't say he was living there.

21 Q Do you know who lived there?

22 A I can't say who lived -- that I know who
23 lived there, but I was told it was -- I've been
24 maybe to see my son a couple of times.

25 Q Uh-huh. (affirmative.)

Teresa Blackwell-cross by Butcher

1 A And it's the same -- I always saw him and
2 the Nelson guy.

3 Q Do you know if Mr. Donniel Woods lived
4 there?

5 A I have no idea.

6 Q Did the guys kind of go in and out of that
7 house?

8 A I have no idea.

9 Q You described Ms. Summers' character as
10 pleasant, did you not?

11 A Yes, ma'am.

12 Q Are you aware that she's been arrested?

13 MS. LAND: Your Honor.

14 THE COURT: The objection is sustained.
15 The jury is to disregard the question. It's
16 totally improper and unprofessional question
17 that counsel should be aware of, as being
18 improper and unprofessional. Disregard it.

19 MS. BUTCHER: No further questions.

20 MS. LAND: I don't have any further
21 questions.

22 THE COURT: You may step down.

23 MS. LAND: Your Honor, we would call
24 Marsha Nelson.

25 Marsha Nelson, Being first duly

Teresa Blackwell-cross by Butcher

1 sworn, testified as follows:

2 Direct Examination BY Ms. Land:

3 Q Ms. Nelson, would you introduce yourself
4 to this jury?

5 A My name is Marsha Nelson. I am a
6 registered nurse at Clarendon Memorial Hospital. I
7 have been a director there for 5 years. I'm now
8 just a registered nurse. I stepped down from that
9 position. But I have been an emergency nurse for
10 years.

11 Q And when you say the director, that was
12 of the ER?

13 A Yes, ma'am.

14 Q Do you from time to time perform rape
15 kits?

16 A Yes, ma'am, I do.

17 Q Tell the jury what a rape kit is, and what
18 it entails.

19 A A rape kit contains, I would have to come
20 talk to the victim and obtain evidence, their
21 clothing. Ask some very personal questions about
22 what happened to them. Take fingernail swabs. Take
23 swabs of any suspected semen that I would find.
24 They need to have a pelvic exam by the physician.
25 And collect all the evidence that they need; blood

Marsha Nelson-direct by Land

1 draw. And anything else that the doctor would want.
2 Including prophylactic medicines afterwards.
3 Medications, antibiotics, to make sure they don't
4 get a sexually transmitted disease.

5 Q And when you say, collect any evidence
6 that they want, you're working, as far as drawing
7 blood and things of that nature for a physician.

8 A That's correct. But when I do the rape
9 kit, I go through the sled protocol.

10 Q And so sled has a kit, so to say, that
11 you go through step by step and follow into
12 hopefully collect evidence.

13 A Yes, ma'am.

14 Q In doing that, do you take swabs?

15 A Yes, ma'am.

16 Q And where are on a victim's body would you
17 collect a swab?

18 A You would have the victim stand, and you
19 turn a light on. And we have a wood's lamp, which
20 is actually really a black lamp. If you remember
21 that's from the 70's. They make everything show up,
22 but it shows semen. You can see semen on the body
23 with a wood's lamp without anything else. And you
24 would take a swab of that area.

25 Q And did you do that with Ms. Summers?

Marsha Nelson-direct by Land

1 A I believe that I did.

2 Q Do you recall if you were able to see any
3 semen with the wood's lamp?

4 A I don't remember. I really, I am sorry I
5 really don't remember.

6 Q But you collected from either the wood's
7 lamp or what she told you, items that you believe
8 may contain semen from the defendant?

9 A Yes, ma'am.

10 Q And tell the jury how you collect a swab.

11 A You take a sterile saline and moisten the
12 swab with sterile saline, and then you wipe it on
13 the person's affective part wherever that may be.

14 Q And when you say a swab, like a Q-tip?

15 A Yes, ma'am.

16 Q Do you have any way to know if the Q-tip
17 that you just attempted to collect DNA if it
18 actually contained DNA or not?

19 A Do I know if the swab has DNA?

20 Q Do you know when you get a swab, and
21 someone says he ejaculated on my arm, and you take
22 the moistened swab and rub it on the arm, is there
23 any way for you to know if you did collect any of
24 that semen?

25 A I would hopefully collect it. I mean,

Marsha Nelson-direct by Land

1 unless they washed or somehow wiped it off. Or it
2 may not show up.

3 Q What sort of things can wipe it off?

4 A Water, sweat, clothing. Taking clothing
5 on and off. Sometimes people will shower before
6 they come to the hospital. They're embarrassed.
7 They'll take a bath. There's all sorts of things.
8 If they've urinated.

9 Q So you have no way to look at that swab
10 and say yup, this is what we need.

11 A No, ma'am.

12 Q You're just guessing?

13 A Right.

14 Q And educated guess, but guessing?

15 A That's correct.

16 Q Do you recall, or tell the jury what you
17 have in your hands at this point?

18 A I just have a copy of the sexual
19 examination protocol that I filled out. I truly
20 don't remember everything. I'm looking at this
21 trying to recall everything of that night. And I
22 only remember certain things. I can tell you what's
23 on this paper of what I remember, and what I've
24 written down.

25 Q And you filled that out yourself. Is that

Marsha Nelson-direct by Land

1 correct?

2 A That's correct.

3 Q And anything that may be in her hospital
4 records or either the doctor's recollections or
5 things that were done at the doctor's orders, is
6 that correct?

7 A That's correct. I would also have had a
8 nurse's note in that record.

9 Q Okay. So these are your notes that you
10 took from your first hand experience with Ms.
11 Summers?

12 A This is the notes that I took during the
13 sexual examination kit with Ms. Summers, yes. And
14 the questions that I asked her and went through the
15 protocol.

16 Q Do you recall, or do your notes that you
17 have in your hand, reflect whether she had any
18 scrapes or bruises?

19 A Yeah, I actually remembered when I wrote
20 this. Actually after I saw it, I remembered it.
21 She had said that he tried to choke her. And she
22 had red marks, visible marks on her neck. And that
23 she was forced down. And she had some abrasion
24 scrapes on her leg. On her left leg.

25 Q And you recorded that in your notes?

Marsha Nelson-direct by Land

1 A Yes, ma'am.

2 Q Do you recall -- well how did you learn
3 that you were needed at the hospital? Were you
4 there when she got there?

5 A No. They called me in the middle of the
6 night.

7 Q And where do you live?

8 A I live in Sardinia.

9 Q Okay. So when they called you, what did
10 you need to do to get to the hospital.

11 A Get up. Get the uniform ready. Get
12 dressed. Get up and wake up actually enough to come
13 in and do this.

14 Q And how far is that drive for you?

15 A 20 minutes.

16 Q So it may have taken you---

17 A An hour.

18 Q Okay. Once you got there, how long does
19 it take to do a sexual assault kit?

20 A 3 to 4 hours.

21 Q So it is a quite lengthy process?

22 A It is a very lengthy process.

23 Q Did you write any times on that record?

24 A I wrote the time admitted. And I don't --
25 I am not quite sure whether that -- I don't have her

Marsha Nelson-direct by Land

1 medical record. Whether that's the time that she
2 came in to the emergency department or the time that
3 I went into the room. I really and truly don't
4 remember. This says 2:31.

5 Q So that could have been the time that you
6 came into the room.

7 A It could have been, I don't remember.

8 Q Do you recall what time you left the
9 hospital?

10 A It was early in the morning like after 6.

11 Q Was the sun up?

12 A Oh, yeah.

13 Q So you were there for a very long time?

14 A Yes, ma'am.

15 Q Were the markings around her neck
16 consistent with somebody attempting to choke her?

17 A Yes, ma'am.

18 Q And the scrapes were consistent with
19 running through a wooded area?

20 MS. BUTCHER: Objection, Your Honor. She
21 is not an expert that can testify to forensic
22 analysis.

23 THE COURT: Objection is sustained.

24 Q Okay. Typically when a victim comes in to
25 the hospital, where do they treat somebody like

Marsha Nelson-direct by Land

1 that? They don't leave them sitting out in the
2 waiting room of the ER, do they?

3 A Typically, no. Typically they will put
4 them in a room.

5 Q And is the person given a place to sit?

6 A In the room, yes.

7 Q Is there a seat or a hospital bed?

8 A Hospital bed.

9 Q Does the hospital bed have sheets on it?

10 A Uh-huh. (Affirmative.)

11 Q And do they provide them with a gown?

12 A Yes, we do put a gown on them.

13 Q If the person is cold would they be
14 provided with a blanket?

15 A Uh-huh. (affirmative.) Or a sheet, yes.

16 Q Would you say that the victim's comfort is
17 the number one priority at that time?

18 A Uh-huh. (Affirmative.) Yes, ma'am.

19 Q Would anybody know to ask her before you
20 getting there, are there any areas that shouldn't be
21 covered, because they may contain some sort of
22 evidence?

23 A No, I don't believe so.

24 Q In other words, if she had semen on her
25 stomach and arm area, and was wearing a bra and

Marsha Nelson-direct by Land

1 panties prior to you or law enforcement getting
2 there, the hospital staff in general, would not
3 know not to give her a sheet or a blanket or allow
4 her to wipe that area off.

5 A Well they wouldn't have allowed her to
6 wipe that -- I know that they wouldn't allow her to
7 bath or wipe anything off. But they might give her
8 a sheet to put over herself, and to make her more
9 comfortable during this process, which is a big
10 ordeal.

11 Q And you say it was at least an hour before
12 you got there?

13 A Yes, ma'am.

14 MS. LAND: I beg the Court's indulgence
15 just for one moment.

16 Q What was her demeanor during the time of
17 your exam?

18 A I have written that she was, acted very
19 depressed. She was crying; that she was very
20 disheveled. And by that, I mean her hair was very
21 messed up. She was, you know, she didn't have a
22 shirt on. She was just, you know, just kind of
23 sitting there crying. And seemed very depressed.

24 Q Would you describe her as upset?

25 A Yes, sir. Very upset.

Marsha Nelson-direct by Land

1 MS. LAND: Okay. That's all the questions
2 I have.

3 Cross Examination By Ms. Butcher:

4 Q This wood's lamp that you looked at her
5 under.

6 A Uh-huh. (affirmative.)

7 Q You said that shows up semen that would be
8 on her.

9 A Yes, Ma'am.

10 Q Would a typical question be to the victim
11 where somebody ejaculated on them?

12 A No. Well actually, yes, it is. But
13 that's not -- when you do a rape kit and when you
14 ask the victim to get undressed, you put them on a
15 sheet. And ask them to get undressed, and drop
16 their clothes on to that sheet. Because anything
17 that might be in their clothing can be used as
18 evidence. And at the time you would take the wood's
19 lamp and examine them before you put them into a
20 gown.

21 Q So you examine their body for semen also?

22 A Uh-huh. (Affirmative.)

23 Q Did you find any semen?

24 A That I don't know. I know in the
25 physician's, when he did a pelvic exam, there was no

Marsha Nelson-cross by Butcher

1 semen noted per the lab. But I have no idea what
2 the swab showed. I don't know.

3 Q Under the wood's lamp does that show
4 semen?

5 A Uh-huh. (affirmative.) Yes, ma'am.

6 Q Did you not see her go under the wood's
7 lamp?

8 A Yeah, I truly did. But that was 2 years.
9 I don't remember. I truly don't remember.

10 Q Would you have recorded in your notes that
11 you saw semen if you did?

12 A Yes, and it would have been recorded on
13 the sled -- there is an area when you take the swab,
14 and you moisten it. And you take it and you wait
15 until the swab dries. And put it in the collection
16 envelope that you seal for sled. And there is a
17 drawing that you take and can mark on the drawing
18 where you have taken the evidence from.

19 Q Okay. So if you had found some semen, it
20 would have shown up in your notes and also in the
21 sled report?

22 A It would have shown up. I would have not
23 reported what the wood's lamp showed.

24 Q Now I am a little confused. I thought you
25 said that you would typically write it down if you

Marsha Nelson-cross by Butcher

1 saw semen and did a swab of it?

2 A That's correct. And it is not on this
3 sheet of paper, it is on the sled kit that comes --
4 it's on a sheet of paper that comes in the sled kit
5 to be used as evidence.

6 Q Do you fill out that sled kit?

7 A Yes.

8 Q You do. Okay. Court's indulgence. If I
9 were to show you a copy of that, would you recognize
10 it? Is this...

11 A That's the physician note.

12 Q That's the physician's notes. Okay. I
13 have never seen one of those myself. But these
14 victims, they are given a gown.

15 A To put on after the clothing is removed,
16 and anything that can be used for evidence is
17 collected, yes, ma'am.

18 Q Do you recall observing any scratches on
19 Ms. Summers' chest or back?

20 A No. Actually I know there is the redness
21 around her neck and the scratch on her leg.

22 Q And I know you said you don't really
23 remember. But had you noticed scratches elsewhere
24 and injuries elsewhere, would you have written them
25 down?

Marsha Nelson-cross by Butcher

1 A Yes, ma'am.

2 Q Would you have written down if she was
3 covered in dirt?

4 A I might not have on this. I might have on
5 my nurse's note.

6 MS. BUTCHER: Thank you. No more
7 questions.

8 Redirect Examination by Ms. Land:

9 Q When you finish with the sled kit, what do
10 you do with it?

11 A The sled kit, all of your evidence is
12 collected. Everything is placed in a box and it is
13 sealed. And I cannot actually, while I am
14 collecting and until it is taken by a law
15 enforcement officer, I cannot let this box out of my
16 sight. It's sealed. Once I am finished with it, I
17 seal it. And It's you know, and even during the
18 collection of it, you know, if I had to go out, I
19 couldn't go out of the room. I have to stay in the
20 room constantly with the patient until the whole kit
21 is finished. And then I hang on to the kit. And it
22 is in my possession until it is turned over to the
23 police officer.

24 Q And did you do that in this case?

25 A Yes, ma'am.

Marsha Nelson-redirect by Land

1 Q And so what you seal in the kit and send
2 to sled through the law enforcement officer, you
3 don't have access to that at this time.

4 A No, uh-uh (negative.) I never know what
5 comes back from there.

6 MS. LAND: Thank you. That's all the
7 questions I have.

8 Recross Examination By Ms. Butcher:

9 Q What law enforcement officer did you give
10 that to?

11 A Bernie Thornton. No maybe not. I might
12 have given it to Bernie Thornton. It's on the back
13 of the kit. And I don't have a copy of that with
14 this. The chain of command is listed on the back of
15 the kit, and I don't have a copy of that with this
16 paper that I was given.

17 MS. BUTCHER: No further questions.

18 THE COURT: You may step down. Your next
19 witness.

20 MS. LAND: Your Honor, may we approach?

21 THE COURT: Ladies and Gentlemen, I am
22 going to have you go to the jury room for a
23 moment while the approaching takes place.
24 Please do not discuss the case.

25 (Whereupon, the following takes place

Marsha Nelson-recross by Butcher

1 outside the presence of the jury.)

2 MS. LAND: Judge, my next witness is the
3 sled analyst, Laura Mills, and I've told her to
4 be here at 9 o'clock in the morning. I just
5 didn't realize we would still be going at this
6 hour.

7 THE COURT: How many more witnesses do you
8 have?

9 MS. LAND: She is the last one.

10 MS. BUTCHER: Your Honor, If I may, some
11 of my witnesses are Ms. Land's witnesses, so my
12 case will be a little bit shorter.

13 THE COURT: Say it again.

14 MS. BUTCHER: I don't think I have ever
15 given you an estimate of how many witnesses I
16 may have. I'm sorry I thought maybe I had.
17 But I was going to say, my list is a little
18 shorter. But I think you never asked that.

19 THE COURT: Well Ms. Land did. Did you
20 give them to her? I would encourage you to
21 give them to her. You Have one more witness
22 who is a sled chemist?

23 MS. LAND: That's right.

24 THE COURT: From Sled.

25 MS. LAND: A chemist.

1 THE COURT: We will be at ease for a
2 moment.

3 MS. LAND: Excuse me, judge?

4 THE COURT: We will be at ease for a
5 moment.

6 MS. LAND: First, I was under the
7 impression we were going to question the one
8 juror Julia McCray.

9 THE COURT: I am not going to single out
10 any juror---

11 MS. LAND: Okay.

12 THE COURT: ---for any reason.

13 MS. LAND: But you did tell us the night
14 before that you would ask them if there had
15 been any contact.

16 THE COURT: Yes, but I am not going to
17 single out any juror.

18 MS. LAND: Okay, that's fine. And the
19 second thing is, that I do think that there
20 should be an instruction to them about the
21 victim's arrest. That should not have been
22 brought out. I think that they should be told
23 to disregard that. And that she does not have
24 a criminal record.

25 THE COURT: They were told to disregard

1 the question. And it was improper and an
2 unprofessional question, and they were told to
3 disregard it. They have been given an
4 instruction concerning that.

5 MS. BUTCHER: Your Honor, I just want to
6 apologize to the Court and Ms. Land. And
7 especially Ms. Summers. I honestly thought
8 once her character had been brought in, that
9 that was fair. And I don't think I'll ever
10 forget that lesson, Your Honor. Thank you.

11 THE COURT: That's an easy one. You don't
12 ask about an arrest when people are not
13 convicted. That is very easy. If you will
14 bring the jury, please.

15 (Whereupon, the following takes place
16 within the presence of the jury.)

17 THE COURT: Ladies and Gentlemen,
18 something I want to inquire about is whether or
19 not you have been contacted directly or
20 indirectly by anyone connected with this case,
21 any friends or family members, or anyone
22 connected to this case. If you have been,
23 please raise your hand. If you have been
24 contacted after being selected on this jury, if
25 you have been in contact with any family

1 members or any of the parties in this case, any
2 law enforcement involved, any lawyers involved,
3 please let me know by raising your hand.

4 (Whereupon, no response.)

5 THE COURT: As I indicated to you, you are
6 not allowed to discuss the case. You are not
7 allowed to have anyone contact you in any way
8 concerning the case. And you are not to
9 discuss it with anyone or allow anyone to
10 discuss it in your presence. You must abide by
11 that admonition.

12 Secondly, Ms. Tabitha Gardner, Tabitha
13 Gardner. Ms. Gardner, I am going to appoint
14 you to serve as the foreperson of the jury.
15 You don't have to take the foreperson's seat
16 right now. But the foreperson's seat is the
17 first seat on the front row. And that will be
18 the seat that you occupy. And as the
19 foreperson, you will serve as the spokesperson
20 for the jury. And when you are in the jury
21 room, you will have concerns, issues, and get
22 mad about something. Decide you know
23 something. Ms. Gardner, you are the
24 spokesperson for the jury.

25 And more important than that, it will be

1 your responsibility to preside over the jury
2 deliberations at the end of the case. And to
3 complete the verdict form representing the
4 unanimous verdict of the jury once the jury
5 reaches the unanimous verdict.

6 Thirdly, we are through with taking
7 witnesses for the day. I was thinking we would
8 just press on. But as it turns out, the next
9 witness is not set to be here until tomorrow
10 morning. And we have run out of witnesses for
11 the day. I will need you back at 9:15 tomorrow
12 morning. You need to get back at 9:15
13 tomorrow morning. Also regarding the food
14 order, we have checked with Georgio's. And
15 Mr. Hill, he should be on his way back. But I
16 don't want to hold you all in the jury room
17 waiting for him to get back so you can get it
18 and leave.

19 But Ms. Roberts certainly would want you
20 to take it. She doesn't want 12 extra dinners.
21 She would want you to get it. I know some of
22 you may just want to go and not wait around for
23 it. But he should be back in shortly. If you
24 want to wait for it you certainly can. You
25 certainly can meet him outside in the parking

1 lot with Ms. Roberts down there. You can take
2 it with you. I am going to wait for mine, I
3 can tell you that. So with that, we will let
4 you go. And we will see you tomorrow morning
5 at 9:15. Anything further before the jury is
6 dismissed?

7 MS. LAND: No, sir.

8 MS. BUTCHER: None, Your Honor.

9 THE COURT: Very good, we will see you all
10 tomorrow.

11 (Whereupon, the trial commences on
12 Thursday, October 16th 2008, at 9:15 a.m.)

13 THE COURT: Anything else before we bring
14 the jury?

15 MS. LAND: The State is ready, Judge.

16 MS. BUTCHER: Ms. Land stated her last
17 witness would be the sled person for DNA
18 analysis. Your Honor, I don't believe they
19 have established chain of custody. The nurse
20 said she didn't know who she gave that to, that
21 kit. And sled -- and it was not sent to sled
22 until two years later. That is a huge amount
23 of time for something to be floating around.
24 But she doesn't know who she gave it to.

25 So I would move to suppress the testimony

1 from the sled agent who did that analysis,
2 unless they can establish the chain of custody.

3 THE COURT: Your motion is denied. You
4 may bring the jury.

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

7 THE COURT: Good morning. Welcome back,
8 Ladies and Gentlemen. The State is presenting
9 its case. Your next witness.

10 MS. LAND: Your Honor, we would call Laura
11 Mills.

12 THE COURT: Ms. Mills come forward.

13 Direct Examination by Ms. Land:

14 Q Dr. Mills, would you introduce yourself to
15 this jury, please?

16 A Yes, my name is Laura Mills.

17 Q And where are you employed?

18 A I'm employed at the South Carolina law
19 enforcement division. Which is commonly referred to
20 as sled.

21 Q And what are your duties and
22 responsibilities at sled?

23 A I am employed as a forensic scientist with
24 the DNA and Serology Department at Sled. What this
25 means; is that, I perform serology testing on

Laura Mills-direct by Land

1 evidence that's submitted to sled. Serology is the
2 identification of body fluids. So I take that
3 evidence and determine what body fluid is present.
4 Once I determine that, I then proceed with what we
5 refer to as DNA analysis. In which we would develop
6 a DNA profile from the evidence.

7 Q Tell me what kind of schooling you had to
8 qualify you as a chemist.

9 A I have a Bachelor of Science in Chemistry,
10 which I obtained from Clemson University. I also
11 have a Ph.D. degree in Pharmaceutical Science which
12 I received from the University of South Carolina.
13 Following the completion of this degree, I worked
14 for approximately one year doing research for a
15 Biology Professor at University of South Carolina
16 before being hired on by sled.

17 At sled I was trained under the direct
18 guidance and supervision of a court qualified DNA
19 analyst. I trained for approximately one year.
20 After the completion of this one year training
21 program, I did perform a competency test to be able
22 to take court case work of my own, which I did pass.
23 During my four years at the sled, I also attended
24 numerous workshops and seminars dealing with the
25 procedures and techniques that we currently use in

Laura Mills-direct by Land

1 the lab, and we are going to use in the future.

2 Q Have you ever been qualified as an expert
3 in the courts of South Carolina?

4 A Yes, I have.

5 Q And was it Circuit Court?

6 A Yes.

7 Q Have you ever been qualified in Federal
8 Court?

9 A No, I have not.

10 Q And approximately how many times have you
11 been qualified in Circuit Court?

12 A Approximately 13 or 14.

13 MS. LAND: Your Honor, at this time, I
14 would offer Dr. Mills as an expert in Forensic
15 DNA and Serology?

16 THE COURT: What says the defense?

17 MS. BUTCHER: No objection, Your Honor.

18 THE COURT: Ladies and gentlemen, she is
19 admitted as an expert in the field stated. And
20 as an expert, she can offer opinions and
21 conclusions provided that they are based on
22 sufficient evidence. You may proceed.

23 Q Did you receive a kit with some swabs from
24 an incident that took place on June 23rd 2006?

25 A Yes, I did.

Laura Mills-direct by Land

1 Q And did you receive that from the
2 Clarendon County Sheriff's Office?

3 A I received a sexual assault evidence
4 collection kit from Sheila Summers. I don't
5 actually know who exactly came to sled and logged
6 it in. I received it from our actual department
7 from the technician.

8 Q And what if anything did you do with these
9 swabs?

10 A Well the first thing that I did is, that I
11 opened up the kit, and determine what swabs or what
12 evidence items are present in this kit. This
13 particular kit had a variety of items. It had a
14 blood standard which is very common in these types
15 of kits. A tube of blood is taken from the victim
16 in order for me to develop a DNA profile from. I
17 then compare the DNA profile of the evidence to the
18 DNA profile of the standards noted. The DNA profile
19 of the victim or if it's foreign to the victim.

20 I also received a saliva standard, which I
21 did not analyze because again this is the same
22 purpose as the blood standard so those may be used.
23 I received vaginal, oral, and rectal smears.
24 Vaginal swabs, oral swabs, rectal swabs, suspected
25 semen swabs, fingernail scrapings taken from the

Laura Mills-direct by Land

1 victim's right and left hand. Known head hair,
2 pubic hair and pubic hair combings. And an item
3 labeled miscellaneous materials.

4 MS. BUTCHER: Your Honor, I would object.
5 There is no chain of custody.

6 THE COURT: Just a moment. Legal
7 objection only.

8 MS. BUTCHER: No chain of custody, Your
9 Honor.

10 THE COURT: What says the state?

11 MS. LAND: Your Honor, at this point she
12 is discussing what she received. I don't know
13 think the chain is appropriate at this time.

14 THE COURT: Ladies and Gentlemen, I am
15 going to have you go to the jury room. Please
16 do not discuss the case.

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

19 THE COURT: Let me hear your objection.

20 MS. BUTCHER: Your Honor, again this was
21 sent two years after it was supposedly
22 collected.

23 THE COURT: And how do you know that? I
24 mean, are you testifying or are you basing it
25 on the evidence?

1 MS. BUTCHER: I am basing it on what
2 Ms. Land turned over to me in Brady as the DNA
3 analysis that was turned over to me.

4 THE COURT: Repeat your statement again.

5 MS. BUTCHER: This was not turned over to
6 sled for a period of two years, that's why I
7 believe the chain of custody is extremely
8 important. The person who collected this
9 evidence testified they have no idea who they
10 gave it to. Ms. Mills testified she has no
11 idea who is she received it from.

12 THE COURT: What says the State?

13 MS. LAND: Your honor, I don't think those
14 two years have anything to do with the chain.
15 We can prove this chain, it is going to take us
16 through several witnesses and a lot of time.
17 And had I known that she wanted to prove the
18 chain, I could have gotten them here.

19 THE COURT: The consideration is not
20 whatever she wants. The test is what is
21 required according to the law, not what the
22 defense lawyer wants.

23 MS. BUTCHER: Your Honor, I would say to
24 that, the person who collected it on that stand
25 said she did know who she got it from.

1 THE COURT: You are repeating yourself
2 now. Go ahead, Ms. Land.

3 MS. LAND: Judge, I can get those people
4 here.

5 THE COURT: The objection is sustained.

6 MS. BUTCHER: Your Honor, I would move to
7 disqualify any testimony from this witness.

8 THE COURT: Ms. Land.

9 MS. LAND: Your Honor, we obviously have
10 the opportunity to prove the chain if that's
11 what she wants. We can do that. I mean I
12 don't understand the basis of her....

13 THE COURT: Well you had a nurse to
14 testify yesterday that she didn't know who she
15 gave the evidence to. And you have a witness
16 today who says she doesn't know who she
17 received the evidence from. So the law
18 requires the proof of certain---

19 MS. LAND: The law requires---

20 THE COURT: ---chain of custody in order
21 to admit certain evidence. And your contention
22 is that well you can prove it, if you knew that
23 the defense wanted us to prove it. It doesn't
24 matter what she wants. The law requires proof
25 of a chain of custody.

1 MS. LAND: Judge, the analyst gets it from
2 the technician at sled, who takes it out of the
3 drop box in a sealed container. And they give
4 it to her. If the container is sealed---

5 THE COURT: You can't testify as to the
6 process and procedure. None of that is in
7 evidence.

8 MS. LAND: Okay.

9 THE COURT: Those are just statements by
10 you. She says that in her testimony that she
11 doesn't know where she got it from. It was
12 accepted by a technician. There has no been
13 testimony presented to establish the necessary
14 chain of custody to prove that what was
15 examined was the rape kit evidence received
16 from the defendant.

17 MS. LAND: Well, Judge, obviously I would
18 have to question her about that. If I am
19 talking about a chain, obviously it's a test.
20 If I need to go to the chain, I need to ask
21 her did she receive it from a technician in a
22 sealed---

23 THE COURT: You can't start with your
24 conclusions. We would have to rehear your
25 conclusion. And I sustain the objection that

1 was just made. Anything else?

2 MS. BUTCHER: Again, Your Honor, I would
3 move to disqualify any testimony.

4 THE COURT: That motion is denied.

5 MS. LAND: Your Honor, I would just ask
6 that Dr. Mills step down and present our other
7 witnesses who are in the chain.

8 THE COURT: You may step down. We will
9 take about 5 minutes.

10 (Whereupon, the court takes a short
11 recess.)

12 MS. BUTCHER: We would like to make sure
13 this analysis that Ms. Land is trying to put in
14 is the same one I received. And for that
15 reason, I just wanted to make sure that there
16 is no other one other than the one she turned
17 over to me in my Brady and Rule 5. This is
18 basically exculpatory. I just want to make
19 sure there is not another one.

20 MS. LAND: Judge, I've turned over
21 everything that I am supposed to.

22 THE COURT: Do you want the same witness
23 on the stand?

24 MS. LAND: No, sir. We will call
25 Investigator Todd Avant.

1 THE COURT: We are going to dismiss the
2 previous witness in the presence of the jury.
3 If you will come back and take the stand.

4 MS. LAND: Would you ask her to step in?

5 THE COURT: After I rule, you will have
6 her step down subject to being recalled.

7 MS. LAND: Okay.

8 THE COURT: Bring the jury.

9 (Whereupon, the following takes place
10 within the presence of the jury.)

11 THE COURT: The objection is sustained.

12 MS. LAND: Judge, I would ask that
13 Dr. Mills excused at this time, subject to
14 being recalled.

15 THE COURT: All right. You may step down,
16 ma'am.

17 MS. LAND: We would call investigator Todd
18 Avant.

19 Todd Avant, after being duly
20 sworn, testified as follows:

21 Direct Examination by Ms. Land:

22 Q Investigator Avant, did you have an
23 opportunity to receive a rape kit that was completed
24 by Marsha Nelson from the hospital?

25 A I did.

Todd Avant-direct by Land

1 Q And when you received this rape kit, was
2 it sealed with initials on it?

3 A It was sealed with security tape. And
4 either had initials or a signature. I don't
5 remember which.

6 Q And that package had not been tampered
7 with.

8 A It was sealed up when I received it.

9 Q What did you do with it once you received
10 it?

11 A I placed it in to evidence at the
12 Clarendon County Sheriff's Office.

13 Q And tell the jury how that works.

14 A You fill out a chain of custody sheet. Of
15 course this is on the back of the actual rape kit
16 itself. It is signed from Marsha Hanes over to
17 whoever receives it. But then I filled out a chain
18 of custody and submitted that in to evidence. And
19 put it in refrigerator into evidence at the
20 Sheriff's Office which is logged in by the evidence
21 custodian.

22 Q And there is no question in your mind that
23 that kit was not tampered with?

24 A No question in my mind.

25 MS. LAND: That's all the questions I

Todd Avant-direct by Land

1 have. Thank you.

2 Cross Examination By Ms. Buther:

3 Q Mr. Avant, you had testified before that
4 you were not at the hospital when the rape kit was
5 done, is that correct?

6 A That's correct.

7 Q And you testified also that you stayed out
8 in the woods, the road until in the daylight hours,
9 is that correct?

10 A That's correct.

11 Q Who did you receive this from at the
12 hospital? This rape kit?

13 A I did not receive it at the hospital. I
14 received it at the Clarendon County Sheriff's
15 Office.

16 Q Okay. Do you have -- and you said that
17 the hospital and the Clarendon County Law
18 Enforcement has sheets that you sign your name on?

19 A That's correct.

20 Q You signed your name on it?

21 A I did.

22 Q But you didn't receive it from the
23 hospital.

24 A I did not.

25 MS. BUTCHER: No further questions.

Todd Avant-direct by Land

1 Redirect Examination By Ms. Land:

2 Q But when you received it, it was a sealed
3 with initials on it.

4 A Sealed and from Bernie Thornton who was a
5 deputy with the Clarendon County Sheriff's Office.

6 Q But he was not the one that sealed it?

7 A No, no.

8 MS. LAND: That's all the questions I
9 have.

10 Recross Examination by Ms. Butcher:

11 Q Do you know who sealed it?

12 A I did not see who sealed it, no, ma'am.
13 It is sealed with a tape and a signature put on it.

14 Q Did you see the signatures of who received
15 it before you?

16 A Yes, but I don't know the exact signature
17 on it. I would have to see it.

18 Q Those signatures are very important,
19 aren't they?

20 A They are.

21 Q You all are instructed to make sure you
22 sign every time anything is going in to evidence.

23 A That's correct.

24 Q Comes in your hands and leaves your hands.
25 Correct?

Todd Avant-redirect by land

1 A That's correct.

2 Q Why is that?

3 A To establish a chain of custody for the
4 evidence.

5 Q And why is that any chain of custody so
6 important?

7 A To make sure that it is handled properly,
8 and not tampered with from point A to point B.

9 Q And you did not receive it from the
10 hospital.

11 A I did not. I received it from Deputy
12 Bernie Thornton.

13 Q And you did not have the log from the
14 hospital or from the Sheriff's Department where it
15 was signed in and signed out.

16 A I don't have it here, no, ma'am.

17 Q Did Bernie Thornton hand that evidence to
18 you?

19 A He did.

20 MS. BUTCHER: Thank you. No further
21 questions.

22 THE COURT: Anything further?

23 MS. LAND: No, sir.

24 THE COURT: You they step down.

25 MS. LAND: Your Honor, we would call

Todd Avant-redirect by land

1 Barbara Proctor.

2 Barbara Proctor, being first duly
3 sworn, testified as follows:

4 Direct Examination by Ms. Land

5 Q Introduce yourself to this jury, please,
6 ma'am.

7 A My name is Barbara Proctor.

8 Q And, Ms. Proctor, where are you employed?

9 A Clarendon County Sheriff's Office.

10 Q In what capacity are you with the
11 Sheriff's Office?

12 A I'm the evidence custodian.

13 Q Explain to the jury what the evidence
14 custodian is.

15 A I have an evidence room at the Sheriff's
16 Office where any evidence that is collected or
17 brought in by the officers or that I may collect, is
18 stored and kept until time to come to trial, or
19 until it's transported to sled.

20 Q How many people have a key to that
21 evidence locker?

22 A Just me.

23 Q And what is the purpose of that?

24 A For security so that the evidence is saved
25 and secured in a controlled environment and no one

Barbara Proctor-direct by Land

1 can get to it, bother it or tamper with it.

2 Q Did you have an opportunity to receive a
3 rape kit from Investigator Todd Avant on or around
4 June 23rd 2006?

5 A Yes, I did.

6 Q And what is that document that you are
7 looking at?

8 A This is my chain of custody. And it's
9 something that our office has. The officers list
10 what they are turning in to the evidence room.

11 Q And what items are listed on that?

12 A There is a disk containing photographs. A
13 photo disk with photos of a crime scene. A wallet
14 with various credit cards and a Social Security
15 card. The victim Sheila Summers and a sexual
16 assault kit.

17 Q Does it say that any money was in that
18 wallet?

19 A It doesn't say.

20 Q If there had been money in the wallet
21 would it say?

22 A It should have been listed with an amount.

23 Q So from that you can assume that there was
24 no money in that wallet?

25 A Correct.

Barbara Proctor-direct by Land

1 Q And who turned those items in to the
2 evidence locker?

3 A Todd Avant.

4 Q Explain to the jury what is the evidence
5 locker is.

6 A I have a wall that has actual lockers that
7 have keys. And the officers can use it. Especially
8 at night or on the weekends. You just turn the key,
9 open it up, put your evidence in. Lock it back.
10 Pull the key out. And there is a place to drop the
11 key that I can get from inside the room.

12 Q So no one would have access to that key
13 once its deposited in that box?

14 A That's right. But he actually turned it
15 in directly to me.

16 Q Okay. So you were there and you received
17 it yourself?

18 A Right.

19 Q And part of that evidence was a rape kit
20 from Sheila Summers.

21 A Correct.

22 Q Does it indicate on that sheet what was
23 done with the wallet.

24 A It does. It was returned to Sheila
25 Summers in August. August 21st of 06, at 2:40 p.m.

Barbara Proctor-direct by Land

1 Q Okay. And that was along with the
2 contents of the wallet?

3 A Correct.

4 Q What if anything did you do with the rape
5 kit?

6 A I placed it in the refrigerator that I
7 have in my evidence room.

8 Q And how long did it remain in the
9 refrigerator?

10 A Until I received paperwork to transport it
11 to sled. That was December 12th of 07.

12 Q Okay. Is it typically, do you do things
13 with evidence on your own, or do you have to wait
14 for a command to do something?

15 A It is stored until I am told to do
16 something differently with it.

17 Q Okay. And you were instructed to take it
18 to sled?

19 A Correct.

20 Q And did you in fact take it to sled?

21 A I did.

22 Q And did you put it in a secure locker at
23 sled?

24 A It's actually Nicky Perry is the
25 technician who signs it in at sled. And it was left

Barbara Proctor-direct by Land

1 with her.

2 Q And when you gave it to Nicky Perry was it
3 sealed and initialed properly?

4 A It's always in a sealed box. And then,
5 you know, they tear it down. Break it down and do
6 whatever they do with it there. It was sealed when
7 I delivered it.

8 Q Did you have the opportunity to pick that
9 evidence up from sled?

10 A Yes, I picked it up March 6th 2008.

11 Q And had it been -- had it changed
12 containers?

13 A Yes. They go in and this is what I picked
14 up from sled.

15 Q When you came with it in, what did it look
16 like?

17 A It was in a box that says sexual assault
18 collection kit. And it has everything inside it
19 that they need at the hospital. They do whatever
20 they do at the hospital. Place it back in the kit
21 and seal the box.

22 Q Did you take what they gave you back to
23 the Sheriff's Office?

24 A Right. Yes, I did.

25 Q And you put it in the evidence locker?

Barbara Proctor-direct by Land

1 A It has been in the evidence room since
2 March.

3 Q Under your custody and control?

4 A Correct.

5 Q And that -- the packet that you received
6 from sled is sealed?

7 A It is.

8 Q And has been sealed since you received it?

9 A Sealed and initialed. It is.

10 MS. LAND: That's all the questions I
11 have, Ms. Proctor. Thank you.

12 Cross Examination by Ms. Butcher:

13 Q Make I see your evidence log? Is it the
14 normal procedure for someone to sign the log -- sign
15 the log when they -- when evidence comes in to their
16 possession, and when they place it into evidence?
17 Into the evidence locker, I am sorry.

18 A It always has to be signed who is turning
19 it in.

20 Q It has to be signed?

21 A It has to be, correct.

22 Q Who had it prior to Todd Avant?

23 A I not sure.

24 Q If an officer had it prior to Todd Avant,
25 he would have had to have signed the log?

Barbara Proctor-cross by Butcher

1 A Not necessarily this one.

2 Q He would have been required to sign a log
3 by y'all's procedure at the Sheriff's Department?

4 A The only thing I would know about would be
5 once I took control of it. And I took control of it
6 from Todd Avant. So where Investigator Avant got it
7 from, I wouldn't know.

8 Q But y'all are required to sign these logs.

9 A For it to come in to my evidence room, it
10 is going to be signed in by someone or I don't
11 accept it. So I received it from Todd Avant who
12 signed it in to me.

13 Q You stated that this evidence came back to
14 you March 6th 2008, from sled, is that correct?

15 A I picked it up from sled March 6th.

16 MS. BUTCHER: No further questions. Thank
17 you.

18 MS. LAND: I don't have any questions.

19 THE COURT: You may step down.

20 MS. LAND: Your Honor, at this time, I
21 would call Dr. Laura Mills.

22 DR. LAURA MILLS, being
23 first duly sworn, testified as follows:

24 Direct Examination by Ms. Land:

25 Q Dr. Mills, when you received the rape kit,

Dr. Laura Mills-direct by Land

1 was it sealed?

2 A Yes---

3 MS. BUTCHER: Your Honor, I object. The
4 same objection.

5 THE COURT: The objection is
6 overruled.

7 Q And did it have initials on it?

8 A Yes, it did.

9 Q And you were the first person that opened
10 it?

11 A Yes, I was.

12 Q If you would, you said that there was a
13 vaginal, oral and rectal swab.

14 A Yes.

15 Q What were the results of those swabs?

16 A On---

17 THE COURT: Just a moment, ma'am.

18 MS. BUTCHER: I object, Your Honor. Same
19 objection.

20 THE COURT: Ladies and Gentlemen, I am
21 going to have you go to the jury room. Please
22 do not discuss the case.

23 (Whereupon, the following takes place
24 outside the presence of the jury.)

25 MS. BUTCHER: Your Honor, I still hold

Dr. Laura Mills-direct by Land

1 that they have not established their chain of
2 custody.

3 THE COURT: You had planned to make that
4 objection after she answered the questions?

5 MS. BUTCHER: Your Honor, I intended --
6 perhaps I made it prematurely when I first made
7 it when she took the stand. And...

8 THE COURT: You objected when she took the
9 stand to questions concerning the chain of
10 custody.

11 MS. BUTCHER: I am objecting to her
12 testimony because the chain of custody has not
13 been established of it getting to her. I don't
14 feel that she should be allowed to testify
15 about what she found and the analysis she made
16 of these things when there is no chain of
17 custody has been established.

18 THE COURT: The question is, when had you
19 planned to make that objection, after she gave
20 the results?

21 MS. BUTCHER: No, Your Honor. I honestly
22 I felt like I had already made it. And I --
23 when I made it, the first time you overruled
24 me.

25 THE COURT: I overruled your questioning

Dr. Laura Mills-direct by Land

1 as to the testimony she was giving concerning
2 the chain of custody.

3 MS. BUTCHER: Okay, Your Honor. I would
4 object to her testifying at all, because no
5 chain of custody can establish it getting to
6 her. So therefore, I didn't feel like---

7 THE COURT: You can't object to her
8 testifying at all if part of her testimony
9 consists of testimony concerning chain of
10 custody.

11 MS. BUTCHER: Your Honor, my basis for
12 that would be that it would have to go through
13 the chain. I don't think she can testify about
14 getting it From Barbara Proctor when it hasn't
15 been established that it got to Barbara
16 Proctor. But my---

17 THE COURT: The State doesn't have to
18 establish chain in the sequence.

19 MS. BUTCHER: I thought---

20 THE COURT: They can establish the
21 chain -- they can start at the end of the
22 chain and go back to the beginning of the
23 chain.

24 MS. BUTCHER: And I can see that, Your
25 Honor. And I understand that. And she has,

Dr. Laura Mills-direct by Land

1 you know, gone in to what she collected before
2 when I made my original objection, when she was
3 first on the stand. Your Honor, I mean I can
4 make it again as she testifies.

5 THE COURT: You just made it again. The
6 question is, after I had stopped her from the
7 answering the questions. My question to you,
8 when did you plan to make it? You have now
9 made it after I stopped her from testifying.
10 Ms. Land.

11 MS. LAND: Your Honor, I think that Ms.
12 Butcher may be mistaken about what the chain
13 is. When one person gets it from another in a
14 sealed box and gives it to another person, that
15 middle link is not part of the chain. Bernie
16 Thornton technically is not part of the chain.
17 Nor is the technician from sled who received
18 it. That's why we've never seen a sled
19 technician testify.

20 Once that box is sealed, unless it has
21 has been tampered, then the person is not part
22 of the chain that handled it.

23 MS. BUTCHER: Your Honor,---

24 MS. LAND: It went from the nurse who said
25 under oath that she sealed it, to Todd Avant.

Dr. Laura Mills-direct by Land

1 And it was still sealed; to Barbara Proctor and
2 it was still sealed. And then to Dr. Mills and
3 it was still sealed.

4 MS. BUTCHER: Your Honor, I believe things
5 can be unsealed and resealed. And that it is
6 extremely important to establish who handles it
7 at each point. And there is a big gap between
8 the nurse and Todd Avant.

9 MS. LAND: That's not my understanding of
10 the law, judge.

11 THE COURT: The law requires proof of a
12 continuance chain of custody through the
13 testimony of all people who have control and
14 possession of the evidence. It must be traced
15 from the time it is taken from the human body
16 to the final custodian by whom it is analyzed.
17 How have you established that?

18 MS. LAND: Because the box was sealed with
19 initials and it was not tampered with. I
20 believe that the chain is to prove that the
21 item of evidence that we are intending to
22 introduce has not been tampered with.

23 THE COURT: Well trace the chain for me
24 through of the testimony.

25 MS. LAND: Marsha Nelson.

Dr. Laura Mills-direct by Land

1 THE COURT: Just a moment, only one of us
2 can speak at the same time. The victim
3 testified that the rape kit was done on her at
4 the hospital. And so that's the beginning
5 point that it is taken from the human body.
6 You have the witness on the stand now who
7 analyzed it. You must trace a complete chain
8 of the evidence from the time it was taken from
9 Ms. Summers until the time it got to this
10 witness. So tell me through the evidence how
11 you have established that.

12 MS. LAND: Ms. Nelson put it in a box.

13 THE COURT: Who is Mrs. Nelson?

14 MS. LAND: She is the nurse. Marsha
15 Nelson.

16 THE COURT: Well we're tracing it from the
17 victim.

18 MS. LAND: Okay. The victim had the kit
19 taken from her by Ms. Nelson. Ms. Nelson put
20 it in a box. Sealed the box. Gave the box to
21 Bernie Thornton. Who then gave the sealed box
22 that had not been tampered with or opened to
23 Todd Avant. If that box remains sealed, that
24 evidence has not been handled or tampered.
25 Todd Avant then gave it to Barbara Proctor.

Dr. Laura Mills-direct by Land

1 Barbara Proctor took it to sled where Dr. Mills
2 got it in the sealed box.

3 THE COURT: Dr. Mills got it from whom?

4 MS. LAND: She got it from a technician
5 from sled who got it out of the drop box. So
6 he took it personally.

7 THE COURT: How do you know that? Through
8 the testimony how do you know that? Not based
9 on your personal knowledge. Through the
10 testimony, how do you know that?

11 MS. LAND: Judge, honestly it doesn't
12 matter through the testimony.

13 THE COURT: To me it matters. And I Am
14 the one who is ruling.

15 MS. LAND: She testified she got in a
16 sealed box. That in my opinion is what
17 matters.

18 MS. BUTCHER: May I speak, Your Honor?

19 THE COURT: The answer is no.

20 MS. BUTCHER: Oh, I apologize.

21 THE COURT: Yes, ma'am.

22 MS. BUTCHER: Your Honor, this box, it
23 needs to be established how it got to her. How
24 it got to her. It's possible someone else at
25 sled that could have gotten that box, opened

Dr. Laura Mills-direct by Land

1 it. If this is the wrong -- I mean, I don't
2 know. We don't know. And I think it's
3 extremely important to know exactly how it got
4 especially there to be analyzed. I think we
5 have got two big gaps on either end.

6 THE COURT: Ms. Mills, how did the
7 evidence get to you to be analyzed?

8 A The evidence is brought in to sled log in.
9 We have a technician that comes down and collects
10 that evidence. She makes the decision based on our
11 guidelines whether or not there is blood in that kit
12 that needs to be poured. Or whether it can go
13 straight to the analyst. In this particular case,
14 she poured the blood, the technician; sealed it back
15 up. I still got it in a sealed container. It has
16 initials and dates on the actual evidence pouch. We
17 can track it.

18 Every time that seal is broken from the
19 time it is brought in until the time it gets to me,
20 the seal is dated and initialed. And we do have an
21 internal chain of custody. We can track it on our
22 computer system as to who had it, exactly what time
23 and what date. Before I can analyze it, I make sure
24 it is in a heat-sealed pouch. It is sealed, it's
25 initialed and it's dated.

Dr. Laura Mills-direct by Land

1 THE COURT: You have an internal what?

2 A An internal chain on our computer system
3 that tracks it.

4 THE COURT: What is the internal chain on
5 this?

6 A I don't have that with me. I certainly
7 can have that faxed if need be.

8 THE COURT: Any further questions of this
9 witness?

10 MS. LAND: No, sir.

11 MS. BUTCHER: Your Honor, I still make my
12 motion that they have not established a chain.

13 THE COURT: All right. I am going have
14 you step down, ma'am, while I ponder the
15 question and then rule. Ms. Land, who did the
16 nurse testify she gave the samples to?

17 MS. LAND: Bernie Thornton.

18 THE COURT: Who did she testify that she
19 gave the samples to?

20 MS. BUTCHER: She didn't know. She
21 couldn't remember his name. She tried to
22 stumble out a name, but she didn't know.

23 THE COURT: She testified that she gave it
24 to either one person or some other person.

25 MS. BUTCHER: My recollection was, that

Dr. Laura Mills-direct by Land

1 she really just didn't remember. It had been
2 too long, she didn't know. She didn't
3 remember. And, Your Honor, I, I believe it's
4 up to the State to bring in---

5 THE COURT: I just asked you a question.
6 I didn't ask you tell me what you think about
7 the evidence and order. And who established
8 Bernie Thornton existed as far as this case is
9 concerned, Ms. Land?

10 MS. LAND: I am sorry, Judge?

11 THE COURT: Who established that Bernie
12 Thornton existed as far as this case is
13 concerned? Had any role in this case?

14 MS. LAND: Well Todd Avant just did. He
15 said he got it from Bernie Thornton.

16 THE COURT: Where? I mean, where did he
17 see Bernie Thornton, or where did Bernie
18 Thornton get it from?

19 MS. LAND: Okay. Well Bernie Thornton is
20 here, Judge. And like I said,---

21 THE COURT: He is where?

22 MS. LAND: He is here.

23 THE COURT: Has he testified?

24 MS. LAND: No, he hasn't.

25 THE COURT: The victim says one officer

Dr. Laura Mills-direct by Land

1 wanted to be called, I think she remembered
2 Avant. And somebody else wanted to be called
3 DJ. And those are two folks she recalled
4 dealing with. Is Bernie Thornton, DJ?

5 MS. LAND: He's not. And the victim
6 wouldn't have any knowledge of who the nurse
7 gave it to.

8 THE COURT: Nor would I. I sustain the
9 objection.

10 THE COURT: Are you through with this
11 witness, or do you want to subject her to being
12 recalled again?

13 MS. LAND: No, I would like to ask her
14 some more questions.

15 THE COURT: She cannot testify as to any
16 findings.

17 MS. LAND: I understand that.

18 THE COURT: Anything else before we bring
19 the jury?

20 MS. LAND: Do you want us to put her on
21 the stand before they come in?

22 THE COURT: Yes.

23 (Whereupon, the witness resumes the
24 witness stand.)

25 THE COURT: If you will bring the jury

Dr. Laura Mills-direct by Land

1 please.

2 (Whereupon, the following takes place
3 within the presence of the jury.)

4 THE COURT: Your objection is sustained.

5 Direction Examination Continues by Ms. Land:

6 Q Dr. Mills, you talked about vaginal, oral
7 and rectal swabs. If semen is secreted in those
8 areas, are they more likely to be preserved?

9 A They can be preserved in the vaginal track
10 the longest of the three. We can see semen that
11 stays in this area for approximately 3, 4, 5 days
12 after an assault.

13 Q Now compare that to semen on the skin.

14 A If you have semen on the skin, it's more
15 prone to atmospheric conditions. It can be easily
16 wiped off. It's not in an area that's going to be
17 protected. You've got clothing that could rub it
18 off. Or just being exposed to wind or atmospheric
19 conditions can affect that.

20 Q And would you in fact call semen on the
21 skin, or the skin, as far as holding that semen in
22 an unstable environment?

23 A Yes, I would.

24 Q Your findings in no way indicated whether
25 someone was assaulted or not?

Dr. Laura Mills-direct by Land

1 A That is correct. DNA evidence cannot in
2 any way, shape or form tell if somebody was raped or
3 not raped.

4 Q And so you can't come here today and tell
5 this jury whether Ms. Summers was raped or not.

6 A No, I cannot.

7 Q And in fact you don't know.

8 A I don't.

9 MS. LAND: Thank you.

10 THE COURT: Cross examination.

11 Cross Examination by Ms. Butcher:

12 Q You talked about how long semen stays in
13 the vaginal area. How long, is there a difference
14 between semen and DNA?

15 A There is. We get DNA from semen from
16 sperm cells that are secreted and ejaculated.

17 Q So would the DNA remain longer after the
18 sperm may have gone away?

19 A Well no, because we would get the DNA from
20 the sperm. So in order to get the DNA profile there
21 would have to be sperm that would be present.

22 Q How long would something like that stay on
23 clothes?

24 A There is no real time that it can stay. I
25 can't tell you, you know, a week versus a day. It's

Dr. Laura Mills-cross by Butcher

1 going to depend on if the garments are washed. If
2 the garments are outside. Or they are kept in an
3 environment inside in air conditioning.

4 Q But once a rape kit is completed at that
5 point is it preserved until you do your analysis?

6 A Yes, once the kit is collected, if it's
7 kept in the proper conditions, then we should be
8 able to get semen or should be able to get a DNA
9 profile from that evidence if the biological fluid
10 is present on these swabs.

11 Q In a rape kit, they also do combings of
12 your pubic hair, correct?

13 A Yes, they are part of the kit. Whether or
14 not they are actually taken is up to the nurse doing
15 the examination.

16 Q And those would be preserved, also if they
17 are collected.

18 A Correct.

19 Q So when you talk about this time that
20 semen or DNA would stay in the vaginal area or on
21 the skin, as long as that rape kit is done in an
22 adequate amount of time, It going to be preserved
23 until you can analyze it, correct?

24 A Correct.

25 Q And you have no idea about this case, and

Dr. Laura Mills-cross by Butcher

1 whether or not Ms. Summers was actually raped?

2 A No, I don't.

3 MS. BUTCHER: Thank you.

4 Redirect Examination by Ms. Land

5 Q When you say preserved, you -- there is no
6 way for you to know if semen or DNA actually got on
7 the swab?

8 A No, I don't.

9 Q And in fact you don't know if a nurse
10 properly swabbed a person, or swabbed the person
11 where the semen was indicated as being, or any of
12 that.

13 A That's correct, I don't know.

14 MS. LAND: Thank you. That's all the
15 questions I have.

16 THE COURT: Anything further?

17 MS. BUTCHER: One further.

18 Recross Examination by Ms. Butcher:

19 Q So when you conduct your analysis and you
20 come up with a finding of no DNA or no sperm, you
21 have no idea if the nurse didn't do a good job, or
22 in fact there was no DNA or no sperm to be found,
23 correct?

24 A That's correct, I don't know.

25 THE COURT: You may step down, ma'am.

Dr. Laura Mills-recross by Butcher

1 MS. LAND: That's the state's case.

2 THE COURT: Ladies and Gentlemen, you have
3 heard the State's case. I need you to go to
4 the jury room once again for a few minutes. I
5 will have you to come back soon.

6 (Whereupon, the following takes place
7 outside the presence of the jury.)

8 THE COURT: Any matters of law in this
9 case?

10 MS. BUTCHER: Yes, Your Honor. I would
11 like to move for a directed verdict at this
12 time. I believe they did not establish any
13 evidence that the defendant raped the victim or
14 entered the victim for that matter. The --
15 Ms. Summers testified she was raped without any
16 definition as to that. She did, I believe,
17 mention vaginal intercourse or raped vaginally.
18 But she did not explain what that meant. If he
19 actually entered the vaginal area at all.

20 The State did not prove their case on
21 that, Your Honor. I feel they should have had
22 an explanation of exactly what happened. They
23 have criminal sexual -- in a sexual assault,
24 it's very clear that something has to enter the
25 victim. And I don't believe that burden was

1 met in this case, Your Honor.

2 THE COURT: Ms. Land.

3 MS. LAND: Your Honor, she defined it as
4 vaginal intercourse. I think that we all know
5 what vaginal intercourse is. And the jury can
6 use their common definition of vaginal
7 intercourse.

8 THE COURT: I agree with the State. I
9 deny the motion.

10 MS. BUTCHER: Thank Your Honor.

11 THE COURT: Are you ready for the defense?

12 MS. BUTCHER: Your Honor, I need to speak
13 with my client, as far as his right to testify.

14 THE COURT: All right, I will give you a
15 few minutes to talk with him. Then I will talk
16 with him as well concerning the same thing.

17 MS. BUTCHER: Thank you, Your Honor. Step
18 back here.

19 (Whereupon, the court takes a short
20 break.)

21 THE COURT: Mr. Woods, we have reached the
22 stage of the trial where you have a right to
23 present your defense. Now you have the right
24 to claim the protections of the 5th Amendment
25 to the Constitution which says that, "No person

1 shall be compelled in any criminal case to be a
2 witness against himself." This means that you
3 cannot be required to testify in this case.
4 You do however have the right to testify on
5 your own behalf if you want to. But no one can
6 make you testify.

7 Now this right to not testify or be a
8 witness against yourself is a personal right.
9 No one can waive this right except you. And if
10 you decide to testify, you will be subject to
11 the same rules that govern other witnesses.
12 You may be examined and cross examined on any
13 relevant issues in this case.

14 In addition, if you have a conviction
15 involving dishonesty, false statements, or for
16 crimes punishable by more than one year in
17 prison, and I determine that the probative
18 value of admitting this evidence outweighs any
19 prejudicial effect to you, the Solicitor,
20 Ms. Land, will then be able to introduce your
21 record to attack your credibility. And if you
22 decide to testify, this decision on your part,
23 must be freely, voluntarily, and intelligently
24 made with knowledge of the protections given to
25 you by the 5th Amendment, and the consequences

1 of your decision to testify. If you decide not
2 to testify, I will instruct the jurors that
3 they cannot give the fact that you did not
4 testify any consideration whatsoever. There is
5 to be absolutely no prejudice to you because
6 you did not testify.

7 It is left entirely up to you whether or
8 not you testify. You may talk to your lawyer,
9 Ms. Butcher, your family, friends or anyone
10 else. But the final decision will be left
11 entirely up to you. Do you understand what I
12 have explained?

13 THE DEFENDANT: Yes, sir, Your Honor.

14 THE COURT: Do you have any questions what
15 I have explained?

16 THE DEFENDANT: No, sir, Your Honor.

17 THE COURT: Have you talked with your
18 lawyer about whether or not you should testify?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you wish to talk to her any
21 more about whether or not you should testify?

22 THE DEFENDANT: No, sir, Your Honor.

23 THE COURT: Do you wish to testify?

24 THE DEFENDANT: Let me check the time.

25 It's 11 o'clock. I want to get this done, so I

1 am not going to be testifying. I just want to
2 get this done.

3 THE COURT: You do not want to testify?

4 THE DEFENDANT: No, sir.

5 THE COURT: Very well. Are there any
6 witnesses you are going to call?

7 MS. BUTCHER: Your Honor, we're not
8 calling -- we decided not to call any
9 witnesses.

10 THE COURT: The defense will rest in the
11 presence of the jury. Are you all ready to
12 argue?

13 MS. LAND: I'm ready, Judge.

14 MS. BUTCHER: Yes, Your Honor.

15 MS. LAND: Yes.

16 THE COURT: Any requested charges?

17 MS. BUTCHER: Your Honor, I would like you
18 also to charge the lesser included crimes
19 first. And if they find -- And I believe some
20 of those are not a lesser included, and I
21 apologize for not researching that myself. Is
22 second and third a lesser included? Or maybe
23 second isn't. I can't.

24 THE COURT: What says the State? She
25 wants a charge on second degree.

1 MS. LAND: Your Honor, I just don't think
2 that that's applicable. I don't think it fits
3 the facts in this case.

4 THE COURT: First degree is aggravated
5 force. Or physical violence of a high and
6 aggravated nature. And this includes the
7 threat of using a deadly weapon. Second degree
8 contains all the elements of first degree
9 except the circumstances of aggravation.
10 Instead the State must prove that the defendant
11 used aggravated coercion to accomplish the
12 sexual battery instead of---

13 MS. LAND: Force.

14 THE COURT: ---aggravated force or
15 physical violence of a high and aggravated
16 nature.

17 MS. LAND: Yes, sir, I know the
18 difference. I just -- that's why I don't think
19 it is applicable. He didn't coerce her. She
20 wasn't the -- you know, she is not mentally in
21 a state where it would be -- she could be
22 coerced. She wasn't drunk. I mean she -- he
23 forced her to have sex. That's the only
24 testimony.

25 THE COURT: Can the jury---

1 MS. LAND: And my answer to that would be
2 no, they couldn't. Because there is no
3 evidence in the record that he coerced her.
4 There is evidence in the record that he
5 assaulted her.

6 THE COURT: Well the difference between
7 the two is the degree of force. They both rate
8 criminal sexual conduct, one is aggravated
9 force. The second one is aggravated coercion.
10 Aggravated coercion is defined as, a defendant
11 threatened to use force or violence of a high
12 and nature to overcome the victim. There seems
13 as if there was some testimony that she was
14 scared because he threatened her. And that's
15 why she did some of what she did, because he
16 threatened her and she was scared.

17 Of course, she also said that he used
18 force. But then if the difference between the
19 two is the degree of force, the question is
20 whether or not based on what has been
21 presented, the jury could conclude one applies
22 versus the other. If through her testimony.
23 Of course he hasn't presented any. Has not
24 presented any. Through her testimony if the
25 jury could conclude that it was one or the

1 other, then I am required to charge it. And
2 when there is a doubt between the two, you
3 resolve the doubt in favor of charging it.
4 Because if you don't charge it and you should
5 have charged it, then you come back and try the
6 case again because you didn't charge it. What
7 do you think about that, Ms. Butcher?

8 MS. BUTCHER: I agree, Your Honor.

9 THE COURT: I think I best charge it based
10 on the testimony. It is a difference of 10
11 years.

12 MS. BUTCHER: Thank you, Your Honor.

13 THE COURT: It's a 30 year sentence versus
14 20 as far as the maximum. That's one offense.
15 Anything else before we bring them out to
16 argue? Are you all ready?

17 MS. LAND: I'm ready, Judge.

18 THE COURT: Are you ready to go?

19 MS. BUTCHER: Yes, Your Honor.

20 THE COURT: We'll get a drink of water and
21 then we will come back and press on.

22 (Whereupon, the court takes a short
23 break.)

24 THE COURT: Bring the jury out.

25 (Whereupon, the following takes place

1 within the presence of the jury.)

2 THE COURT: Ladies and Gentlemen of the
3 Jury, you have heard the State's case. It is
4 not the defense's turn. Ms. Butcher.

5 MS. BUTCHER: Your Honor, we rest.

6 THE COURT: Ladies and gentlemen, the
7 defense has rested. That means you have heard
8 all of the evidence in this case. We will
9 proceed to closing arguments. If you will give
10 the lawyers your attention, Ms. Land.

11 MS. LAND: Thank you, judge. Good
12 afternoon, Ladies and Gentlemen.

13 THE COURT: It's still morning.

14 MS. LAND: It's close. And Ladies and
15 Gentlemen, the law in the State of South
16 Carolina is that you cannot commit a sexual
17 battery upon a person. If you commit a sexual
18 battery, which is invading a part of a person's
19 body; such as, putting your penis in their
20 mouth, putting your penis in their vagina, when
21 using force, then you are guilty of criminal
22 sexual conduct in the first degree.

23 If you commit those offenses of a sexual
24 battery by using aggravated coercion that's
25 criminal sexual conduct in the second degree.

1 And the judge will tell you all about those
2 laws. And you should believe the law as he
3 tells it to you.

4 He will tell you that a kidnapping is the
5 taking of a person and holding them against
6 their will. It doesn't have to be duct tape or
7 ropes or anything of that nature. It's holding
8 them against their will. When they don't
9 believe that they have the right to go, they
10 are being held against their will. And strong
11 armed robbery is taking something from another
12 person by using force. Taking their money.
13 Taking their personal items. And those are all
14 against the law in South Carolina. And the
15 law that you are going to consider when you
16 deliberate this case. And like I said, the
17 judge will explain those laws in much greater
18 detail.

19 But there are two areas of law that I want
20 you to focus on. One is, beyond a reasonable
21 doubt. We have the duty as the State to prove
22 to you beyond a reasonable doubt that Donniel
23 Woods is guilty of those three crimes.
24 Criminal sexual conduct in the first degree,
25 strong armed robbery and kidnapping. And I

1 submit to you that we have done that, Ladies
2 and Gentlemen. Your job is to consider the
3 facts in this case.

4 The facts are things that were put up
5 through testimony, through this witness stand.
6 What I say is not a fact. What Ms. Butcher
7 says is not a fact. The facts that you have in
8 this case is the testimony that you heard from
9 the witness stand. A photo lineup that was
10 admitted in to evidence. And these what I
11 believe are 9 pictures that were put into
12 evidence. And you will be able to take these
13 pictures back and look at them when you
14 deliberate.

15 I know it is frustrating when a witness is
16 sitting up there with a small picture and you
17 can't clearly see it. But you will be able to
18 take these back with you. But we must prove to
19 you beyond a reasonable doubt that Donniel
20 Woods is guilty of those crimes. And Ms.
21 Butcher mentioned that in her opening, and said
22 a good trial lawyer once described it as a
23 clear pane of glass. The judge will give you a
24 legal definition, and he will say, there are
25 few things in this world that we know with

1 absolute certainty. And the law does not
2 require that sort of standard. The law
3 requires that you be firmly convinced that this
4 man committed these crimes against Ms. Summers.
5 Firmly convinced. We can't be sure of
6 anything. Any excuse that is offered does not
7 make a reasonable doubt.

8 We all believe we know where our loved
9 ones are, where our children are, where our
10 husbands are. But we can't be positive that
11 they didn't get sick from school or sick from
12 work and come home. But we are firmly
13 convinced that they are where they're supposed
14 to be. So don't be confused by that. The
15 second thing that I want you to remember and
16 follow throughout your whole deliberations is,
17 to consider the credibility of each witness. I
18 submit to you that nobody that came in this
19 courtroom and took that stand had any reason to
20 tell you anything except the absolute truth.
21 No reason.

22 And let's talk about those witnesses.
23 First, you had Ms. Summers. Ms. Summers sits
24 over there, today is her day. June 23rd 2006,
25 was Donniel Woods' night, but this is her day.

1 This is the day that she is seeking justice for
2 being taken out to the woods. Made to put her
3 mouth on someone else's penis, being thrown
4 down to the ground, being raped. And being
5 ejaculated all over. Being put back in the
6 car. Taken to a second location and raped
7 again. She begged for her life that night.
8 And today we are begging you for justice.

9 She has no reason to come into this
10 courtroom and tell you anything except the
11 truth. No reason to wait these two years for
12 her day in court. Come from her job and sit
13 here, and relive this incident if it wasn't
14 everything but the truth. You heard about Ms.
15 Summers. She is a nice person. She is a
16 college graduate. She has a job in North
17 Carolina. She is a machine operator. You have
18 seen her. You can judge her credibility by how
19 she looks. How she handles herself. How she
20 acts.

21 Ms. Summers came in this courtroom and
22 told you the truth. But weren't not asking you
23 just to find him guilty on one person's
24 testimony. Because we want you to be firmly
25 convinced. That's why we presented Todd Avant

1 who went to the hospital that night and spoke
2 with Ms. Summers. When investigator Avant was
3 with the Sheriff's Office, he was a fine
4 investigator and he did a good job in this
5 case. There is always an old saying that
6 lawyers use, and it's when you can't attack the
7 facts, you attack the police. And that's what
8 Ms. Butcher did, and is doing. And will do
9 when she comes up after I finish, to put a
10 reasonable doubt in your mind.

11 She said you didn't talk to Tywan
12 Blackwell. Well did he need to talk to him,
13 because you heard from him yourself. You
14 didn't take any casts of the pictures. I
15 didn't need to take any casts -- I mean of
16 where the car got stuck, I didn't need to take
17 any casts. I got pictures.

18 Asked him all kinds of things that are not
19 relevant to whether this crime happened or not.
20 If you recall she asked Ms. Summers did Troy
21 take you to the hospital or did Reggie take you
22 to hospital. That doesn't matter. It doesn't
23 matter who took her to the hospital. What
24 matters is that she was raped. You have the
25 photo lineup that Investigator Avant had sled

1 make up with a person who he became aware was
2 known as Button. You will have that back with
3 you. You have the signature and the date of
4 Sheila Summers from the day Investigator Avant
5 showed it to her and said, "Is the person that
6 raped you in this lineup. This is him."

7 You will have the pictures that support
8 Ms. Summers' testimony that the car got stuck.
9 You will see the area that it was stuck. You
10 will see the tire marks where it couldn't get
11 out. And you will see the car with smudges on
12 the back where somebody could have tried to
13 push it out just like Ms. Summers said. And
14 exactly in the place where Ms. Summers said it
15 happened.

16 You will have pictures of the wallet that
17 lay in the ground empty of any money. And I
18 want you go back there and use your common
19 sense. Because if this was all a mastermind by
20 Ms. Summers, and I don't know what Ms. Butcher
21 is going to tell you when she comes up. I just
22 don't know. But if she attempts to tell you
23 that this is all a mastermind by Ms. Summers
24 and she didn't like her client, ladies, we
25 don't leave our wallet places. There are too

1 many things in there that we need. If this was
2 masterminded by Ms. Summers, if this was a
3 falsehood, this is not the item she would have
4 thrown on the ground.

5 And you will see that it is in fact her
6 wallet. With her Social Security card right
7 there in front. And it was in the exact spot,
8 the dirt road, where she said he pulled her
9 over, got her wallet, tossed it out of the car,
10 and then raped her.

11 Then you heard from Tywan Blackwell, who I
12 will admit is not the most upstanding citizen
13 that we have here in Clarendon County. He is
14 doing time. He told you he is doing 10 years
15 for a drug conviction. And he told you that he
16 is Donniel Woods' cousin. And that he was
17 Sheila Summers' friend. Used to be boyfriend
18 and girlfriend. If he had a reason to come in
19 here and tell you something that wasn't true,
20 he would tell you something that wasn't true in
21 favor of his cousin. Blood is thicker than
22 water. He had absolutely no reason to come in
23 here and tell you that Ms. Summers was
24 hysterical that night, crying, sobbing. And
25 said she got raped.

1 And then you heard from his mother Teresa
2 Blackwell who is even closer relation than
3 Tywan is to the defendant. Who said she went
4 to the hospital and she held Sheila as she
5 sobbed and shook and cried.

6 Ladies and Gentlemen, those were real
7 emotions. That's the result of what happened
8 to her that night. The result of what Donniel
9 Woods did to her. There is enough evidence in
10 this case, eye witness testimony, pictures,
11 photo lineups, to convince you beyond a
12 reasonable doubt that Donniel Woods did the
13 things that Sheila Summers said he did. It all
14 meshes. It all goes together. They're like
15 pieces of the puzzle and they all fit. And
16 that's the evidence that you have to consider.
17 The things that the State put up.

18 Lastly, you heard from Marsha Nelson. You
19 didn't hear from her last, but you heard from
20 Marsha Nelson, the nurse. And once again what
21 she says corroborates what Sheila Summers said.
22 Sheila says he choked me. There were red marks
23 around her neck. I ran through the woods.
24 There were cuts and abrasions on her ankles.
25 She was in a bra and underwear. Which is

1 another thing. If you are going to cry rape,
2 would go you through the humiliation of having
3 to drive to Jerry's Truck Stop. And then drive
4 to the hospital, in just your bra and
5 underwear? Think about the humiliation and the
6 shame and the fear and the sadness that she
7 felt. And Marsha Nelson told you that the time
8 line matched up; that she put 2:00 o'clock on
9 there for one of two reasons. That's when she
10 checked in or that's when Ms. Nelson got there.

11 She, Ms. Summers went to the ER. She said
12 that this incident took 3 hours. Three hours
13 she was with this man in horror. She got free.
14 She made phone calls. She went to the TA to
15 meet Reggie. Reggie took her to the hospital.
16 And then she sat there and she waited for Ms.
17 Nelson; wrapped up in a blanket. Shivering,
18 sobbing. Ladies and Gentlemen, we have
19 presented the evidence and the evidence shows
20 that on June 23rd of 2006, Ms. Summers was
21 raped. More importantly, it shows that this is
22 the man that raped her. This is the man that
23 held her against her will for three horrifying
24 hours. This is the man that took her money and
25 discarded her wallet on that dirt road.

1 Ladies and Gentlemen, go back there,
2 deliberate. Talk about it, and find him guilty
3 of these things that he did.

4 THE COURT: Ms. Butcher.

5 MS. BUTCHER: Good morning, Ladies and
6 Gentlemen. Ms. Land said when she first spoke
7 to you that this case was based on credibility
8 of testimony. She also said that you were also
9 going to be disappointed that this wasn't like
10 the TV show like CSI. Well I hope you were
11 disappointed. I hope you were very
12 disappointed this wasn't CSI Manning. It's not
13 that they didn't bring you any evidence.
14 What's more appalling is they didn't even try
15 to get you evidence.

16 Now ms. Land just told you that all of the
17 evidence wasn't relevant. I don't think there
18 is a citizen of South Carolina that would like
19 to be sitting in that seat where Mr. Woods is,
20 and have people think that this kind of
21 evidence is not relevant. What she could have
22 brought you, and they did not.

23 MS. LAND: Your Honor, I am going to
24 object to this, she can't discuss what we
25 didn't bring. She can discuss the evidence

1 that's in the record.

2 THE COURT: The objection is overruled.

3 MS. BUTCHER: Thank Your Honor. They
4 could have brought you but did not even try.
5 And you heard the officer testify they didn't
6 even try. DNA from inside the car, didn't
7 look. Tire track analysis to where a car was
8 bogged down to see if it was even the same car.
9 Evidence of footprints around where there was a
10 bogged down tire print. Pictures of her -- of
11 Ms. Summers' injuries. No pictures. Testimony
12 from the victim's advocate when the victim's
13 advocate did eventually talk to her.

14 And what about DJ, the other officer?
15 Where was he? Never heard from him. And no
16 evidence of DNA or sperm. DNA from a beer that
17 was in the car. That could have been obtained.
18 I never saw any of that. Also if there had
19 been soil on Ms. Summers, they could have
20 tested that against the soil in the woods to
21 prove that she had actually been there and that
22 she had been pushed down into the dirt.
23 Remember too, She's the only one that testified
24 about scratches on her chest, and her back and
25 arms. The nurse said there were none, or she

1 would have written them down.

2 One of the big things that I felt like was
3 missing from this case is the medical records.
4 Where were the medical records? They certainly
5 could have been obtained. Was there anything
6 in there that they did not want you to see?
7 What is so scary, Ladies and Gentlemen, I do
8 mean scary, the State is asking you to convict
9 a man of very serious crimes. A horrible
10 crime. And they refuse to even investigate
11 this crime.

12 You heard Mr. Avant, the original
13 investigator. He said that it was not unusual
14 for there to be false reports in rape cases.
15 And that he had an obligation to investigate
16 both sides in a case like this. And let's talk
17 about what did they did bring. And you
18 remember, Ms. Land told you this was a case
19 about credibility. They brought you Ms.
20 Summers who said I was raped. They also
21 brought you Tywan Blackwell, a convicted drug
22 dealer. And drug dealers don't have any
23 respect for the law. You've got to think,
24 does he have respect in the oath he took. Mr.
25 Blackwell told you she said she was raped. She

1 also said that Ms. Summers and Troy Nelson
2 drove up to him at Manning Lane Apartments.
3 Never any mention about being TA travel center.
4 He didn't know what that was about. The big
5 question is why did Tywan Blackwell not take
6 her to the ER. That was her boyfriend. But he
7 didn't take her.

8 And as you recall, there is a big gap in
9 time here from when Ms. Summers says she left
10 the company of Mr. Woods around 11 o'clock.
11 And the time she went to the hospital was
12 around 2 a.m. It was 3 hours. That's a big
13 question, what was going on during that time?
14 I submit to you that she did leave Mr. Woods'
15 company like she said she did, around 11. She
16 then went to Manning Lane Apartments like Tywan
17 Blackwell said she did. Met Tywan there, her
18 boyfriend.

19 Tywan may have found out that she had been
20 in the company of Mr. Woods who may have gotten
21 mad. Real mad. And then she decided to cover
22 up for herself. Well Tywan knew that Donniel
23 and Ms. Summers had already been arguing. So
24 she claimed rape. That was pretty believable.
25 They had already been arguing. She decided to

1 cover up for herself. It would have been a
2 very believable story. The problem is, there
3 is nothing to support that story. No scratches
4 on her chest. No scratches on her back, arm.
5 The nurse never saw any. No semen on her, her
6 clothes, her car. No proof that there was ever
7 any semen in her vaginal area. No pictures of
8 anything. Nothing to show that he ever entered
9 her. Or anyone ever penetrated her. No proof
10 that she and Donniel were even ever together.

11 The only person she spoke with right
12 after leaving Mr. Woods, that you heard from is
13 Donniel Blackwell. But he did not take her to
14 the hospital. She arrived at the hospital 3
15 hours later. Her story just doesn't add up.
16 In her testimony, she first stated to you that
17 he ejaculated all over her chest and arm and
18 her stomach, three times. She stated that this
19 was done in less than 3 hours. That's kind of
20 incredible itself, less than 3 hours.

21 What is troubling in this case, is Tywan
22 nor Ms. Blackwell bothered to tell Investigator
23 Todd Avant or anybody who she claims raped her.
24 Remember when Mr. Avant said a non-receipt came
25 in. Well if she had told them who raped her,

1 why didn't they tell an investigator? They
2 didn't know until an anonymous tip came in days
3 later.

4 Tywan also testified that that night he
5 called his mother and told his mother to meet
6 Ms. Summers at the hospital. Ms. Blackwell
7 testified she didn't speak to her son until the
8 next day. It's the State's responsibility to
9 bring you all of the proof that you need when
10 they ask you to find someone that's been
11 accused of something guilty or innocent. We as
12 citizens have these rights. I told you Tuesday
13 that the State has the responsibility to show
14 you Mr. Woods through a clear glass.

15 Ladies and Gentlemen, I submit, that glass
16 isn't only dirty. It is filthy. It's filthy
17 with not only the evidence that They did not
18 bring, but the fact they didn't even try. We
19 as citizens deserve better than that. We need
20 to demand more. The State did not carry its
21 burden of proof. We don't even know if Donniel
22 Woods was with Ms. Summers that night.

23 Ladies and gentlemen, I ask you to look at
24 everything that they have shown. Especially,
25 what they have not shown you. And even more,

1 they did not even bother to try to show you. I
2 ask that you find Mr. Woods not guilty of these
3 crimes. Thank you very much.

4 THE COURT: Madam Forelady, and Members of
5 the Jury, you have heard the testimony and the
6 evidence and the arguments of the State and the
7 Defendant. I will now explain to you the law
8 that applies to this action. Under the
9 constitution and laws of South Carolina, you
10 are the finders of the facts in this case. I
11 do not have the right to pass upon the facts or
12 even to express any opinion that I may have as
13 to them. Because this is a matter solely for
14 you the jury to determine.

15 And as jurors then, it your duty to
16 determine the effect, the value, the weight,
17 and the truth of the evidence presented during
18 this trial. You are also the judges, the sole
19 judges of the credibility; that is, the
20 believability of the witnesses who have
21 testified in this case. And in passing upon
22 their credibility, you may take into
23 consideration many things; such as, the
24 demeanor or manner of testifying. Whether the
25 witness had reason to be biased or prejudice.

1 Whether a witness' testimony was contradicted
2 on the one hand or supported and corroborated
3 on the other hand. You may believe a small
4 portion of a witness' testimony or vice versa.
5 All these things you will consider bearing in
6 mind that you should give the defendant the
7 benefit of any reasonable doubt.

8 It becomes your duty as jurors to analyze
9 and to evaluate the evidence and determine
10 which evidence convinces you of its truth.
11 You are also the judges, the sole judges of the
12 credibility; that is, the believability of the
13 witnesses who have testified in this case as I
14 have indicated to you. Now as the trial judge,
15 it is my responsibility to preside over the
16 trial of this case. And I also have the duty
17 to rule upon or pass upon the admissibility of
18 the evidence offered during the trial.

19 You are to consider only the testimony
20 which has been presented from this witness
21 stand together with any exhibits which have
22 been made a part of the record in this case and
23 any stipulation of counsel made into the
24 record. I have the additional duty to charge
25 you on the law applicable to this case. And as

1 the presiding judge, I am the sole judge of the
2 law of this case.

3 It is your duty as jurors to accept and
4 apply the law exactly as I state it to you,
5 and then to reach your verdict. And finally I
6 charge you in that regard that you should not
7 be concerned what you think the law ought to
8 be, but what I charge you the law to be. Now
9 the fact that the defendant was arrested,
10 charged in this case, is not evidence in this
11 case. And cannot be considered by you as
12 evidence of guilt in this case. Nor does it
13 create any presumption or inference of guilt.
14 The Indictment is simply the formal written
15 instrument which contains the charges made
16 against the defendant.

17 The Indictment is the formal document by
18 which this case is brought in to court. The
19 defendant has pled not guilty to this
20 Indictment. And that plea puts the burden on
21 the State to prove the defendant guilty. A
22 person charged with committing a crime or
23 criminal offense in South Carolina is never
24 required to prove himself innocent. And I
25 charge you that it is an important rule of the

1 law that the defendant in a criminal trial no
2 matter what the seriousness of the charge may
3 be, will always be presumed to be innocent of
4 the crime for which the Indictment was issued
5 unless guilt has been proven by evidence
6 satisfying you of that guilt beyond a
7 reasonable doubt.

8 And this presumption of innocence does not
9 end when you begin your deliberation. But it
10 accompanies the defendant throughout the trial
11 until you reach a verdict of guilt based on
12 evidence satisfying you of that guilt beyond a
13 reasonable doubt. The presumption of innocence
14 is like a robe of righteousness placed about
15 the shoulders of the defendant which remains
16 with the defendant until it has been stripped
17 from the defendant by evidence satisfying you
18 of the defendant's guilt beyond a reasonable
19 doubt.

20 The presumption of innocence is not a mere
21 legal theory. It is not just a legal phrase,
22 it is a substantial right to which every
23 defendant is entitled unless you the jury are
24 satisfied of the defendant's guilt beyond a
25 reasonable doubt.

1 The State must prove the defendant guilty
2 beyond a reasonable doubt. So what is a
3 reasonable doubt in the law? A reasonable
4 doubt is a doubt which makes an honest,
5 sincere, conscientious juror in search of the
6 truth to hesitate to act. Proof beyond a
7 reasonable doubt must therefore be proof of
8 such a convincing character that a reasonable
9 person would not hesitate to rely and to act
10 upon it in the most important of his or her own
11 personal affairs.

12 Proof beyond a reasonable doubt can also
13 be described as proof that lives you firmly
14 convinced of the defendant's guilt. Now there
15 are very few things in this world that we know
16 with absolute certainty. And in criminal cases
17 the law does not require proof that overcomes
18 every possible doubt. If based on your
19 consideration of the evidence you are firmly
20 convinced that the defendant is guilty, then
21 you must find him guilty. If on the other hand
22 you think there is a real possibility that he
23 is not guilty, you must give him the benefit of
24 the doubt then and find him not guilty.

25 Now I instruct you and emphasize that the

1 fact that the defendant did not testify is not
2 a factor to be considered by you in any way in
3 your deliberations and in your consideration of
4 the question of the guilt or innocence of the
5 defendant. It must not be considered by you in
6 any manner whatsoever. A defendant has the
7 constitutional right to remain silent. And the
8 assertion of this right must not be considered
9 by you in your deliberations.

10 And I repeat, under your oath you are to
11 draw no conclusion whatsoever from the fact
12 that the defendant in this case did not
13 testify. The fact that this defendant did not
14 testify should not even be discussed in the
15 jury room. The burden of proof as I have
16 stated to you, is on the state to prove the
17 defendant guilty. The defendant is not
18 required to prove his innocence. The burden of
19 proof remains on the State to prove guilt
20 beyond a reasonable doubt.

21 Now a person who has a prior criminal
22 record is competent to testify during a trial.
23 A past record does not Affect the ability of
24 that witness to testify. A past record may
25 only be considered by you if at all, in

1 determining the witness' believability.

2 Remember you are the sole judges of the facts
3 in this case. And of the believability of any
4 and all witnesses.

5 Now the rules of evidence ordinarily do
6 not permit a witness to testify to opinions or
7 conclusions. An exception to this rule exists
8 for witnesses we call expert witnesses. A
9 witness who by education and experience has
10 become an expert in some Art, Science,
11 Profession or calling may state an opinion as
12 to the relevant and material matter in which
13 the witness claims to be an expert. And may
14 also state the reasons for the opinion. You
15 should consider any expert opinion received in
16 evidence in this case in light of evidence.
17 Give it the weight you think it deserves.

18 Now the Indictment in this case alleged
19 several different offenses against the
20 defendant. The charges are on Count 1,
21 criminal sexual conduct first degree. Count 2,
22 kidnapping. Count 3, strong armed robbery.
23 Each count of the Indictment charges a separate
24 and distinct offense. You must charge each
25 offense separately on the evidence and the law

1 applicable to it. Uninfluenced by your
2 decision to any other charges. The defendant
3 may be convicted or acquitted on any or all the
4 offenses charged. You will be asked to write a
5 separate verdict of guilty or not guilty for
6 each charge.

7 The defendant is charged with criminal
8 sexual conduct in the first degree. The first
9 element which the State must proof beyond a
10 reasonable doubt is that the defendant engaged
11 in a sexual battery with the victim. A sexual
12 battery is sexual intercourse, cunnilingus,
13 fellatio, anal intercourse or any intrusion
14 however slight of any part of a person's -- any
15 part of a person's body except when the
16 intrusion is accomplished for medically
17 recognized treatment for diagnostic purposes.

18 If you find that the State has not shown
19 beyond a reasonable doubt that a sexual battery
20 occurred, you would stop deliberating and your
21 verdict would have to be not guilty. If you
22 find that a sexual battery did occur, you must
23 then decide whether the State has proven beyond
24 a reasonable doubt that the defendant used
25 aggravated force to accomplish the sexual

1 battery. Or that the victim submitted to
2 sexual battery while the victim was also the
3 victim of forcible confinement, kidnapping,
4 robbery. Or robbery.

5 Aggravated force means the use of physical
6 force or physical violence of a high and
7 aggravated nature to overcome the victim. If
8 you find that the State has failed to prove
9 beyond a reasonable doubt that the defendant is
10 guilty of first degree criminal sexual conduct,
11 you may consider whether the State has proven
12 this defendant is the guilty of second degree
13 criminal sexual conduct. Second degree
14 criminal sexual conduct contains all of the
15 elements of first degree criminal sexual
16 conduct except the circumstances of
17 aggravation. Instead the State must proof
18 beyond a reasonable doubt that the defendant
19 used aggravated coercion to establish the
20 sexual battery.

21 Aggravated coercion means that the
22 defendant threatened to use force or violence
23 of a high and aggravated nature to overcome the
24 victim or another person. If the victim
25 reasonably believed the defendant had the

1 present ability to carry out the threat.

2 Repeat that one.

3 Aggravated coercion means that the
4 defendant threatened to use force or violence
5 of a high and aggravated nature to overcome the
6 victim or another person. If the victim
7 reasonably believed the defendant had the
8 present ability to carry out the threat, that
9 also constitutes aggravated coercion.
10 Aggravated coercion may also exist if the
11 victim threatened to retaliate in the future to
12 infliction of physical harm, kidnapping or
13 extortion under the circumstances of
14 aggravation against the victim or any other
15 person.

16 The defendant is charged with kidnapping.
17 The State must prove beyond a reasonable doubt
18 that the defendant knowingly and unlawfully,
19 seized, confined, inveigled, kidnapped,
20 abducted or carried away another person without
21 authority of law. To do a thing unlawfully is
22 to do it willfully against the law. Knowingly
23 means with knowledge; that is, conscientiously
24 and not accidentally. Seized means to take
25 hold of suddenly or forcibly. Confined means

1 to limit, restrict or enclose within bounds,
2 imprison or shut or keep in.

3 Inveigle means to lure, entice, lead
4 astray from false representation, promises or
5 other deceitful means. Kidnapped is to remove
6 a person against his or her will by unlawful
7 force or by fraud. Abduct means to carry out
8 secretly or by force or illegal purpose. Carry
9 away means to remove. The State does not have
10 to prove that the defendant did all of these
11 things. Instead if you find beyond a
12 reasonable doubt that the defendant did any of
13 these things, you may find the defendant guilty
14 kidnapping. Something done without authority
15 of law is something which the law does not
16 sanction, permit, allow, condone or provide
17 justification for. The kidnapping does not
18 have to be for any personal or monetary gain or
19 any illegal purpose. But may be for any reason
20 whatsoever.

21 The defendant is charged with strong armed
22 robbery. In order to prove this offense, the
23 State must first prove beyond a reasonable
24 doubt that the defendant took personal property
25 from the person or presence of another person.

1 Property is in the presence of a person if it
2 is within a person's reach, inspection,
3 observation or control. So that the person
4 could have not have overcome the violence or
5 prevented by fear, retain possession of the
6 property.

7 The State must also show that the
8 defendant carried the property away with the
9 intent to permanently deprive the owner of the
10 property and to convert the property the
11 defendant's own use. The slightest removal of
12 the property or the complete possession of the
13 property even for an instant by the defendant
14 is sufficient to show a taking and a carrying
15 away of the property.

16 Finally the State must prove that the
17 taking away of the property was done by
18 violence or putting the owner of the property
19 in fear of violence.

20 Madam Forelady and Members of the jury,
21 you have been selected by both the State and
22 the Defendant to be fair and impartial jurors.
23 It is your duty then and your joint
24 deliberation to determine the truth in this
25 case giving the defendant the benefit of every

1 reasonable doubt on each and every issue. And
2 from the facts that you determine to be true,
3 you take and apply the law which I have just
4 given you and thus arrive at a verdict which
5 speaks the truth of this case.

6 I have told you the standards you have to
7 apply to the charges of criminal sexual conduct
8 first degree, criminal sexual conduct second
9 degree, kidnapping and strong armed robbery.
10 You have heard the evidence and now you have
11 heard the law. Whatever your verdict as to the
12 charges, Madam Forelady, you would indicate it
13 by writing guilty or not guilty on the verdict
14 form which will go back to you. Sign your name
15 with the date at the bottom.

16 There is no significance in the order in
17 which I state this possible verdict. Simply
18 one must be stated first. And that is as to
19 criminal sexual conduct first degree, we the
20 jury unanimously find the defendant, Donniel
21 Woods, guilty of criminal sexual conduct first
22 degree, or guilty of criminal sexual conduct
23 second degree, or not guilty. As to
24 kidnapping, guilty or not guilty. As to strong
25 armed robbery guilty or not guilty. You will

1 check the appropriate box representing the
2 three verdicts that the jury will render as to
3 the three charges. And sign and date the
4 verdict form.

5 Madam Forelady, remember that although the
6 foreperson is the only juror who signs this
7 verdict it is not hers alone. The verdict has
8 to be a unanimous verdict as to each charge
9 Madam Forelady. You are not authorized to
10 write nor sign that verdict unless all of you
11 have agreed as has to what the verdict should
12 be.

13 Ladies and Gentlemen, I am going to send
14 you to your jury room, but do not begin to
15 discuss this case until you have received a
16 copy of this jury charge, the Indictments, the
17 Verdict Form and the Exhibits. Once you
18 receive these things, that will be your signal
19 to begin your deliberations. Once you begin
20 your deliberations you will deliberate until
21 you have reached a verdict. At which time, you
22 will knock on the door, advise the bailiff, and
23 we will bring you out to receive your verdict.

24 And as I indicated, I will give you a copy
25 of these instructions in written form. During

1 your deliberations you may refer to these
2 instructions to guide your decision making.
3 You must consider the instructions as a whole
4 and not follow some and ignore. Please return
5 the instructions to the court at the time your
6 verdict is rendered.

7 We have also had lunch ordered for you.
8 It should be coming within a reasonable time.
9 It should be soon. When it gets here we will
10 send it in. Please go to the jury room. All
11 of you, except for the alternate juror, the
12 last juror selected. And wait to receive these
13 things to begin your deliberations.

14 (Whereupon, the following takes place
15 outside the presence of the jury.)

16 THE COURT: Any additions or exceptions to
17 the charge?

18 MS. LAND: None from the state, Your
19 Honor.

20 MS. BUTCHER: Nothing from the defense,
21 Your Honor.

22 (Whereupon, the alternate is excused.)

23 THE COURT: Here you go. They can have at
24 it.

25 (Whereupon, at 12:19 p.m. jury commences

1 deliberations.)

2 (Whereupon, at 1:40 p.m. the jury reaches
3 a verdict.)

4 THE COURT: There will be no outbursts in
5 the courtroom. You may be found in contempt of
6 court. Please bring the jury.

7 (Whereupon, the following takes place
8 within the presence of the jury.)

9 THE COURT: Madam Forelady, have reached a
10 verdict?

11 THE FORELADY: We have, Your Honor.

12 THE COURT: Is it a unanimous verdict?

13 THE FORELADY: It is.

14 THE COURT: If you will pass it to the
15 Clerk. You may be seated. If the defendant
16 would stand.

17 THE COURT: Madam Clerk, you may publish
18 the verdict.

19 THE CLERK: In the Court of General
20 Sessions, Case No. 2008-GS-14-365, we the jury
21 by a unanimous consent find the defendant
22 Donniel Woods, as to criminal sexual conduct
23 first degree, guilty of criminal sexual conduct
24 first degree. As to kidnapping, guilty. As to
25 strong armed robbery, guilty. Dated 10/16/2008

1 by the foreperson.

2 THE CLERK: Madam Forelady, is that the
3 verdict of each of the jurors?

4 THE FORELADY: Yes.

5 THE CLERK: And it's still your verdict?

6 THE FORELADY: Yes, ma'am.

7 THE CLERK: Of all the jurors? Will you
8 raise your right hand, each juror? Is this
9 your verdict?

10 THE JURORS: Yes.

11 THE CLERK: And still your verdict?

12 THE JURORS: Yes.

13 THE CLERK: Thank you.

14 THE COURT: Thank you, Madam Clerk. Any
15 additional polling requested?

16 MS. BUTCHER: I would like to have them
17 individually polled.

18 THE COURT: Madam Clerk, if you will poll
19 each juror individually as to whether this is
20 their verdict and whether this still is their
21 verdict.

22 THE CLERK: As I call your name, would you
23 please stand and answer the following
24 questions. Tabitha W. Gardner, is this your
25 verdict?

1 MS. GARDNER: It is.

2 THE CLERK: Is it still your verdict?

3 MS. GARDNER: Yes.

4 THE CLERK: Ruth B. Riley, is this your
5 verdict?

6 MS. RILEY: Yes.

7 THE CLERK: Is this still your verdict?

8 MS. RILEY: Yes.

9 THE CLERK: Thank you. Erin Lane, is this
10 your verdict?

11 MR. LANE: Yes, ma'am.

12 THE CLERK: Is it still your verdict?

13 MR. LANE: Yes, ma'am.

14 THE CLERK: Shirley Smith, is this your
15 verdict?

16 MS. SMITH: Yes.

17 THE CLERK: Is it still your verdict?

18 MS. SMITH: Yes.

19 THE COURT: Rodney Welch, is this your
20 verdict?

21 MR. WELCH: Yes, ma'am.

22 THE CLERK: Is it still your verdict?

23 MR. WELCH: Yes, ma'am.

24 THE CLERK: Lillian D. Bradley, is this
25 your verdict?

1 MS. BRADLEY: Yes.

2 THE CLERK: And still your verdict?

3 MS. BRADLEY: Yes.

4 THE CLERK: Rufus Stukes, Jr., is this
5 your verdict?

6 MR. STUKES: YES.

7 THE CLERK: And still your verdict?

8 MR. STUKES: Yes.

9 THE CLERK: Thank you. Ramona Dow, is
10 this your verdict?

11 MS. DOW: Yes.

12 THE CLERK: Is it still your verdict?

13 MS. DOW: Yes.

14 THE CLERK: Edward Andrews, is this your
15 verdict?

16 MR. ANDREWS: Yes.

17 THE CLERK: Still your verdict?

18 MR. ANDREWS: Yes.

19 THE CLERK: Thank you. Julie McCray, was
20 this your verdict?

21 MS. MCCRAY: Yes.

22 THE CLERK: And still your verdict?

23 MS. MCCRAY: Yes.

24 THE CLERK: Deborah Smith, is this your
25 verdict?

1 MS. SMITH: Yes.

2 THE CLERK: And still your verdict?

3 MS. SMITH: Yes.

4 THE CLERK: Margery Chandler, is this your
5 verdict?

6 MS. CHANDLER: Yes.

7 THE CLERK: And still your verdict?

8 MS. CHANDLER: Yes.

9 THE COURT: The jury has been polled and
10 it appears to be the unanimous verdict of each
11 and every juror. Are there any post-trial
12 motions?

13 MS. BUTCHER: None, Your Honor. Your
14 Honor, I would actually move for a verdict
15 notwithstanding -- notwithstanding the jury's
16 verdict.

17 THE COURT: Or for a new trial.

18 MS. BUTCHER: For a new trial, yes, Your
19 Honor.

20 THE COURT: On what basis?

21 MS. BUTCHER: Your Honor, I just do not
22 feel that the state proved their case in this
23 matter. And they carry the burden of proof.

24 THE COURT: I respectfully deny the
25 motion. It appears that the victim made a

1 clear and convincing and believable and
2 truthful testimony according to the jury's
3 findings. And I find that the issues presented
4 were issues for the jury's determination. The
5 jury has spoken. The jury has found
6 Mr. Donniel Woods guilty of criminal sexual
7 conduct first degree, kidnapping, and strong
8 armed robbery. And as far as this court is
9 concerned, that is the proper and correct
10 verdict. And he is guilty of those charges.

11 MS. BUTCHER: Thank you, Your Honor.

12 THE COURT: Motion is denied.

13 THE COURT: Ladies and Gentlemen, I want
14 thank you for your jury service; as far as
15 coming here -- coming here Tuesday morning.
16 You had no clue as to what you would be called
17 upon to do. But you qualified to serve on jury
18 duty. You were selected by both sides to be
19 fair and impartial jurors.

20 As I explained to you at the outset, jury
21 service is a -- the right to a trial by jury is
22 a right guaranteed and protected by the
23 constitution of the United States. As jurors,
24 you are fulfilling your constitutional duty.
25 And you are the also carrying out a

1 constitutional right that you have as a an
2 American citizen. It is a very important
3 right. It's a sacred right. And it's a
4 right that I hold very dear. And I protect.

5 If any person appears before me to serve
6 on jury duty, it is an awesome responsibility.
7 You are not called upon often to sit in the
8 seat that you were put in for this trial. But
9 you have responded. I have noticed that you
10 have been focused on the testimony. The way
11 the American justice system is set up. Once a
12 jury, 12 listen to the testimony and come back
13 with a unanimous verdict. In that instance the
14 12 becomes once. And that one verdict is the
15 law of this case.

16 I want to thank you for your services in
17 that regard and carrying out your duty. You
18 remember some questions earlier in the week
19 about whether you've served within in the past
20 year or you've served in the past 3 years. The
21 next year you will be disqualified from
22 service. Two additional years you can choose
23 not to serve. You cannot be required to serve
24 in this court more often than once every three
25 years. And of course many people never get

1 called to serve. But you were called, and you
2 responded. And I want to thank you for your
3 service.

4 Once the jury has found a person guilty,
5 then it becomes my responsibility to impose a
6 sentence. And you have no role in the
7 sentencing process. But I have found that
8 jurors are interested in what happens to the
9 case after they have returned a jury verdict.
10 And you are certainly welcome to stay put as we
11 proceed to the sentencing phase of the trial.

12 I want to tell you that throughout this
13 process, when I was telling you not to talk
14 with anyone, don't let anyone talk with you;
15 you have decided the case. And your role is
16 over. You can talk to whomever you want to, if
17 you want to. You are not required to talk to
18 anyone about anything. But you are free to do
19 whatever you want to as far as explaining and
20 talking about it.

21 So thank you very much. And with that, we
22 will move to sentencing. The defendant will
23 come forward.

24 Ms. Land.

25 MS. LAND: Your Honor, If I may, his prior

1 record. In 1998, he has a resisting arrest.
2 On 1999, he has an assault on a police officer
3 and driving under suspension more than third.
4 In 1999, he has a possession of a stolen
5 vehicle. And a failure to stop for a blue
6 light. In 2003, he has a criminal domestic
7 violence of a high and aggravated nature. In
8 2004, he has another criminal domestic
9 violence of a high and aggravated nature. And
10 a driving under the influence second. In 2005,
11 he has an assault on a police officer while
12 resisting arrest, and malicious injury to
13 personal property.

14 In 2005, he has a driving under the
15 influence, and malicious injury to personal
16 property. Then again in 2006, an assault on a
17 police officer while resisting arrest.

18 Your Honor, I pass the sentencing sheets,
19 forward. Each of the criminal sexual conduct
20 and the kidnapping, carry up to 30 years as you
21 know. The strong armed robbery carries up to
22 15. We would ask that you give him every day
23 of each of those sentences. Ms. Summers will
24 have to live with this for the rest of her
25 life.

1 That evening she was simply doing a favor
2 for somebody she thought was a friend and
3 somebody that could be trusted. And it was a
4 bad decision, because he took advantage of
5 that. You've heard the facts in that case, and
6 I don't think we need to rehash these. But I
7 will tell you she suffers every day, because of
8 what this man did to her. I think his record
9 shows he has no respect for human life.

10 THE COURT: Would the victim like to say
11 anything?

12 MS. SUMMERS: I would like to thank the
13 jury for their verdict. And I want him to
14 suffer the same way as I am today.

15 THE COURT: And the victim's mother, would
16 she like to say anything?

17 MS. SUMMERS: Yes, Your Honor. I would
18 like to thank the jury and my daughter and the
19 lawyers. And you and everyone. Thank you so
20 much.

21 THE COURT: Anything further from the
22 state?

23 MS. LAND: No.

24 THE COURT: Ms. Butcher?

25 MS. BUTCHER: Thank you, Your Honor. Mr.

1 Woods is 33 years old. He has lived in this
2 area for some time. He has a wife and 2
3 children. He still maintains his innocence in
4 this case. And it is obvious there was a lack
5 of investigation into this. He maintains he
6 did not commit these crimes, Your Honor. We
7 would ask for a very light sentence in light of
8 that. I think he wants to say a few words.

9 THE COURT: In light of what?

10 MS. BUTCHER: There was not an
11 overwhelming amount of evidence.

12 THE COURT: The test is beyond a
13 reasonable doubt.

14 MS. BUTCHER: Thank You Honor. I believe
15 he would like to say a few words.

16 THE COURT: Yes, sir.

17 THE DEFENDANT: First off, I would like to
18 thank the jury for their decision. I think
19 you, Your Honor, Ms. Amy land. My attorney as
20 well. I sympathize with the family. I don't
21 actually know what took place. I do continue
22 to plead my innocence. Basically my questions
23 are regard, everything I ever did, I plead
24 guilty to.

25 I'm not found guilty for something I

1 haven't even thought about doing. But as I
2 said, man is fickle. We don't know it all.
3 But God knows. And my questions are with God
4 right now. I respect my family, my loved ones,
5 my friends. I am sure that he will provide for
6 them. It's been two years and a half he's been
7 providing for them. I guess I'll have to do
8 another year. Maybe he'll bring it up off of
9 me. I don't know how he's going to do it. But
10 my questions are with God right now. Thank
11 you, sir.

12 THE COURT: Are you on probation or parole
13 right now?

14 THE DEFENDANT: No, sir.

15 THE COURT: As I understand at the time of
16 this -- at the time of this offense, he was on
17 probation?

18 THE DEFENDANT: Yes, sir. You sentenced
19 me in August of 2006, in Sumter County, in
20 General Sessions Court. Two years. On that
21 probation violation. With these charges.
22 These charges is what violated me.

23 THE COURT: Mr. Woods, even though the
24 jury determines whether you are guilty or not
25 guilty. And as I explained to the jury, the law

1 does not allow me to have an opinion on that
2 issue, because it is a matter for them to
3 determine. Once the jury decides and your
4 lawyer makes a motion for me a grant new trial
5 and set aside the jury's verdict, then at that
6 moment I must reflect on my own view of the
7 evidence. And my view of the evidence is that
8 the jury's verdict is absolutely correct; that
9 you are guilty. That you did perhaps one of
10 the most cruel things that one can do to
11 another human being short of killing them.

12 You have caused this young lady to suffer
13 and she will suffer for perhaps the rest of her
14 life. And not only will she suffer, other
15 family members of hers will suffer likewise.
16 And if you are married as the lawyer says, if
17 you have a family, if you have children, then
18 certainly you should be able to appreciate
19 that. I notice on your records you have been
20 convicted twice for criminal domestic violence
21 of high and aggravated nature.

22 THE DEFENDANT: Well actually, sir, I
23 haven't been convicted of criminal domestic
24 violence high and aggravated twice. It's only
25 once in 2003.

1 THE COURT: Pull the record on Him. You
2 have been convicted of assault on a police
3 officer once or twice?

4 THE DEFENDANT: Twice.

5 THE COURT: Assaulting a police officer.
6 Driving under the influence. Stolen --
7 possession of a stolen vehicle. Resisting
8 arrest. You were given probation. You
9 committed this crime while on probation. Let's
10 see what Ms. Rucker has on you there.

11 PROBATION AGENT: Do you want everything?

12 THE COURT: Yes. Run it down again for
13 me.

14 PROBATION AGENT: In 1998, he had a
15 resisting arrest. That case was closed.
16 Expired. In 1999, he had possession of a
17 stolen vehicle. That case was revoked.
18 Failure to stop for a blue light in 2002. That
19 one was expired. He had a citation but that
20 was withdrawn. In 2004, he that criminal
21 domestic violence, but that one was revoked.

22 THE COURT: What was the sentence that was
23 revoked, and how much time did he get?

24 PROBATION AGENT: His sentence on that was
25 5 years provided upon time served, and two

1 years probation. Judge King revoked him in
2 12/8/04 to serve 90 days and terminate that
3 probation. Time served satisfies the monetary
4 arrearages. Credit for time served since
5 October 17th of 04. And that happened on
6 December 8th 04. He had a driving under the
7 influence in 2004. That was a split sentence.
8 That case was closed. It was revoked in 05.
9 In 2006, he had an assault on a police officer.
10 That one was revoked also.

11 He was charged or he was sentenced in
12 February of 06, but was revoked in August of
13 06. He served 2 years. Malicious injury to
14 personal property was the same thing. He was
15 sentenced in February, and his case was revoked
16 in August; to serve 2 years. That's all.

17 MS. LAND: And, Your Honor, that doesn't
18 include the 1999 charges of assault on a
19 police officer while resisting arrest. He just
20 got six months straight sentence for that. So
21 that wouldn't be on the probation record. Also
22 DUS third or more. He was sent to jail for
23 three months for the offense.

24 THE COURT: Anything further, Ms. Butcher?

25 MS. BUTCHER: No, Your Honor.

1 THE COURT: Anything further, Mr. Woods?

2 THE DEFENDANT: Yes, sir, Your Honor.

3 Could she repeat what she said? I was
4 sentenced In February of 06, to how much time?

5 AGENT RUCKER: The last thing you're
6 talking about? Malicious injury to personal
7 property.

8 THE DEFENDANT: You say I was sentenced in
9 February of---

10 AGENT RUCKER: February 1st of 06, the
11 judge sentenced you to 5 years. Provided upon
12 the service of 2 years and 2 years of
13 probation.

14 THE DEFENDANT: So, I was in prison in 06,
15 for 2 years. So in June of 06, I was in
16 prison. If he sentenced me in February of 06--

17 AGENT RUCKER: The offense date 12/14/04.
18 It was a split sentence. So you went and did
19 some time. He came out in February and his
20 case got revoked in August. Does that clear it
21 up?

22 THE DEFENDANT: You said I was sentenced
23 in February of 06?

24 AGENT RUCKER: Yes, but you came -- it was
25 a split sentence. But you came out in

1 February. Is that correct? You came out of
2 prison in February?

3 THE DEFENDANT: How can I be sentenced in
4 February of 06?

5 AGENT RUCKER: No, you were sentenced back
6 in 04.

7 THE DEFENDANT: You just said---

8 AGENT RUCKER: It was some time in 05.

9 THE DEFENDANT: You just said I was
10 sentenced in February---

11 AGENT RUCKER: I'm trying to clarify it
12 with you.

13 THE DEFENDANT: Oh, so you made a mistake.

14 AGENT RUCKER: When were you sentenced for
15 the malicious injury to personal property?

16 THE DEFENDANT: I'm going with what you
17 said. You say I was sentenced in February of
18 06.

19 AGENT RUCKER: You had a sentence of 5
20 years suspended to 2 years and then 2 years. A
21 split sentence meaning, you went to prison for
22 some time. And then you got out. Your
23 probation started when you got out in
24 February of 06. Your case was revoked in
25 August of 06.

1 THE COURT: And who revoked it?

2 THE DEFENDANT: You did.

3 AGENT RUCKER: Judge Newman did.

4 THE DEFENDANT: Yeah, I am just making
5 sure what she's saying. She just said,
6 February 06.

7 THE COURT: She is clarifying what she
8 said.

9 THE DEFENDANT: Okay, that's fine.

10 THE COURT: You know your weren't in
11 prison.

12 THE DEFENDANT: No, I'm just -- what she
13 said, February 06. Just making it clear.
14 That's what she said.

15 THE COURT: She's made it clear. Any
16 other questions about it?

17 THE DEFENDANT: No, sir.

18 THE COURT: Do you have anything else to
19 say?

20 THE DEFENDANT: No, sir, Your Honor.

21 THE COURT: The sentence for criminal
22 sexual conduct first degree is 30 years. The
23 sentence for kidnapping 30 years. The sentence
24 for strong armed robbery is 15 years.
25 Sentences will run concurrent. You will

1 receive credit for any time served.

2 THE DEFENDANT: Thank you, sir.

3 MS. BUTCHER: Thank you, Your Honor.

4 --END OF REQUESTED TRANSCRIPT OF RECORD---

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CERTIFICATE

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON,

I, Margaret T. Sullivan, Official Court Reporter
for the Third Judicial Circuit of the State of South
Carolina, do hereby Certify that the foregoing is a true,
accurate and complete Transcript of Record of the
proceedings had and evidence introduced in the above
captioned case, relative to appeal, in General Sessions
Court on October 14th-16th, 2008, in Clarendon County,
Manning, South Carolina.

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

2-22-09
DATE

Margaret T. Sullivan
COURT REPORTER
My Commission expires October 3, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Clarendon County

Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DONNIEL WOODS,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in refusing to allow defense counsel to impeach the victim with a prior bad act?

STATEMENT OF THE CASE

Appellant was convicted of criminal sexual conduct in the first degree, kidnapping, and strong armed robbery after a jury trial held before the Honorable Clifton Newman on October 14-16, 2008, in Clarendon County. Respective sentences of thirty (30) years, thirty (30) years, and fifteen (15) years were imposed.

This appeal follows.

ARGUMENT

The trial court erred in refusing to allow defense counsel to impeach the victim with a prior bad act.

During the cross-examination of Teresa Blackwell, defense counsel asked her if she knew that the victim had been arrested. The solicitor objected. The trial judge sustained the objection, told the jury to disregard the question and said the question was totally improper and unprofessional. (ROA p. 150, lines 9-18)

Later, outside the presence of the jury, defense counsel explained that she thought once the victim's character had been brought in that it was fair to impeach her. The trial court said she could not ask about an arrest if a person was not convicted. (ROA p. 167, lines 5-13) That ruling was wrong. A person who takes the stand "becomes subject to impeachment like any other witness." She "may be asked about prior bad acts, not the subject of a conviction, which go to [her] credibility." State v. Outlaw, 307 S.C. 177, 414 S.E.2d 147 (1992); Rule 608 (b) SCRE.

CONCLUSION

Because of the trial court's error appellant should be given a new trial.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robt M. Pachak", is written over a horizontal line.

Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 27th day of July, 2009.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Clarendon County

Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DONNIEL WOODS,

APPELLANT

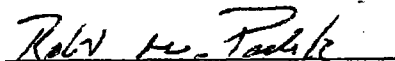
 PETITION TO BE RELIEVED AS COUNSEL

Counsel for Donniel Woods states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Clifton Newman, which was held on October 15, 2008, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Donniel Woods.

Respectfully submitted,



Robert M. Pachak

Appellate Defender

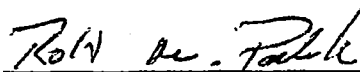
ATTORNEY FOR APPELLANT

This 27th day of July, 2009.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and 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."

July 27th, 2009



Robert M. Pachak
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Clarendon County

Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DONNIEL WOODS,

APPELLANT

CERTIFICATE OF SERVICE

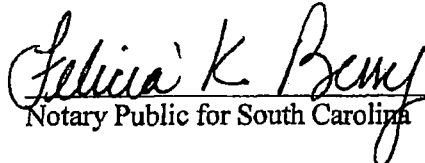
The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Final Anders Brief of Appellant and Record on Appeal has been served on Donniel Woods, #272800 at Lee Correctional Institution, 990 Wisacky Highway, Bishopville, SC 29010; this 27th day of July, 2009.



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 27th day of July, 2009.



(L.S.)
Notary Public for South Carolina

My Commission Expires: August 15, 2010

2011 WL 11735778

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK
COURT RULES BEFORE CITING.

Court of Appeals of South Carolina.

The STATE, Respondent,

v.

Donniel WOODS, Appellant.

No. ~~2011-UP-487~~ | Submitted
Oct. 1, 2011. | Decided Oct. 31, 2011.Appeal from Clarendon County; Clifton Newman, Circuit
Court Judge.**Attorneys and Law Firms**Appellate Defender Robert Pachak, of Columbia, for
Appellant.Attorney General Alan Wilson, Chief Deputy Attorney
General John W. McIntosh, Assistant Deputy AttorneyGeneral Salley W. Elliott, all of Columbia; and Solicitor
Ernest A. Finney, III, of Sumter, for Respondent.**Opinion**

PER CURIAM.

*1 Donniel Woods appeals his convictions for first-degree criminal sexual conduct, kidnapping, and strong armed robbery, arguing the trial court erred in refusing to allow Woods to impeach the victim with a prior bad act. After a thorough review of the record, counsel's brief, and Woods's pro se brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Williams*, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss ¹ the appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

HUFF, PIEPER, and LOCKEMY, JJ., concur.

All Citations

Not Reported in S.E.2d, 2011 WL 11735778

Footnotes

1 We decide this case without oral argument pursuant to Rule 215, SCACR.

End of Document

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JAN 10 2012

ATTY GENERAL'S OFFICE

CHOSE

The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMMIT STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 9, 2012

REMITTITUR

The Honorable Beulah G. Roberts
E Boyce Street 2nd Floor
PO Drawer E, 2nd Floor
Manning, SC 29102

SC Attorney General
RECEIVED

JAN 10 2012

Referred to: S. Elliott

Answered: _____

Re: The State v. Woods, Donniel
2008-GS-14-00365

Dear Ms. Roberts:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,

Tanya A. Gee
Tanya A. Gee
Clerk of Court

TAG/tf

cc: Appellate Defender Robert Pachak
Donniel Woods #272800
Assistant Deputy Attorney General Salley W. Elliott

FORM 5

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	
	)	
DONNIEL WOODS, SCDC ID 00272800	)	
Full name and prison number (if any) of Applicant.	)	
	)	
v.	)	APPLICATION FOR
	)	
State of South Carolina	)	POST-CONVICTION RELIEF
	)	

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional institution, 990 Wisacky Highway, Bishopville, SC 29010
2. Name and location of Court which imposed sentence Clarendon County General Sessions in Clarendon County South Carolina
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2008-GS 14-0365 - Criminal Sexual Conduct 1st Degree
 - (b) 2008-GS 14-0365 - Kidnapping
 - (c) 2008-GS 14-0365 - Strong Arm Robbery
5. The date upon which sentence was imposed and the terms of the sentence:

Revised 3/2003

- (a) October 16, 2008 for 30 years
 - (b) 30 years concurrent
 - (c) 15 years concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
 - (b) after a plea of not guilty X
 - (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. The South Carolina Court of Appeals
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. Appeal Dismissed
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. October 31, 2011
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. No. 2011-UP-487
 - ii. _____
 - iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
 - (b) _____
 - (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in

custody unlawfully:

(a) Plaintiff was denied effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments to the US Consitution and Article 1, Section 14 of the SC Constitution and South Carolina Law including SC Code Section 17-23-60 by counsel's failure to complete the most basic pre-trial discovery and investigation; failing to highlight or object to the State's failure to provide exculpatory evidence to the Plaintiff; failing to adequately prepare Plaintiffs case for trial; failing to cross-examine witnesses to elicit favorable facts and to highlight contradictory evidence; failing to call witnesses not called by the State to elicit favorable facts and circumstances in Plaintiff's defense.

(b) Plaintiff was denied the due process of law as guaranteed by the Fifth, Sixth and Fourteenth Amendments to the US Constitution and Article 1, Section 3 of the SC Constitution and and South Carolina Law including SC Code Section 17-23-60 by counsel's failure to complete the most basic pre-trial discovery and investigation; failing to highlight or object to State's failure to provide exculpatory evidence to the Plaintiff; failing to adequately prepare Plaintiffs case for trial; failing to cross-examine witnesses to elicit favorable facts and to highlight contradictory evidence; failing to call witnesses not called by the State to elicit favorable facts and circumstances in Plaintiff's defense.

(c) Plaintiff was denied the due process of law as guaranteed by the Fifth, Sixth and Fourteenth Amendments to the US Constitution and Article 1, Section 3 of the SC Constitution and and South Carolina Law including SC Code Section 17-23-60 by the State's failure to provide exculpatory evidence in reponse to Counsel's discovery request.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Plaintiff was served with criminal warrants on June 29, 2007 charging him with Criminal Sexual Conduct 1st Degree, Strong Arm Robbery and Kidnapping for an alleged sexual assault that took place on June 23, 2006. On the night of the alleged assault, the victim was treated at the Clarendon Memorial Hospital and a rape protocol examination was performed. Plaintiff's attorney sent a discovery motion to the Assistant Solicitor handling the case on July 26, 2007. Discovery was not provided to Plaintiffs attorney until September 16, 2008, and no medical records were provided in this disclosure. Plaintiff's attorney did not obtain these medical records prior to Plaintiff's trial, and only subpoenaed the Hospital records custodian to be present for trial. Additonally, Plaintiff's attorney failed to adequately prepare the case for trial

Revised 3/2003

by failing to conduct any meaningful investigation or interviewing of the medical personnel or other witnesses involved in the case.

The failure to elicit these additional facts was significant because the only evidence implicating the Plaintiff was the victim's identification. Significantly, these records contain facts and disclosures that contradict statements the alleged victim provided to law enforcement and medical personnel on the night of the incident. Specifically, no DNA evidence was recovered, nor was there any physical evidence or bruising present that corroborated the victim's statement or implicated the Plaintiff. Further, Plaintiff's attorney did not elicit any of these facts through cross-examination from witnesses that were called to testify, nor call witnesses to elicit this testimony. Plaintiff only became aware of the existence of this evidence after his trial was complete. Plaintiff's counsel also failed to perform basic cross-examine of other State witnesses that would have discredited those witnesses testimony.

(b) Plaintiff was served with criminal warrants on June 29, 2007 charging him with Criminal Sexual Conduct 1st Degree, Strong Arm Robbery and Kidnapping for an alleged sexual assault that took place on June 23, 2006. On the night of the alleged assault, the victim was treated at the Clarendon Memorial Hospital and a rape protocol examination was performed. Plaintiff's attorney sent a discovery motion to the Assistant Solicitor handling the case on July 26, 2007. Discovery was not provided to Plaintiff's attorney until September 16, 2008, and no medical records were provided in this disclosure. Plaintiff's attorney did not obtain these medical records prior to Plaintiff's trial, and only subpoenaed the Hospital records custodian to be present for trial. Additionally, Plaintiff's attorney failed to adequately prepare the case for trial by failing to conduct any meaningful investigation or interviewing of the medical personnel or other witness involved in the case.

The failure to elicit these additional facts was significant because the only evidence implicating the Plaintiff was the victim's identification. Significantly, these records contain facts and disclosures that contradict statements the alleged victim provided to law enforcement and medical personnel on the night of the incident. Specifically, no DNA evidence was recovered, nor was there any physical evidence or bruising present that corroborated the victim's statement or implicated the Plaintiff. Further, Plaintiff's attorney did not elicit any of these facts through cross-examination from witnesses that were called to testify, nor call witnesses to elicit this testimony. Plaintiff only became aware of the existence of this evidence after his trial was complete. Plaintiff's counsel also failed to perform basic cross-examine of other State witnesses

that would have discredited those witnesses testimony.

(c) Plaintiff's attorney filed a Motion seeking the disclosure of evidence pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure, as well as any exculpatory or mitigating evidence pursuant to Brady v. Maryland, 373 US 83, 83 S.Ct. 1194 (1963) and its progeny. The State of South Carolina through Assistant Solicitor Amy Land, failed to produce any of the medical records from the alleged victim's treatment following the incident. These records, included contradictory statements and exculpatory evidence that contradicted information the victim provided to law enforcement and could have been presented in Plaintiffs defense.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____

- iii. _____
- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- 14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
No
- 15. If you answered "yes" to (14) identify:
 - (a) which grounds have been presented:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the proceedings in which each ground was raised:
 - i. _____
 - ii. _____
 - iii. _____
- 16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
 - (a) _____
 - (b) _____
 - (c) _____
- 17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Deborah Butcher, PO Box 610, Camden, SC 29021
 - ii. Blair Jennings and Ray Chandler, PO Box 40459, North Charleston, SC 29423
 - iii. Appellate Defender Robert Pachak, 1330 Lady St., Suite 401, Columbia, SC 29201

- (b) the proceedings at which each such attorney represented you:
 - i. Trial
 - ii. Current Post Conviction Relief action
 - iii. Appeal

19. State clearly the relief you seek in filing this application:

Conviction be vacated

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of CLARENDON)

VERIFICATION

I, Donneill Woods, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Donneill Woods

SWORN to and subscribed before me this 17
day of April, 2012.

[Signature] (L.S.)
Notary Public

My Commission Expires: 7-1-2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	FOR THE THIRD JUDICIAL CIRCUIT
Donneil Woods, #272800,	)	Case No. 2012-CP-14-00210
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post-conviction relief, filed May 4, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. The Applicant was true bill indicted during the August 2008 term of the Clarendon County Grand Jury for Criminal Sexual Conduct – First Degree, Kidnapping, and Strong Arm Robbery (2008-GS-14-0365). Deborah Butcher, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Clifton Newman on October 14-16, 2008 and was convicted of all three counts as indicted. Judge Newman sentenced Applicant to thirty years imprisonment for Criminal Sexual Conduct – First Degree, thirty years imprisonment for Kidnapping, and fifteen years imprisonment for Strong Arm Robbery; with all sentences to be served concurrently.

A timely Notice of Appeal was filed, and following the submission of an Anders brief, the South Carolina Court of Appeals dismissed the appeal. State v. Woods, 2011-UP-487 (Ct. App. filed Oct. 31, 2011). The Remittitur was sent on January 11, 2012.

Attached herewith and incorporated herein are the records of the Clarendon County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Plaintiff was denied effective assistance of counsel as guaranteed by the Sixth and Fourteenth Amendments to the US Constitution and Article 1, Section 14 of the SC Constitution and South Carolina Law including SC Code Section 17-23-60 by counsel's failure to complete the most basic pre-trial discovery and investigation; failing to highlight or object to the State's failure to provide exculpatory evidence to the Plaintiff; failing to adequately prepare Plaintiff's case for trial; failing to cross-examine witnesses to elicit favorable facts and to highlight contradictory evidence; failing to call witnesses not called by the State to elicit favorable facts and circumstances in Plaintiff's defense."
2. "Plaintiff was denied the due process of law as guaranteed by the Fifth, Sixth and Fourteenth Amendment to the US Constitution and Article 1, Section 3 of the SC Constitution and South Carolina Law including SC Code Section 17-23-60 by counsel's failure to complete the most basic pre-trial discovery and investigation; failing to highlight or object to the State's failure to provide exculpatory evidence to the Plaintiff; failing to adequately prepare Plaintiff's case for trial; failing to cross-examine witnesses to elicit favorable facts and to highlight contradictory evidence; failing to call witnesses not called by the State to elicit favorable facts and circumstances in Plaintiff's defense."
3. "Plaintiff was denied the due process of law as guaranteed by the Fifth, Sixth and Fourteenth Amendments to the US Constitution and Article 1, Section 3 of the SC Constitution and South Carolina law including SC Code Section 17-23-60 by the State's failure to provide exculpatory evidence in response to Counsel's discovery requests."

Any claims not specifically enumerated in the post-conviction application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague

or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

The State interprets Applicant's first two grounds to be ineffective assistance of trial counsel.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Respondent construes ground three to allege that the State withheld favorable evidence in violation of Rule 5, SCRCrimP and Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963). In evaluating post-trial Brady claims, the Applicant must show that (1) the prosecution suppressed evidence, (2) the evidence would have been favorable to the accused, and (3) the suppressed evidence is material. United States v. Wolf, 839 F.2d 1387 (10th Cir. 1988). A Brady violation does not warrant reversal if the evidence is merely cumulative or impeaching. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993). "Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Id., 434 S.E.2d at 268.

The Respondent submits that this ground for relief is without merit. However, the allegation concerning a Brady violation probably raises questions of fact that are not conclusively refuted by the record. The Respondent requests an evidentiary hearing on this ground for relief. Sharper, Id.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

August 31, 2012

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	
	)	
	)	2012-CP-14-0210
DONNEIL WOODS, 272800,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Blair C. Jennings, Esquire
Coffey, Chandler, Kent & McKenzie, P.A.
Post Office Box 40459
North Charleston, SC 29423-0459

DATED this 31st day of August, 2012.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

1 State of South Carolina) In the Court
2 County of Clarendon) Of Common Pleas
3
4 Docket No. 2012-CP-14-00210
5
6 Donneil Woods,)
7 Petitioner)
8 vs.) Transcript of Record
9 State of South Carolina,)
10 Respondent)

11
12 September 30, 2013
13 Sumter, South Carolina
14

15 B E F O R E:

16 The Honorable R. Knox McMahon, Judge.
17

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

19 Blair Jennings, Esquire
20 Ray E. Chandler, Esquire
21 Attorneys for the Applicant

22 David Spencer, Assistant Attorney General
23 Attorney for the Respondent

24 Brenda J. Sigwald, Circuit Court Reporter
25 To The Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

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1 POST CONVICTION RELIEF HEARING

2 THE COURT: All right. Mr. Attorney General, Mr.
3 Jennings, are y'all ready to proceed?

4 MR. JENNINGS: We are. Yes, sir.

5 THE COURT: All right. Does someone want to prep
6 the record, please, for this particular case.

7 MR. SPENCER: Yes, Your Honor. I'd be glad to.
8 For the record, my name is David Spencer with the Attorney
9 General's Office. This case is Donneil Woods
10 2014-CP-14-210. The applicant filed this application in
11 May of 2012. He was indicted during the August 2008 term
12 of the Clarendon County Grand Jury for criminal sexual
13 conduct in the first degree, kidnapping, and strong-armed
14 robbery. He was represented by Ms. Deborah Butcher who is
15 here today.

16 He went to trial before Judge Newman on October
17 14th through 16th of 2008, and he was convicted as charged.
18 Judge Newman sentenced Mr. Woods to thirty years
19 imprisonment for criminal sexual conduct in the first
20 degree, thirty years for kidnapping, and fifteen years
21 imprisonment for strong-armed robbery. All of them are
22 concurrent sentences. There was an appeal -- timely notice
23 appeal filed -- an Anders Brief was submitted, and the
24 court of appeals dismissed the appeal. That was October
25 31st of 2011.

1 And a remittitur was sent January 11th, 2012.

2 Mr. Woods is represented here today by Mr. Ray
3 Chandler and Mr. Blair Jennings, and I would just ask the
4 two gentlemen to set out their allegations for the record.

5 THE COURT: All right. Thank you. Thank you very
6 much, Mr. Spencer.

7 MR. SPENCER: Thank you.

8 THE COURT: Mr. Chandler? Mr. Jennings?

9 MR. JENNINGS: Thank you, Your Honor. May it
10 please the Court? Our allegations focus on two primary
11 issues. One is a failure to investigate. The other is a
12 discovery issue, as you'll hear from the testimony, medical
13 records from the alleged victim when she was treated at the
14 hospital the night of this alleged incident. Ms. Butcher
15 did not receive those records until, it looks like the day
16 of the trial. We claim she didn't have a sufficient amount
17 of time to review those records. She didn't ask for a
18 continuance, was not able to do any investigation into
19 those allegations.

20 As you'll hear from the testimony, the factual
21 account that the alleged victim gave on the night of the
22 incident was diametrically opposite from the trial
23 testimony that she gave. In addition, there was no
24 physical evidence recovered or found during that medical
25 procedure that corroborated her testimony in any way and in

1 fact was exculpatory as far as the claims that were made.
2 And unfortunately, that's evidence that the jury never
3 heard.

4 In addition, those records -- Ms. Butcher had to
5 subpoena them because they were not turned over in
6 discovery when in fact the solicitor's office and law
7 enforcement were in possession of those records. It's our
8 position that those, obviously, contained exculpatory
9 evidence and material evidence to Mr. Woods's defense that
10 was never presented to the jury for their consideration in
11 balancing the alleged victim's testimony. It's our
12 allegation that those failures was ineffective assistance
13 of counsel under Strickland, that it violated Mr. Woods's
14 due process rights to receive a fair trial under the 5th,
15 6th, 14th Amendment as well as our State and U.S.
16 Constitution.

17 THE COURT: Thank you. Thank you, Mr. Jennings.
18 Mr. Spencer, anything further before the applicant
19 calls his witness?

20 MR. SPENCER: No, Your Honor.

21 THE COURT: All right.

22 MR. SPENCER: Thank you.

23 THE COURT: Thank you.

24 Mr. Jennings, you may call your first witness.

25 MR. JENNINGS: Thank you, Your Honor. May it

Deborah Butcher - Direct Examination by Mr. Jennings

1 please the Court. We call Ms. Debby Butcher.

2 THE COURT: All right. If you'd come around,
3 please, Ms. Butcher, and be sworn.

4 DEBORAH BUTCHER,
5 having been duly sworn, testified as follows:

6 THE CLERK: Thank you. You may be seated right
7 here, Ms. Butcher. State your name, and spell your last
8 for the record.

9 THE WITNESS: Debby Butcher. Butcher,
10 B-U-T-C-H-E-R.

11 THE COURT: All right. Thank you, Ms. Butcher.
12 Mr. Jennings.

13 MR. JENNINGS: Thank you, Your Honor. May it
14 please the Court.

15 **DIRECT EXAMINATION**

16 **BY MR. JENNINGS:**

17 Q Good morning, Ms. Butcher.

18 A Good morning.

19 Q Where are you currently employed?

20 A I -- at Camden Law Firm in Camden.

21 Q And where did you attend law school?

22 A USC.

23 Q What year did you graduate?

24 A '05.

25 Q And when did you take the bar?

Deborah Butcher - Direct Examination by Mr. Jennings

1 A I think it was that same year.

2 Q Okay. And you started with the public defenders'
3 office in Sumter County?

4 A No. I actually started with Protection Advocacy
5 for People with Disabilities. I then worked a little with
6 legal services. I've been with a private practice and had
7 a contract with the public defenders' office.

8 Q Okay. In Clarendon County?

9 A Yeah.

10 Q Okay. And what year did you start with the public
11 defenders office?

12 A Maybe '07.

13 Q Do you recall which half? The early part of the
14 year?

15 A I don't know.

16 Q Okay. Well you began representing Mr. Woods in
17 July of '07, so it'd be safe to say it was before that.

18 A Yeah. I mean, it may have been '06 then.

19 Q And in July of '07, do you recall about what your
20 case load was with the public defenders' office?

21 A No. I don't.

22 Q How many -- how many days a week did you work on --
23 what proportion of your practice was dedicated to the
24 public defenders' office versus your private practice?

25 A Oh, the majority of it. I -- yeah.

Deborah Butcher - Direct Examination by Mr. Jennings

1 Q Okay. But you don't recall how many cases, open
2 cases, you had?

3 A I don't.

4 Q You obviously ultimately came to represent Mr.
5 Woods in July of 2007. And he was charged with criminal
6 sexual conduct, kidnapping, and strong armed robbery?

7 A Correct.

8 Q Okay. I'm going to show you a number of exhibits.

9 MR. JENNINGS: Your Honor, I've already shown these
10 to the attorney general.

11 THE COURT: All right. No objections with any of
12 these?

13 MR. SPENCER: Well, I don't know which one. There
14 may be a few that, depending on the foundation, I could
15 have a problem with.

16 THE COURT: Okay. All right.

17 MR. SPENCER: If I could just look, and I'll --

18 MR. JENNINGS: Petitioner's Exhibit No. 1.

19 BY MR. JENNINGS:

20 Q Do you recognize those?

21 A Yes.

22 Q Okay. What are those?

23 A These are the warrants for his arrest.

24 Q Okay. And, actually, the incident that he was
25 alleged to have taken part in happened on June the 23rd of

Deborah Butcher - Direct Examination by Mr. Jennings

1 2006, correct?

2 A Yes.

3 Q But he had gone and done some time on a probation
4 revocation, so he actually didn't make it back to the
5 Clarendon County Detention Center until July of 2007,
6 nearly a year later, correct?

7 A I mean, if that's what you say.

8 Q Do you not recall?

9 A I don't recall exactly. No.

10 Q Okay. Did you review your file in preparations for
11 today's hearing?

12 A I did somewhat, but I don't recall. I wouldn't
13 have notes about that.

14 Q Okay. I'll show you Petitioner's Exhibit No. 2,
15 which is where Mr. Woods applied for the services of the
16 Clarendon County Public Defenders Office. Do you recognize
17 that?

18 A This is not some -- yeah, I mean, I do recognize
19 it. I didn't help him fill it out or anything.

20 Q Right. But is there a note on that form where the
21 case was assigned to you?

22 A Yes.

23 Q And what was the date that it was assigned to you?

24 A 7/5/07.

25 Q Okay. And following your assignment -- I'll show

Deborah Butcher - Direct Examination by Mr. Jennings

1 you Petitioner's Exhibit No. 3. That's a letter that you
2 sent to Ms. Land notifying her that you were representing
3 Mr. Woods, along with your discovery motions.

4 A And like I say, when I came on to the public
5 defenders' office, I took over for Scott Robinson. I would
6 have no idea if this was just reassigned to me. I don't
7 recall. And I don't know the date he actually filled out
8 the application. That's just the date it was assigned to
9 me. That's half of his application. So I just don't know.

10 Q Okay.

11 A Okay.

12 MR. SPENCER: Your Honor, to speed things along,
13 I'll stipulate to the dates represented in those three
14 exhibits. And I also have no objection to those three
15 exhibits.

16 THE COURT: All right. Thank you. Thank you, Mr.
17 Spencer.

18 That's Petitioner's 1, 2, and 3.

19 MR. JENNINGS: Yes. We'd offer those into
20 evidence.

21 THE COURT: Without objections. Thank you.

22 (Petitioner's Exhibit No. 1, No. 2, and No. 3 were
23 entered into evidence.)

24 BY MR. JENNINGS:

25 Q Ms. Butcher, on July the 26th of 2007, you notified

Deborah Butcher - Direct Examination by Mr. Jennings

1 Ms. Land that you were representing Mr. Woods?

2 A Yes.

3 Q And you sent her discovery motions; one pursuant to
4 Rule 5 of the South Carolina Rules of Criminal Procedure,
5 and another under Brady and its progeny of cases?

6 A Yes.

7 Q Do you recall -- was a preliminary hearing ever
8 held in this case?

9 A I don't recall.

10 Q Would you have had -- Would you have taken notes if
11 the preliminary hearing was?

12 A I may have. Yes.

13 Q Okay. From July of 2007 when you sent your
14 discovery motions, had you received any response to those
15 in a year by 2008?

16 A I believe I did receive some.

17 Q When was that?

18 A I don't know the exact date. I'm sure it's in
19 here. I had to print this off from the public defenders'
20 office who stores it.

21 Q We can speed along. I don't think you received
22 anything until October, but --

23 A That's possible. I mean --

24 Q Let me show you what's been marked as Petitioner's
25 Exhibit No. 4. Did you receive a copy of the letter that

Deborah Butcher - Direct Examination by Mr. Jennings

1 Mr. Woods sent to the Supreme Court in July of 2008?

2 MR. SPENCER: Your Honor, if I could just see that?

3 THE COURT: Certainly.

4 MR. SPENCER: I mean, I did have a chance to kind
5 of breeze through those documents, but there are a number
6 of them. So I just need to see them one more time. I have
7 no objection to Exhibit No. 4.

8 THE COURT: All right. Plaintiff's 4 is in --
9 Petitioner's 4 is in evidence without objection.

10 MR. JENNINGS: Thank you.

11 (Petitioner's Exhibit No. 4 was entered into
12 evidence.)

13 THE WITNESS: This is dated July 21st, 2008. As
14 I'm looking through my notes, I recall now. Donneil Woods
15 had told me he'd hired private counsel. And I actually
16 e-mailed Ms. Land, apparently right after receiving this,
17 because my e-mail is dated August 6th, where I tell Ms.
18 Land that he had told me he had retained private counsel.
19 And I had assumed he did. And I guess at this point, this
20 must have been when I realized he hadn't.

21 BY MR. JENNINGS:

22 Q So you had not followed up with him in a year while
23 he was sitting in the county detention center?

24 A I had talked to him within the year. I'm not sure
25 at what point he told me he had private counsel. I'm sure

Deborah Butcher - Direct Examination by Mr. Jennings

1 I initially spoke with him and --

2 Q Had you ever contacted, tried to find out who that
3 attorney was so that an order of substituting counsel could
4 be created?

5 A I may not have. I don't recall if he told me who
6 it was or that he didn't want me to represent him and he
7 was going -- he had retained private counsel. I don't
8 recall.

9 Q But you agree with me that you never created an
10 order of substituting counsel so that you could be removed
11 as the attorney of record.

12 A No, I did not --

13 Q Okay.

14 A -- at that point.

15 Q You never had him brought before the administrative
16 judge to have yourself removed as the attorney of record?

17 A No. At that point, I had sent off for discovery,
18 and he had not come up on the trial list or anything of
19 that nature.

20 Q And so we can agree that by July of 2008, a year
21 that he's been incarcerated, you were still his attorney of
22 record. Correct?

23 A Uh-huh.

24 Q And you still had not received any discovery?

25 A That -- I'm not sure. That's -- I'm trying to find

Deborah Butcher - Direct Examination by Mr. Jennings

1 the date. If you have the date that I actually received
2 discovery, that would be helpful. A lot of times, Amy
3 would give it to me in court and things like that, so...

4 Q And I believe the e-mail that you were referencing
5 is Petitioner's Exhibit No. 6?

6 A Yes.

7 MR. SPENCER: And if I can just see the exhibits?
8 Your Honor, I have no objection to the Exhibits 5 and 6. I
9 mean, because as I understand the allegations, though,
10 there's no speedy trial motion involved. I understand the
11 issue is, there was a discovery issue of sorts, so I would
12 just ask that we move past some of this, sort of, speedy
13 stuff that seems to be the subject of the current
14 examination.

15 THE COURT: Mr. Jennings?

16 MR. JENNINGS: Well, it's not a speedy trial, it's
17 just that he's -- he'd been in jail for a year at this
18 point with no contact with his attorney and no work being
19 done on his case. That's sort of where we're going, but
20 I'll move on.

21 THE WITNESS: I believe we did have con -

22 THE COURT: Well, now -

23 THE WITNESS: I'm sorry.

24 THE COURT: That's two different issues, too,
25 whether there's contact and whether or not there's work

Deborah Butcher - Direct Examination by Mr. Jennings

1 being done. As you know, an attorney could not have
2 contact with their client but still be working on it very
3 diligently.

4 MR. JENNINGS: Yes, sir.

5 THE COURT: Or any combination thereof, of course.

6 MR. JENNINGS: Yes, sir.

7 THE COURT: Or have a lot of contact and not be
8 working diligently.

9 MR. JENNINGS: Exactly.

10 THE COURT: But you may proceed. You may move on.

11 MR. JENNINGS: All right. We would offer 5 and 6
12 into evidence, I believe without objection.

13 THE COURT: Without objection. And 5 was --

14 MR. JENNINGS: It's a pro se motion that Mr. Woods
15 filed for a bond hearing on July --

16 THE COURT: And then 6 is the e-mail.

17 MR. JENNINGS: Yes, sir.

18 THE COURT: All right. Thank you.

19 (Petitioner's Exhibit No. 5 and No. 6 were entered
20 into evidence.)

21 MR. SPENCER: I would ask if Mr. Jennings would
22 mind just bringing the exhibits by me before they're --

23 MR. JENNINGS: I apologize for that. I let you see
24 them before.

25 MR. SPENCER: I mean it was not a whole lot of

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1 time. It helps so we can get the exhibits in advance, and
2 then we've already worked that out.

3 Your Honor, I have no objection to, I guess as to
4 these -- except -- excuse me, Applicant's 7.

5 MR. JENNINGS: It's 20 numerically.

6 MR. SPENCER: I have no objection to, it's marked
7 20. I have no objection to Petitioner's 20.

8 Your Honor, I have no objection, I think what he's
9 preparing to put in is Petitioner's 20, Petitioner's 8, 9,
10 11, 12, 13, 14, and 15.

11 THE COURT: All right. Those numbers, as stated by
12 the attorney general will, based on proper foundation, be
13 in evidence without objection.

14 MR. JENNINGS: Thank you.

15 BY MR. JENNINGS:

16 Q Ms. Butcher, you -- the e-mail that's Petitioner's
17 Exhibit No. 6, you basically were telling Ms. Land it
18 appears that Mr. Woods's case had fallen through the cracks
19 on both of your ends, and you were checking for an update.

20 A Yeah. I apparently thought he had retained other
21 counsel. And, yes, I e-mailed her. And I notice that I
22 did put in for a speedy trial on August the 22nd.

23 Q And I'll show you -- that's Petitioner's Exhibit
24 No. 9?

25 A Uh-huh.

Deborah Butcher - Direct Examination by Mr. Jennings

1 MR. JENNINGS: We would offer that into evidence,
2 Your Honor.

3 THE WITNESS: I think you're supposed to --

4 THE COURT: And what was that last statement, Ms.
5 Butcher? I apologize.

6 THE WITNESS: I didn't know if he was going to run
7 that by into evidence. Did y'all? Okay. I apologize. I
8 wasn't paying attention.

9 MR. SPENCER: Your Honor, that's in without
10 objection.

11 THE COURT: I'm sorry?

12 MR. SPENCER: Oh. That's in without objection,
13 Your Honor.

14 THE COURT: All right.

15 (Petitioner's Exhibit No. 9 was entered into
16 evidence.)

17 THE WITNESS: And apparently you had asked me also
18 about discovery. I did receive that, I guess, it looks
19 like Amy sent it on December 12th.

20 THE COURT: Of?

21 THE WITNESS: I mean, September 12th -

22 THE COURT: Of '07?

23 THE WITNESS: -- of 2008.

24 BY MR. JENNINGS:

25 Q '08.

Deborah Butcher - Direct Examination by Mr. Jennings

1 A '08.

2 Q And I'll show you what's marked as Petitioner's
3 Exhibit 20.

4 A Uh-huh.

5 Q Is that the document that you're referring to?

6 A It is.

7 Q All right.

8 MR. JENNINGS: Your Honor, we'd offer Petitioner's
9 Exhibit 20 into evidence.

10 THE COURT: Without objection.

11 (Petitioner's Exhibit No. 20 was entered into
12 evidence.)

13 BY MR. JENNINGS:

14 Q And following your e-mail, then, Mr. Woods was
15 indicted in the August grand jury. I'll show you
16 Petitioner's Exhibit 8 and see if you recognize that.

17 A I do.

18 Q Okay. We'd offer 8 into -- That's the indictment
19 that was returned?

20 A Yes.

21 MR. JENNINGS: All right. We would offer
22 Petitioner's Exhibit 8 into evidence, Your Honor.

23 THE COURT: Without objection.

24 BY MR. JENNINGS:

25 Q I'm going to show you Petitioner's Exhibit 11. Is

Deborah Butcher - Direct Examination by Mr. Jennings

1 that the affidavit of service when the discovery was
2 delivered to you on September the 12th of 2008?

3 A It is.

4 THE COURT: And you have no objections to 7?

5 MR. SPENCER: I believe I --

6 THE COURT: I didn't recall that number.

7 MR. SPENCER: I'm not sure if I saw 7 or not. I'm
8 sure I probably did.

9 MR. JENNINGS: There was -- No, sir, 8 was the
10 indictment. I'm sorry.

11 BY MR. JENNINGS:

12 Q Ms. Butcher, do you recall from July 2007 when you
13 were assigned to defend Mr. Wood until September the 12th
14 of 2008, had you undertaken -- done any tasks, to
15 investigate the case against him?

16 A I had sent discovery. I probably had talked with
17 the solicitor about it. I know I had talked to Mr. Woods
18 several times.

19 Q Uh-huh. Had you -- Obviously, if you first
20 received the discovery on September the 12th of 2008, I
21 would assume you had not seen the investigative packet
22 prior to that date?

23 A Probably not. And I recall when I spoke with Mr.
24 Woods, I got varying stories of what happened. He is one
25 case that discovery would be very helpful in trying to lock

Deborah Butcher - Direct Examination by Mr. Jennings

1 down his version of the events.

2 Q And the first time you received that was September
3 the 12th?

4 A Uh-huh.

5 Q All right. And if you would please look at
6 Petitioner's Exhibit 20. Were there any medical records
7 included in that initial disclosure to you?

8 A No. There were not.

9 Q Following the turning over of the discovery on
10 September 12th, I believe you were noticed for trial on
11 October the 14th of 2008, which is in a letter, which is
12 Petitioner's Exhibit 12?

13 A Uh-huh. Yes.

14 Q Okay.

15 MR. JENNINGS: We would offer 12 into evidence,
16 Your Honor.

17 THE COURT: All right. That's without objection.

18 (Petitioner's Exhibit No. 12 was entered into
19 evidence.)

20 BY MR. JENNINGS:

21 Q So did you have any -- Did you have any concerns
22 with the trial coming up a month after you had first
23 received the discovery?

24 A Well, I looked through -- If I had, I would have
25 made an objection and had it continued.

Deborah Butcher - Direct Examination by Mr. Jennings

1 Q So you were comfortable going forward based on the
2 information and investigation that you had done?

3 A Yes.

4 Q Okay. I'll show you Petitioner's Exhibit 13. You
5 were served with the indictment on October the 2nd; is that
6 correct?

7 A Yes.

8 Q All right.

9 MR. JENNINGS: We would offer 13 into evidence,
10 Your Honor.

11 THE COURT: That's without objection.

12 (Petitioner's Exhibit No. 13 was entered into
13 evidence.)

14 BY MR. JENNINGS:

15 Q And I believe, at some point, that you petitioned
16 the Court for funds for an investigator to look into some
17 aspect of the case?

18 A Yes.

19 Q Okay. I'll show you Petitioner's Exhibit 14. Do
20 you recognize that?

21 A Yes.

22 Q And is that -- is that the petition you submitted?

23 A Yes.

24 Q And you were asking for \$1500 for a private
25 investigator?

Deborah Butcher - Direct Examination by Mr. Jennings

1 A Yes.

2 Q All right.

3 MR. JENNINGS: We would offer State's Exhibit 14
4 into evidence.

5 THE COURT: That's without objection.

6 (Petitioner's Exhibit No. 14 was entered into
7 evidence.)

8 BY MR. JENNINGS:

9 Q And what was the -- What were your concerns over
10 which you were seeking the private investigator?

11 A I often would hire a private investigator to go
12 talk to people, witnesses and things of that nature. They
13 would track them down and go to where they were. And so I
14 would often hire a PI to do that.

15 Q And in this case, in your -- an order that was
16 signed, one of the things that you were concerned about was
17 having somebody view the medical records?

18 A I'm sorry. Say that again.

19 Q One of the issues that you were concerned about was
20 having your investigator review the medical records?

21 A I don't typically have an investigator review the
22 medical records. I typically do that myself. I most often
23 get an investigator to go out into the field to interview
24 people. I believe this one interviewed eight different
25 witnesses.

Deborah Butcher - Direct Examination by Mr. Jennings

1 Q All right. I'll show you what's marked as
2 Petitioner's Exhibit No. 15 and see if you recognize that.
3 It's Judge King's order that he signed authorizing \$1500 of
4 an investigative fee?

5 A Yes.

6 Q And on the last page in the estimate prepared by
7 your proposed investigator, is there not a line item for
8 1.5 hours to review medical records?

9 A Certainly. He -- When I say I don't hire him as I
10 would an expert in the medical field to review medical
11 records, but he's going to review medical records and
12 things to compare with witnesses and statements and things
13 like that, I'm sure.

14 Q But you would agree with me the medical records,
15 especially in a case of an alleged rape, are often some of
16 the most critical records involving the investigation in
17 that that's the first time that the alleged victim talks to
18 anybody or gives any alleged facts?

19 A Not necessarily. I mean, they're important, yes,
20 if that's what you're asking.

21 Q And as of the date that you submitted that request,
22 you still had not received any medical records in this
23 case; is that correct?

24 A I don't recall exactly when. I know I subpoenaed
25 them. I'm sure you know what date I received them. I know

Deborah Butcher - Direct Examination by Mr. Jennings

1 I took the subpoena down there and picked them up. I don't
2 recall what date that was, but I think you do.

3 MR. JENNINGS: Your Honor, just to be clear, we
4 would move Petitioner's Exhibit 15, which is the order
5 signed by Judge King authorizing the \$1500 for private
6 investigator fees.

7 THE COURT: That's without objection?

8 MR. SPENCER: That's without objection, Your Honor,
9 Thank you.

10 (Petitioner's Exhibit No. 15 was entered into
11 evidence.)

12 BY MR. JENNINGS:

13 Q And Ms. Butcher, I'll show you what's marked as
14 Petitioner's Exhibit 21. Is that a motion to compel that
15 you filed on behalf of Mr. Woods?

16 A It is.

17 Q And would you please read the body of the motion?

18 A You will please take notice the defendant moves the
19 Court for an order to compel the production of all medical
20 records of the victim in the above referenced case from the
21 hospital which the victim sought medical treatment after
22 the alleged rape; any and all statements made by the victim
23 to law enforcement, whether oral or written; and the file
24 of the State's victim advocate. All of these items are in
25 the hands of the State and have been requested pursuant to

Deborah Butcher - Direct Examination by Mr. Jennings

1 Brady vs. Maryland and Rule 5.

2 Q And what date did you file that motion compel?

3 A I filed it on October the 10th.

4 Q Of 2008?

5 A Uh-huh.

6 Q So you would agree with me that four days prior to
7 Mr. Woods's trial, you did not have the medical records of
8 the alleged victim in this case?

9 A I can't tell you if it was four days. I know I
10 probably sent this, and I also subpoenaed them at the same
11 time and got them. So I wouldn't have had them prior to
12 that, so I had them at least four days before trial. Yes.

13 Q Okay. And was that motion to compel ever heard?

14 A Probably not if I went and picked them up.

15 Q And I'm going to show you Petitioner's Exhibit No.
16 17. Do you recognize that?

17 A Yes.

18 Q And that's the subpoena that you delivered to the
19 Clarendon County Hospital?

20 A Yes. I must have gotten them on the 14th,
21 apparently.

22 Q And that in fact shows that they delivered them on
23 the day of trial when instructed?

24 A Uh-huh.

25 Q All right.

Deborah Butcher - Direct Examination by Mr. Jennings

1 MR. JENNINGS: Your Honor, we would offer
2 Petitioner's 21 and 17 into evidence.

3 MR. SPENCER: No objection, Your Honor.

4 THE COURT: 21 and 17's in evidence without
5 objection.

6 (Petitioner's Exhibit No. 17 and Exhibit No. 17
7 were entered into evidence.)

8 BY MR. JENNINGS:

9 Q Did you -- And they brought those records to you
10 then, the medical records from the alleged victim, on the
11 morning of the trial?

12 A Uh-huh.

13 Q And did you have an opportunity to review those?

14 A I certainly would've reviewed them. Yes. As I
15 recall, I did not want to put them in because it had things
16 in here about redness and scratches and her statement that
17 she had made about the rape and how upset and everything
18 she was.

19 Q Did you -- You didn't feel it necessary to ask for
20 a continuance so that you could review those to see how
21 they might -- if there was exculpatory information in those
22 records?

23 A I would've reviewed them prior. Had I felt I
24 needed a continuance, I would've asked.

25 Q So you felt prepared going forward?

Deborah Butcher - Direct Examination by Mr. Jennings

1 A I did.

2 Q All right.

3 MR. SPENCER: Beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 THE WITNESS: And I may have made a motion. I
6 don't recall to be honest with you.

7 MR. SPENCER: Your Honor, I apologize. This
8 exhibit concerns a transcript that I have not seen until
9 today, so I just wanted to look it over a little bit.

10 THE COURT: All right.

11 MR. SPENCER: Your Honor, I have no objection. It
12 always helps when we can get these things in advance. And
13 I'm sorry, I apologize for holding you up.

14 THE COURT: That's fine.

15 MR. SPENCER: But I have no objection to Exhibit
16 10, which is the August 2008 transcript.

17 THE COURT: All right.

18 (Petitioner's Exhibit No. 10 was entered into
19 evidence.)

20 BY MR. JENNINGS:

21 Q Ms. Butcher, Petitioner's Exhibit No. 10 is just
22 the transcript from the August 28th bond hearing before
23 Judge King?

24 A Also -- And I apologize, my memory is fuzzy. It's
25 been a while. Here is where it was - The subpoena for the

Deborah Butcher - Direct Examination by Mr. Jennings

1 medical records was served on the hospital on October 8th,
2 so I didn't get them the day of trial. Or I served the
3 subpoena ahead of that. Whether they were delivered or
4 not, I don't know. If -- I don't know, but that's where
5 they were actually served on the 8th. I'm sorry, and you
6 were talking about this transcript?

7 Q Well, let me just follow. Do you have any
8 independent recollection on when you received those
9 records?

10 A To my recollection, I thought I went and picked
11 them up from there. But, no, I don't know. I cannot
12 remember.

13 Q Okay.

14 A Obviously before trial, but not --

15 Q Did you have an opportunity to speak with Ms.
16 Nelson, who was the nurse from Clarendon Hospital, prior to
17 the trial?

18 A I don't recall if I spoke with her or not.

19 Q Do you think that would've been something important
20 to do?

21 A Yeah. I've spoken to doctors, nurses if I feel
22 it's necessary. Yes. I just do not recall if I actually
23 went and spoke to her or not in that case.

24 Q Do you think that -- So you agree that that would
25 have been important to do in Mr. Woods's case?

Deborah Butcher - Direct Examination by Mr. Jennings

1 MR. SPENCER: Your Honor, that's asked and
2 answered.

3 THE COURT: Now, restate the question, Mr.
4 Jennings.

5 BY MR. JENNINGS:

6 Q Do you agree with me that -- If you've done it in
7 other cases, do you agree with me that that would've been
8 important to do in Mr. Woods's case?

9 A It --

10 MR. SPENCER: Same objection.

11 THE COURT: All right. You may answer the
12 question.

13 THE WITNESS: It would depend on what the notes
14 said whether I would feel like I needed more clarification
15 of things or not. I mean, I -- Cases are different. I
16 don't really know how to answer that. Am I supposed to
17 read these?

18 BY MR. JENNINGS:

19 Q No. I'm just --

20 A Okay.

21 Q In fact, at that bond hearing, you did not bring up
22 to Judge King or bring to his attention that you had not
23 received the medical records yet?

24 A Is that a question?

25 Q Yes.

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1 A I would have to read it.

2 MR. SPENCER: Your Honor, I'm willing to, you know,
3 hold us in recess while she has an opportunity to read it.
4 It's only like a 15 page transcript I think.

5 THE COURT: Well, is it in there?

6 MR. SPENCER: No.

7 MR. JENNINGS: Obviously if she didn't file the
8 motion to compel until October the 10th, I just -- The only
9 point is that she hadn't brought up at an earlier date.

10 THE COURT: All right. And you may -- you may
11 certainly read it if you would like to, Ms. Butcher.

12 THE WITNESS: I may not have brought it up at a
13 bond hearing. That's --

14 THE COURT: All right. Well, just take a moment
15 and look then.

16 THE WITNESS: No. I didn't bring it up at the bond
17 hearing.

18 BY MR. JENNINGS:

19 Q Okay. And at that hearing, you also requested a
20 speedy trial?

21 A Yes.

22 Q Despite the fact that you had no discovery at that
23 point?

24 A Correct.

25 Q Let me show you what's marked as Petitioner's

Deborah Butcher - Direct Examination by Mr. Jennings

1 Exhibit 16. Is that the SLED DNA report that you received
2 in Mr. Woods's case?

3 A Yes, it is.

4 Q And that contains a report for the swabs that were
5 taken when the alleged victim was examined, the night of
6 the incident, at the Clarendon County Hospital?

7 A Correct.

8 Q And what were the findings -- If you could
9 summarize, what were the findings of the SLED DNA
10 department in relation to those swabs?

11 A They could not -- It said no semen identified.

12 Q On any of the swabs, correct?

13 A Correct.

14 Q Not on the oral swabs, the vaginal swabs, they
15 found no semen?

16 A It says no semen identified.

17 Q And on the swabs that they took from the locations
18 of the victim's body as she described, no semen was
19 identified?

20 A Correct.

21 MR. JENNINGS: We would offer 16 into evidence,
22 Your Honor.

23 MR. SPENCER: No objection.

24 THE COURT: All right. 16's in evidence without
25 objection.

Deborah Butcher - Direct Examination by Mr. Jennings

1 (Petitioner's Exhibit No. 16 was entered into
2 evidence.)

3 BY MR. JENNINGS:

4 Q I'll show you what's marked as 18, which is just a
5 transcript --

6 A Okay.

7 Q -- of the trial. Do you agree with me that, in Mr.
8 Woods's trial, the primary evidence was the testimony of
9 the alleged victim?

10 A Correct.

11 Q And she gave a fairly detailed recount of the
12 incident in her testimony?

13 A Yes.

14 Q Okay. If you would, please turn to page 32, which
15 is her testimony when she was describing to the jury what
16 happened. And on page -- It begins on page 31 on line 21.

17 She says he still had me by the arm, and he drug me
18 from the driver's side to the passenger's side out of the
19 car.

20 At this -- she's referring to Mr. Woods obviously?

21 A Okay. Yes.

22 Q We were standing outside of the car. He then let
23 my arm go and told me to undress. And when he let my arm
24 go, I did take off my shirt, and I felt like in my mind it
25 was like an escape. So that's when I tried. I began

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1 running, and he ran after me. And he caught me, and I
2 fell. And he drug me by my hair back to the car.

3 Do you recall that testimony?

4 A Yes.

5 Q And on line 6 on page 32 she says, And after that
6 when we got back to the car, he told me to take off my
7 pants. And I took my shoes as well as my pants. And I
8 took off my shoes and the pants. And then he grabbed me by
9 the arm, and he told me if I tried to escape he was going
10 to break my face, and he was going to kill me. And he drug
11 me into the woods, and he told me to perform oral sex on
12 him. And he also raped me. And Ms. Land asked her, and
13 that was in the woods? And she said, yes ma'am.

14 Were you familiar of how that testimony concerning
15 her allegations of the first instance of rape compared to
16 what she told the nurse at the Clarendon County Hospital on
17 the night of the incident?

18 A Hang on. I've got to find that. They're not
19 exactly the same. No.

20 Q They're not exactly the same. At the hospital, she
21 said that the first instance took place in the car; is that
22 correct?

23 A Say that again?

24 Q At the hospital, she told the doctors and the nurse
25 that the -- all of the sexual encounters took place inside

Deborah Butcher - Direct Examination by Mr. Jennings

1 of the vehicle, correct?

2 A Told her to get out of the car and stripped.
3 Talked about grabbing the wallet, running away, taking her
4 back to the car. Pushed her down in the car and once again
5 told her he would kill her. I don't read it that way.
6 It's notes going back and forth. I mean, obviously they
7 were out of the car.

8 Q You don't read the hospital records the same, that
9 the assault took place in the car?

10 A I read it that it could've -- It says right here,
11 took her back to the car.

12 Q She says, at the hospital that he took her back to
13 the car. Another car came down the dirt road. She tried
14 to scream, but the perpetrator pushed her down in the car,
15 he put his hands around her neck, and once again told her
16 he would kill her. He then ripped her underwear off and
17 had foreplay then sex. You don't read that to say that
18 that took place inside the car?

19 A Definitely. She states that there was sex inside
20 the car.

21 Q Okay. And that is not what she testified to during
22 the trial?

23 A I think they run similarly. You're talking about a
24 rape victim who's upset, scared, talking to a nurse and the
25 nurse taking notes. And here you're talking about

Deborah Butcher - Direct Examination by Mr. Jennings

1 testimony sometime later from the rape victim. I think
2 both of these run very similarly. They're not going to be
3 word for word.

4 Q And when her trial testimony is that she was raped
5 in the woods, and her statement to the nurse is that she
6 was raped in the car, you don't think that that's a
7 significant difference?

8 MR. SPENCER: Your Honor, I object. It's been
9 answered.

10 THE COURT: I'll allow her to answer the question.
11 What --

12 THE WITNESS: I -- I'm sorry.

13 THE COURT: You may answer the question, Ms.
14 Butcher.

15 THE WITNESS: I took all of this that she was raped
16 probably inside and outside of the car.

17 BY MR. JENNINGS:

18 Q Okay. And, well, just tell me for my edification,
19 what part of that hospital record gives you the indication
20 that it took place outside of the car?

21 A Well, the perp told her to get out of the car and
22 strip. Then later it says, took her back to the car. Perp
23 said he would kill her if she did not do what he asked.
24 Then you have, took her back to the car.

25 Q Where --

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1 A I don't read this -- I would've assumed -- I wish
2 the nurse had been more direct and said, did he rape you
3 outside the car? But when I look at this, I don't think I
4 could call -- tell her she is not being truthful here when
5 you've got somebody else writing it down. She could've
6 very well told the nurse that, and she could've corrected
7 it if I had asked her that and put this in.

8 Q Did --

9 A I mean, I just don't think these are so different
10 when you're given an upset girl at the hospital right after
11 something happened and the nurse taking notes or writing
12 down while she's talking and then her testimony on the
13 stand. I think they follow pretty --

14 Q So you don't think that that was a valid
15 cross-examination, to flesh out exactly what she was
16 testifying to at trial?

17 A She was a very convincing witness. When I spoke to
18 the jurors afterwards, they talked about what a good,
19 convincing witness she was.

20 Q And isn't --

21 A And I'm sure I asked her more questions about it
22 and went into more detail in my cross-examination, but I
23 certainly would not have wanted to bring these medical
24 records in and let it just validate her testimony even
25 farther.

Deborah Butcher - Direct Examination by Mr. Jennings

1 Q And I think that's exactly the point, is that her
2 credibility was not challenged with these records. You
3 could've easily cross-examined Ms. Nelson regarding what
4 she told her. Couldn't you?

5 A I could've.

6 Q And your -- So your testimony today is that you
7 didn't think that those were sufficient enough
8 contradictories to bring to the jury's attention?

9 A No. I would not have brought those -- I mean, here
10 it is, he raped me again in the backseat. I mean, you
11 know, this is what she said right afterwards.

12 Q And do you recall Detective Avant's testimony that
13 he didn't process the interior of the car because based on
14 his conversations with the alleged victim, she told him all
15 the attacks happened in the woods outside the car?

16 A I'm not sure if that's what he said. I think he
17 said he didn't have a reason at that point to process the
18 inside of the car.

19 Q And you can look at page 111 to 112, line 25 over
20 to line 1 on page 112.

21 A I'm sorry. What line did you say?

22 Q The last line on page 111 --

23 A Okay.

24 Q -- line 25.

25 A Yeah. He says he was under the impression

Deborah Butcher - Direct Examination by Mr. Jennings

1 everything happened outside of the vehicle. And that was a
2 lot of our defense was the poor job that law enforcement
3 did on this case, that they failed to investigate, that,
4 they just made a lot of mistakes?

5 Q But you would agree with me, the only facts that he
6 would have to base his impression on was based on what the
7 young lady had told him?

8 A I can't recall if he's the one that interviewed her
9 or someone else did and then he investigated.

10 Q And you would agree with me -- I understand your
11 characterization of the statement at the hospital. But
12 your test -- I mean, you would agree with me, the jury
13 never heard that she gave a potentially contradictory
14 statement at the hospital?

15 A I didn't see it as contradictory. No.

16 Q But, do you agree with me or disagree with me that
17 the jury never knew the substance of what she told Nurse
18 Nelson at the hospital?

19 A They -- If you're asking did they see her, what Ms.
20 Nelson wrote down? No. They didn't see that.

21 Q And you never asked Ms. Nelson what that young lady
22 told her that night either, did you?

23 A I honestly do not recall if I spoke to the nurse.

24 Q You did not cross-examine her at the trial as to
25 the substance of what the young lady told her?

Deborah Butcher - Direct Examination by Mr. Jennings

1 A No. And if I had talked to her and not wanted her
2 testimony, I wouldn't have called her as a witness. I
3 don't recall if I did talk to her. I'm sorry.

4 Q But you didn't cross-examine her on those facts?

5 A No.

6 Q You didn't cross-examine her on the facts that no
7 semen was seen on the night of their examination of the
8 victim?

9 A No. I didn't bring the nurse.

10 Q In fact, the jury never knew that no semen was
11 found at the hospital?

12 A I believe they did in closing. I believe I went
13 over that in closing, as I recall.

14 Q And they didn't know that no semen was found by
15 SLED in the DNA report, correct? Because you objected to
16 that coming in.

17 A Correct.

18 Q Okay. The report that said there was no semen
19 found in any of the swabs, you objected to?

20 A I'm not sure if I objected to that when she it in.
21 I just don't recall. If you have that in here, marked, I'm
22 sure --

23 Q You objected to it on -- as a chain issue?

24 MR. SPENCER: Your Honor --

25 THE COURT: I think she objected to it as to the

Deborah Butcher - Direct Examination by Mr. Jennings

1 swabs and the chain of the swabs.

2 MR. JENNINGS: Yes, sir.

3 THE COURT: I don't think there was ever an offer
4 for the report to go in. The report itself.

5 MR. JENNINGS: Correct.

6 THE COURT: Yes, sir. Mr. Spencer, I apologize for
7 cutting you off.

8 MR. SPENCER: No, Your Honor. I apologize. And as
9 I understand the allegations, it goes to medical records
10 not SLED reports. So I would object on that basis.

11 THE COURT: Well, it is somewhat related based on
12 Ms. Nelson's examination. If Ms. Nelson's a nurse at the
13 hospital and then the results of her examination is then
14 forwarded to -- who was it? Dr. Mills.

15 MR. JENNINGS: Yes, sir.

16 THE COURT: At SLED. I would overrule it in that
17 regard, but you can move on, Mr. Jennings.

18 MR. JENNINGS: Thank you.

19 THE COURT: Thank you, Mr. Spencer.

20 MR. SPENCER: Thank you.

21 BY MR. JENNINGS:

22 Q Ms. Butcher, if you would turn to page 43 of the
23 testimony at line 13, she testified that she had, as a
24 result of being drug through the woods, she had scratches
25 on her chest, on her arms, her legs, her back, and her

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1 feet.

2 A What page was that? I'm sorry. The numbers
3 weren't showing very --

4 Q Page 43.

5 A 43. Yes.

6 Q And of course, those injuries were not
7 substantiated by the medical records, were they?

8 A Yes, they were. There were red marks and scratches
9 in the medical records that it showed.

10 Q So you believe the medical records said that she
11 had scratches on her chest?

12 A It may not have said on her chest, but I know it
13 was on her legs, and there were red marks.

14 Q She had a red mark on her neck and a scratch on the
15 top of her left foot.

16 A Okay.

17 Q And that information was never brought to the
18 jury's attention, was it?

19 A No. It wasn't. Redness and small abrasions around
20 the front neck, scratch abrasions on the lower leg.

21 Q And in fact, it's a scratch on her left foot,
22 correct?

23 A It says, an abrasion on the lower leg, in the
24 medical reports. It talks about redness and an abrasion on
25 her front neck. And around front neck. And I'm assuming

Deborah Butcher - Direct Examination by Mr. Jennings

1 that abrasion on her front neck is a scratch.

2 Q And of course, you have to assume because you never
3 spoke to the nurse prior to the trial?

4 A Well, it's an abrasion. It's going to be something
5 breaking the skin.

6 Q In your opinion, is that description similar enough
7 to, scratches on my chest, on my arms, my legs, my back,
8 and my feet? Do you think that that's close enough that
9 that didn't warrant bringing those discrepancies to the
10 jury's attention?

11 A I think it shows that she went through some trauma.
12 If -- I think it validated her story.

13 Q And you did not ever bring before the jury the
14 discrepancy in her description and the actual findings at
15 the hospital, correct?

16 A No. I did not. I would not want to argue with a
17 rape victim, about how much she had gotten scratched and
18 beaten up, on the stand.

19 Q But you didn't have to argue with her.

20 A I mean, I think that's what I would think I would
21 do --

22 Q Do you recall, Ms. --

23 A -- it would appear to the jury that I was doing.

24 Q When Ms. Nelson, the nurse, testified, could you
25 not have elicited all of those facts from her and have

Deborah Butcher - Direct Examination by Mr. Jennings

1 never had to cross-examine the victim concerning them?

2 A I certainly could've.

3 Q And you -- you didn't do it?

4 A No.

5 Q Is that because you had not had sufficient time to
6 review the medical records? Or in your opinion, that was
7 the best way to proceed?

8 A Best way to proceed.

9 Q In a case based completely on the victim's
10 testimony, you didn't think it was important to bring to
11 the jury's attention these contradictory facts that so
12 clearly existed?

13 MR. SPENCER: Your Honor, I would object to this
14 argument.

15 THE COURT: That has been asked and answered, Mr.
16 Jennings.

17 MR. JENNINGS: All right.

18 THE WITNESS: And I believe there was other
19 evidence. They found the wallet that she claimed he threw
20 out of the car -- also in the woods where she took them.

21 BY MR. JENNINGS:

22 Q And there's no telling how the wallet got there.
23 It could've just fallen out of the car if they were
24 involved in a consensual situation.

25 A Oh, that's definitely possible.

Deborah Butcher - Direct Examination by Mr. Jennings

1 Q Okay. In her testimony, she testified on multiple
2 occasions that he ejaculated on her stomach and on her arm,
3 correct?

4 A Correct.

5 Q And as we talked, the hospital found no evidence of
6 that?

7 A They said, no semen identified.

8 Q And SLED had no corroborating information?

9 A No.

10 Q And the jury never heard those facts?

11 A I think I covered that in closing.

12 Q I think you argued that they -- it wasn't presented
13 and that the jury could draw a negative inference from that
14 fact that it was never brought to their attention that, in
15 fact, that evidence was not found based on her description;
16 do you recall that?

17 A I'm sorry. I don't understand your question.

18 Q You said you argued it in closing. What you argued
19 was that that evidence had not come in, because you had
20 objected to it, and you were arguing the negative
21 inference.

22 A Okay.

23 Q Do you recall that part of your closing?

24 A Okay. Yes.

25 Q The distinction, I'm saying, is that the jury never

Deborah Butcher - Direct Examination by Mr. Jennings

1 heard that, in fact, those positive -- which could be
2 argued as positive, facts actually existed, because that
3 was never in evidence.

4 A I think they knew there was none found by the
5 closing, if that's what you're asking.

6 Q Okay.

7 A Sorry.

8 Q At one point during the trial, you also attempted
9 to elicit the evidence that she had marijuana in her system
10 on the night that she was at the hospital?

11 A Yes. And I think that objection was sustained.

12 Q Because you did not have the chain witnesses
13 present to present the testimony?

14 A I don't think that would've stated whether or not
15 she was actually under the influence just because she had
16 it in her system. She could've taken that in, what, thirty
17 days before even. I mean --

18 Q And my question is, you did not have the chain
19 witnesses present at trial to present that testimony?

20 A No. I wouldn't have. It was her records anyway,
21 but no I wouldn't have --

22 Q You wouldn't have had the chain witnesses present
23 at the trial?

24 A I don't see -- just because she had it in her
25 system does not indicate that she was high at the time. I

Deborah Butcher - Direct Examination by Mr. Jennings

1 believe I asked her if she was.

2 Q Well, if you didn't think it was potentially
3 relevant, why did you ask her about it during the trial in
4 the first place?

5 A I didn't say I didn't think it was relevant. I
6 think it was something I could certainly ask her. But
7 bringing -- I don't see what one could contribute. They
8 had no idea if she was high at the time just because it was
9 in her system.

10 Q When she testified at trial that she doesn't use
11 drugs --

12 A Uh-huh.

13 Q -- that fact coming in as an impeachment of her
14 testimony you don't think would have been important for the
15 jury to know?

16 A Well, that could've; but no, I didn't think it was
17 that relevant.

18 Q Did you have the medical records in time, had you
19 thought it was relevant, that you could've gotten the chain
20 witnesses together so that they could be at trial so that
21 you could offer that evidence?

22 MR. SPENCER: Your Honor, asked and answered.

23 THE COURT: I'm trying to figure out how police
24 custody and the chain comes in in this particular issue
25 anyway, Mr. Jennings. How does that come in? I thought

Deborah Butcher - Direct Examination by Mr. Jennings

1 that had to do with the police chain of custody.

2 MR. JENNINGS: This was in the hospital --

3 THE COURT: Correct.

4 MR. JENNINGS: -- they tested blood at the
5 hospital.

6 THE COURT: Correct. So where does police custody
7 on chain of custody ever come in as relevant.

8 MR. JENNINGS: Well, I think you would still have
9 to call the person that drew the blood, and I think you
10 would have to offer the chain witnesses from the hospital.
11 But that was what Ms. Land objected when Ms. Butcher
12 offered it in evidence, and Judge Newman sustained the
13 objection.

14 THE COURT: Well, I'm not sure you would have to
15 call the chain. Of course, I would defer to Judge Newman
16 in that regard. But you may ask your next question.

17 BY MR. JENNINGS:

18 Q Ms. Butcher, I'll show you Petitioner's Exhibit 22.
19 Here, I'll put the --

20 A Yeah --

21 Q That's the final order that was signed, I believe,
22 by Judge King?

23 A Uh-huh.

24 Q Authorizing the disbursement of the funds?

25 A Uh-huh.

Deborah Butcher - Direct Examination by Mr. Jennings

1 MR. JENNINGS: Your Honor, we would offer 22 into
2 evidence, I believe, without objection.

3 MR. SPENCER: No objection.

4 THE COURT: All right. 22's in evidence without
5 objection.

6 (Petitioner's Exhibit No. 22 was entered into
7 evidence.)

8 BY MR. JENNINGS:

9 Q And then, as is shown by the invoice submitted by
10 the defense, he was never able to do any work reviewing the
11 hospital records?

12 A He may have reviewed -- this is dated October 18th.
13 I -- I mean -- he -- are you questioning whether or not he
14 was truthful in his bill? I'm sorry. I don't know --

15 Q No, I'm just -- he doesn't have any annotation for
16 his time for -- I mean that's a pretty detailed bill. I
17 didn't see any entry for reviewing the records, so I'm
18 assuming he didn't do any work on those.

19 A He's got in-court time. He could've reviewed them
20 during court. I don't know. I can't answer that.

21 Q But he didn't bill anything for it?

22 A Well, he did on his -- the other -- he had that
23 line of 1.5 and looked at them. I know he looked at them.
24 And I can't testify how he keeps the billing.

25 Q And that's the point. He anticipated he was going

Deborah Butcher - Cross-Examination by Mr. Spencer

1 to do some work on the bill, but due to you getting the
2 records on the day of the trial, he was never able to do
3 anything. Correct?

4 A I can't answer that. I know he looked at the
5 records. I don't know when he looked at them.

6 MR. JENNINGS: Thank you, Your Honor. That's all I
7 have.

8 THE COURT: Thank you. Thank you, Mr. Jennings.
9 Mr. Spencer.

10 MR. SPENCER: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MR. SPENCER:

13 Q Ms. Butcher, I think I'll start with a question
14 about your overall trial strategy. Is it fair to say that
15 a lot of your strategy was to bring out issues, save
16 issues, and bring them out on closing?

17 A Yes.

18 Q And is it fair to say a lot of your strategy was to
19 say that law enforcement wasn't even trying to investigate
20 this case?

21 A Yes. It just really -- that there was no evidence
22 other than her testimony, is what I was trying to do. I
23 had a very difficult client. When I first interviewed him,
24 his story would change to it being consensual sex, or no
25 sex occurred at all. And unfortunately, she was a very

Deborah Butcher - Cross-Examination by Mr. Spencer

1 good witness. She was very believable. Speaking to the
2 jury -- jurors, afterwards, they said -- their exact words
3 were, I don't care how lousy of a job law enforcement did,
4 we believed her.

5 My client, he -- I was telling him the entire trial
6 to not show emotion, not show -- he was very arrogant. As
7 a matter of fact, when the judge asked if he wanted to
8 testify, he turned around to the back of the courtroom,
9 looked at the clock, whipped back around, and said
10 something to the effect of, No I don't have time; I want to
11 go home.

12 Q And, you have the transcript in front of you.
13 Don't you?

14 A I think he took it back.

15 Q That's all right, I have a copy.

16 A It's -- Oh, I'm sorry. I couldn't see it.

17 Q And I was going to ask if you could look at page
18 225 of the transcript.

19 A I'm looking at it.

20 Q And if you could, just read lines 5 through 15 to
21 yourself.

22 A Yes.

23 Q And so that introductory paragraph, if you will, in
24 your closing argument, that was sort of your theme of the
25 whole case, that law enforcement wasn't even trying. Is

Deborah Butcher - Cross-Examination by Mr. Spencer

1 that fair to say?

2 A That, and the fact that there was no evidence.

3 They --

4 Q And in fact, correct me if I'm wrong, but my
5 recollection is the DNA report never actually came in; is
6 that correct?

7 A Right.

8 Q And actually if the jury had a DNA report, that
9 would show that law enforcement was trying at least some.

10 A Well, yeah.

11 Q So actually keeping that report out was consistent
12 with your trial strategy. Wasn't it?

13 A Yeah, and I didn't like the way it was termed on
14 that report that no DNA was identified instead of no DNA
15 found.

16 Q And in fact, you asked the same nurse about whether
17 or not she found any semen; is that correct?

18 A I believe I did. I can't remember exactly how that
19 went, but I saw that in here a little while ago.

20 MR. SPENCER: If I could just beg the Court's
21 indulgence?

22 THE COURT: Yes, sir.

23 (There was a brief pause in the proceeding.)

24 BY MR. SPENCER:

25 Q If you could turn to page 153 of the transcript.

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1 A Yes.

2 Q Oh, and actually, flip back one more page to page
3 152.

4 A Yes.

5 Q And this is where you're asking the same nurse,
6 which was Nurse Nelson, you were asking her about how you
7 detect semen using a Wood's Lamp?

8 A Uh-huh.

9 Q And then you asked her, going over to page 153,
10 whether she was able to see any semen with the Wood's Lamp?

11 A Uh-huh. Yes.

12 Q And she just didn't -- she just plain didn't
13 remember. Is that correct?

14 A She -- Well, she also -- I would hopefully collect
15 it. I mean, unless they washed it or somehow wiped it off.
16 Or it may not show up. I mean, my understanding is that,
17 and here it says, water, sweat, clothing, yeah, that could
18 take it off. If she had sweated and stuff like that, they
19 may not have found it. But everything else in that medical
20 report was so devastating to him. The scratches, her
21 demeanor, how upset she was, and her statement I thought
22 was pretty darn consistent with the statement she gave law
23 enforcement and what she stated on the stand.

24 MR. SPENCER: And -- I beg the Court's indulgence.

25 THE COURT: Yes, sir.

Deborah Butcher - Cross-Examination by Mr. Spencer

1 (There was a brief pause in the proceedings.)

2 BY MR. SPENCER:

3 Q And I'm sorry to keep, you know, having you go back
4 through different things. I have -- if you could look at
5 the medical records that you received from the hospital.

6 A Yeah.

7 Q I did want to ask you about that statement. And
8 what I was hoping you would look at was the narrative
9 statement.

10 A Wait, I thought I -- Oh, I just unmarked it.
11 Sorry.

12 Q I'm sorry about that.

13 A Oh, that's okay. I'm done marking it. Are you
14 looking for the narrative statement from the nurse that she
15 took?

16 Q Yes, ma'am.

17 A Okay. Sorry. That's what I had marked. Okay.

18 Q And actually, before I ask about that, concerning
19 the medical -- you received medical records directly from
20 the hospital?

21 A Correct.

22 Q So it wasn't as if the medical records were
23 unavailable to you. It was just a matter of you
24 subpoenaing them.

25 A Correct.

Deborah Butcher - Cross-Examination by Mr. Spencer

1 Q So when, you know, there's something sort of a
2 Brady issue that was raised here, actually what --
3 actually, as to those materials, that's not something that
4 was in exclusive custody of the State, was it?

5 A Correct.

6 Q And do you actually know which -- do you know if
7 the State had all the medical records or not?

8 A I think Amy would've given them to me if she had
9 them. I mean, sometimes law enforcement didn't give things
10 to her.

11 Q So is it possible that she had some of them but not
12 all of them?

13 A That or she may not have had any of them. I
14 just -- I don't know. If she didn't turn them over to me,
15 I would imagine that's because she didn't have them in her
16 possession at the time.

17 Q Is it possible she would've turned over some, but
18 you didn't have all of them from her?

19 A It's possible.

20 Q And going to the statement right now that was taken
21 by the nurse, let me ask you about that. In your
22 experience, is it similar to have a law enforcement take
23 the statement? Do they take a statement and then show it
24 to the victim and --

25 MR. JENNINGS: Objection, Your Honor. This calls

Deborah Butcher - Cross-Examination by Mr. Spencer

1 for speculation.

2 MR. SPENCER: I was asking, in her experience.

3 THE COURT: If she can answer it, I'll let her
4 answer it.

5 THE WITNESS: I think there are two different
6 statements. One, you have a medical person seeking certain
7 information. You also then have law enforcement seeking
8 certain information. You also have one upset person
9 telling people, two different people, two different
10 stories. And they're writing down what they hear, what
11 they -- If you have consistent, totally consistent
12 statements, I think there'd be a problem. But as long as
13 they follow the same path, I think that's as good of a
14 consistency as you're going to get.

15 Q Well, let me ask you this specifically about the
16 statement. In the statement, she stated she was going to a
17 friend's house to pick up something she'd left there. Is
18 that consistent with how she testified at trial?

19 A I'm sorry. I'd have to compare.

20 Q Oh, that's okay.

21 MR. SPENCER: And Your Honor, you can look. That's
22 on page 26, and turn -- so her testimony, her victim's
23 testimony that she was going to retrieve a phone charger.

24 BY MR. SPENCER:

25 Q And also, the statement indicated that the

Deborah Butcher - Cross-Examination by Mr. Spencer

1 defendant asked, or excuse me, the applicant asked the
2 victim to take him to the store. Is that consistent?

3 A I think all of them said the Exxon store.

4 Q And then in the statement says that on the way
5 home, that's when he grabbed her arm and hair to -- and
6 made her drive where he wanted. Is that's consistent with
7 the statement?

8 A Yes.

9 Q And I'm, you know, paraphrasing a little bit there.
10 But that's consistent?

11 A Uh-huh. Yes. Telling her to strip is consistent.
12 Talking about the wallet, the way she tried to run away
13 from him, the way they got stuck. I think both of them
14 talked about another car coming down the dirt road.

15 Q And in the statement, it says that he had her hands
16 around -- had his hands around her neck. Is that
17 consistent with the testimony at trial?

18 A I believe it is. It's also consistent with the --
19 I think there's a red mark on her in the medical records.

20 Q And isn't it true that the nurse actually -- let me
21 rephrase.

22 Didn't the nurse testify that there were marks on
23 her neck consistent with her being choked?

24 A I believe she did testify to that.

25 Q And the statement discusses her being raped twice.

Deborah Butcher - Cross-Examination by Mr. Spencer

1 Is that consistent with the trial testimony?

2 A And the police testimony -- statement.

3 Q And now, concerning the medical records, it
4 indicated that the victim was upset and crying; is that
5 correct?

6 A Yeah. I think it even used the words hysterical --
7 yeah, it definitely indicated she was quite upset.

8 Q And that's actually consistent with the nurse's
9 testimony, isn't it?

10 A Yes.

11 Q And actually, just to get off topic a little bit,
12 but didn't the -- Mr. Woods's first cousin testify at
13 trial? Theresa Blackwell?

14 A Yeah, I had read over that, but I can't remember.
15 It didn't support Mr. Woods, as I recall.

16 Q And in fact, this is the first cousin that went to
17 the hospital. Do you recall her testimony describing the
18 victim as trembling and shaking and crying?

19 A Yes.

20 Q And that's actually Mr. Woods's own family member?

21 A Correct.

22 MR. SPENCER: And Your Honor, that's actually on
23 page 145 of the transcript.

24 THE COURT: All right.

25 THE WITNESS: And, as a matter of fact, the

Deborah Butcher - Cross-Examination by Mr. Spencer

1 investigator talked to several different witnesses, and
2 none of them were able to contradict her statements and
3 support Mr. Woods.

4 MR. SPENCER: I beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 BY MR. SPENCER:

7 Q Regarding the motion for speedy trial. You made
8 that motion in August of '08?

9 A Yes.

10 Q And actually the case went to trial in October of
11 '08.

12 A Yes. This was -- this was one -- like I said, I
13 thought he had hired, as he told me, another attorney. And
14 when I realized that wasn't the case, you know, he'd been
15 in jail, I did everything I could to hurry the case along.
16 And, you know, I wouldn't have wanted the medical records,
17 and I still wouldn't want the medical records in.

18 Q He previously indicated he was going to hire an
19 attorney?

20 A He told me he had.

21 Q He told you he had?

22 A Uh-huh.

23 Q Okay. And so that was -- that was part of the
24 reason for the delay?

25 A Yes.

Deborah Butcher - Cross-Examination by Mr. Spencer

1 Q In terms of making a motion for continuance, if you
2 needed a continuance, would you have made that motion?

3 A Certainly.

4 Q And you didn't need that continuance?

5 A I didn't feel that I needed one, no. I'd had an
6 investigator investigate everything; I had talked to
7 people; I had talked to my client. I admit reviewing the
8 medical records were at the last minute. But had they been
9 something I wanted to put in and talk to more people about,
10 I would have made that motion.

11 Q Concerning sort of a Brady motion, if you will, if
12 there had been something that had not been turned over by
13 the State that you were aware of, that you felt prejudiced
14 in your case, would you have made a motion under Brady?

15 A Certainly. I did at other times, yeah.

16 Q Did you have any grounds to make a motion under
17 Brady for the medical records?

18 A Not when I could subpoena them and get them. I
19 mean --

20 Q And naturally, you aren't aware of whether or not
21 the solicitor had as much records as you did?

22 A No, I think she would've given them to me had she
23 had them.

24 MR. SPENCER: I beg the Court's indulgence.

25 THE COURT: Yes, sir.

Deborah Butcher - Cross-Examination by Mr. Spencer

1 (There was a brief pause in the proceeding.)

2 BY MR. SPENCER:

3 Q And there was some reference to Investigator Avant
4 or Officer Avant for his testimony that he did not attempt
5 to try and see if there was any DNA in the car?

6 A Yeah. It's -- I mean, that, you know, there again,
7 it's -- I -- a failure on law enforcement's part is what I
8 was trying to harp on.

9 Q And that's a point you brought up in closing; is
10 that correct?

11 A Yes.

12 Q And actually, who had -- you had last closing
13 argument; is that correct?

14 A I believe that's correct. Because I don't think
15 my -- yeah, I believe it's correct.

16 Q And if you attempted to put any records into
17 evidence on your own, you would've lost last closing
18 argument?

19 A Yeah. If I had put up any witnesses.

20 Q Or even if you introduced any exhibits?

21 A No. I think it's just witnesses.

22 Q And you mentioned about the drug test. At trial,
23 did the victim testify as to whether or not she was aware
24 that she had been drug tested?

25 A I think she said she wasn't even aware of it.

Deborah Butcher - Cross-Examination by Mr. Spencer

1 Q And that was the basis of Judge Newman's --

2 A Correct.

3 Q -- rulings saying that -- If a chain or
4 foundational witness was brought in to attempt to get that
5 record in, could they have reinforced the notion that that
6 test would not indicate whether or not she was under the
7 influence of marijuana at the time?

8 A No. And I really don't think I could've gotten it
9 in. I don't think it would've been relevant. I mean, if
10 somebody was high or not high, it doesn't go to whether or
11 not -- I mean, maybe their memory, yes. But I don't think
12 I could attack her character in that nature?

13 MR. SPENCER: I beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 (There was a pause in the proceeding.)

16 MR. SPENCER: Your Honor, that would be all the
17 questions. I would point -- Ms. Butcher had mentioned how
18 Mr. Woods had checked the clock to see what time it was
19 before he decided to -- whether or not to testify. And
20 that's actually, just for the Court's information, that's
21 on 210 and 211 of the transcript.

22 THE COURT: Thank you.

23 MR. SPENCER: I would ask the ability to recall Ms.
24 Butcher after we've heard the applicant's testimony and
25 other evidence, if necessary.

Deborah Butcher - Redirect Examination by Mr. Jennings

1 THE COURT: All right. Thank you.

2 MR. SPENCER: Thank you.

3 THE COURT: Redirect, Mr. Jennings?

4 MR. JENNINGS: Thank you, Your Honor.

5 **REDIRECT EXAMINATION**

6 BY MR. JENNINGS:

7 Q Ms. Butcher, you just testified that you never
8 filed a motion under Brady seeking the medical records?

9 A Well, it's in my typical Brady. I think -- my
10 understanding was his question was did I -- a motion to
11 compel.

12 Q And I'll show you Petitioner's Exhibit 21.

13 A Okay. And it -- okay. I did file one. You're
14 right. And I saw this earlier today. I don't know that it
15 was ever heard because I already had them because I had
16 subpoenaed them.

17 Q And you would agree with me that just because some
18 records are available to everybody, that does not obviate a
19 prosecutor's duty to turn over information in a case?

20 A Well, if she had them. If she didn't have them,
21 she may not have gotten them. I don't know. I got them,
22 and I don't think I ever went down the road other than --
23 This isn't even filed. I don't know if I ever filed that.

24 Q Well, if Ms. Land didn't have the records, how did
25 she know to call Ms. Nelson as a witness at the trial?

Deborah Butcher - Redirect Examination by Mr. Jennings

1 A I would assume she had them by the time of trial.

2 Q And had you handled a DNA case prior to Mr. Woods's
3 trial?

4 A Oh, gosh. Probably. I'm trying to think of what
5 trials I had before that, that actually went to trial. I
6 mean, I was familiar with DNA if that's what you're --

7 Q Had you ever spoken with Ms. Mills from SLED?

8 A I'd had people from SLED that were testifying in
9 trials prior to that, I believe.

10 Q But did you ever talk to Ms. Mills about the
11 wording of a report, what no DNA identified actually meant?

12 A No. I didn't talk to her.

13 Q So were you aware that, if asked, she would've said
14 no DNA identified meant that there was no semen found in
15 the DNA test?

16 MR. SPENCER: Your Honor, I object to that.

17 THE COURT: What -- I couldn't --

18 THE WITNESS: I would be taking a guess, but I'm
19 not going to speculate on what she meant by that.

20 BY MS. JENNINGS:

21 Q But you could've known had you talked with her
22 prior to the trial?

23 A I don't know what her answer would've been.

24 THE COURT: Let me rule on his objection, Mr.
25 Jennings.

Deborah Butcher - Redirect Examination by Mr. Jennings

1 MR. SPENCER: The question as I heard it, and it
2 was going by -- My ears weren't quite catching up to it,
3 but it sounded like it was assuming facts not in evidence
4 and called for speculation.

5 THE COURT: All right, and I think her answer
6 was --

7 MR. SPENCER: She'd have to speculate, I think.

8 THE COURT: All right. So that should cover --
9 Her answer ought to rule on that objection, then, Mr.
10 Spencer.

11 MR. SPENCER: Thank you, Your Honor.

12 THE COURT: Ask your next question now, Mr.
13 Jennings.

14 BY MR. JENNINGS:

15 Q But you did not speak with her prior to the trial.

16 A No.

17 Q Okay. And when -- as we talked in your direct --

18 A And if -- I'm sorry. If I may finish that answer.

19 Q Sure.

20 A And like I said, I don't want her to come in there
21 and testify as to reasons why no DNA was found. I mean, I
22 think in there when they talked about they could've been
23 sweaty, they could've wiped it off, I just -- I did not
24 want those medical records in. I think there's too many
25 ways to, you know, talk about the DNA and the jury to see

Deborah Butcher - Redirect Examination by Mr. Jennings

1 everything else about her demeanor and all of that.

2 Q What would Ms. Mills have talked about other than
3 her report saying that there was no DNA found?

4 A She could, again, talk about how people can sweat
5 and things of that nature, wipe it off, and they don't find
6 any.

7 Q And one other possible explanation for why there
8 wouldn't be semen is because there was never any semen
9 there to be found.

10 A That would be speculation.

11 Q And one very good argument for a defense attorney
12 to make in a CSC case; isn't that true?

13 A And that's what I did at closing.

14 Q You argued that that work was never done, not that
15 that evidence wasn't ever found.

16 A I believe -- I'd have to reread my closing, but I
17 believe I argued that they didn't present any DNA evidence.

18 Q And the medical records -- you could've shown the
19 records to Nurse Nelson and had her refresh her memory as
20 to her findings without those records ever having to go
21 into evidence; is that correct?

22 A I don't know that I would've wanted to do that.
23 I'd have to reread her testimony. I'm sorry.

24 Q You didn't want the jury to know about her physical
25 findings that might've been inconsistent with the victim's

Deborah Butcher - Redirect Examination by Mr. Jennings

1 testimony?

2 A I don't understand your question. What physical
3 findings are you speaking of? I'm sorry. I'd have to
4 reread it.

5 Q The findings of no semen at the hospital, no --
6 some of the scratchings and abrasions that didn't match
7 what the victim testified to at trial, and her story that
8 is arguably inconsistent. You didn't want the jury to know
9 those facts?

10 A I would have to reread what I asked her. Would you
11 like me to do that.

12 Q Yeah. The attorney general -- you came to the
13 point where you asked her if she remembered seeing semen,
14 and she said, I didn't remember. You could've shown her
15 her records, had her refresh her memory, and that she
16 could've testified that there was none found?

17 A I believe right after that, she started going into
18 that people -- they could wash it off, wipe it off, and
19 none may show up; Water, sweat, clothing, taking clothes on
20 and off, you know, even urinating. It was talking about
21 all the reasons why there could've been semen and yet none
22 was found.

23 Q In fact, in the medical records, it says she did
24 not urinate, she did not shower, she had not changed her
25 clothes. And all of those facts could have been brought

Deborah Butcher - Redirect Examination by Mr. Jennings

1 out in front of the jury had you been prepared with the
2 medical evidence?

3 MR. SPENCER: Your Honor, I object to that. That
4 assumes she wasn't prepared with the medical evidence,
5 which I believe she's testified to --

6 THE COURT: Well, rephrase it. Rephrase the
7 question. All of those could've been brought out in front
8 of the jury, those facts.

9 THE WITNESS: They could've been brought out.
10 Yeah. But I -- again, I didn't want the medical records in
11 for all the other reasons. And I think, you know, the fact
12 that none was found -- the jury was well aware, there was
13 no DNA found.

14 Q Well, they were aware that no evidence was
15 submitted. How are they aware that none was found?

16 MR. SPENCER: Your Honor, I think that's asked and
17 answered.

18 THE COURT: I would sustain the objection.

19 BY MR. JENNINGS:

20 Q Did you talk to or refer to any expert as far as
21 proper police procedure or what investigation should've
22 been done in a case like this?

23 MR. SPENCER: Your Honor, that goes beyond the
24 scope of the allegations alleged.

25 THE COURT: I'll allow it under 611.

Deborah Butcher - Redirect Examination by Mr. Jennings

1 THE WITNESS: Did I talk to an expert to see what
2 would've done?

3 BY MR. JENNINGS:

4 Q Well, you said your theory of the case was that
5 police didn't do what they should've done and didn't handle
6 the investigation like they should've done. Did you talk
7 to any expert to get some information about what, in fact,
8 they should've done or how they should've handled evidence?

9 A I didn't go seek out an expert on police work. My
10 brother was a policeman. I mean, he and I discuss things
11 all the time.

12 Q So that's a no? You didn't talk to anybody?

13 A No. I mean, things I brought out I don't believe
14 required an expert.

15 MR. JENNINGS: That's all I have, Your Honor.

16 THE COURT: Re-cross? Are you going to now, Mr.
17 Spencer?

18 MR. SPENCER: If you can just give me a moment,
19 Your Honor?

20 THE COURT: Certainly.

21 MR. SPENCER: I'm just actually looking for
22 something.

23 (There was a brief pause in the proceeding.)

24 THE WITNESS: And, if I may, can I expound on an
25 answer? Is that okay?

1 THE COURT: Yes, ma'am.

2 THE WITNESS: You know, one thing you talked about
3 or asked me about, not bringing them in. It did talk about
4 her wrapping a blanket around herself or something of that
5 nature, and I think Ms. Land even went into that, how that
6 could've wiped it off.

7 THE COURT: Do you have any other questions in that
8 regard, Mr. Jennings?

9 MR. JENNINGS: No, sir.

10 MR. SPENCER: Your Honor, I have no further
11 questions.

12 THE COURT: All right. Thank you. Thank you very
13 much, Ms. Butcher. You may step down. How many more
14 witnesses do you have, Mr. Jennings?

15 MR. JENNINGS: Just one, Your Honor.

16 THE COURT: All right. I believe we'll take about
17 a fifteen minute recess.

18 MR. JENNINGS: Yes, sir. Thank you, sir.

19 THE COURT: Thank you. Thank you very much.

20 (A brief recess was observed.)

21 THE COURT: All right. Mr. Chandler?

22 MR. CHANDLER: Yes, sir. If it please the Court.
23 We would call Ms. Nelson.

24 THE COURT REPORTER: Who is this?

25 THE COURT: What -- tell me the name again?

Marsha Nelson - Direct Examination by Mr. Chandler

1 MR. CHANDLER: The last name is Nelson. Is it
2 Marsha?

3 THE WITNESS: Yes.

4 MR. CHANDLER: All right.

5 THE COURT: Oh. Ms. Nelson? All right. Thank
6 you. Thank you so much.

7 MARSHA NELSON,
8 having been duly sworn, testified as follows:

9 THE CLERK: State your name, and spell your last
10 for the record.

11 THE WITNESS: Marsha, M-A-R-S-H-A, Nelson,
12 N-E-L-S-O-N.

13 **DIRECT EXAMINATION**

14 **BY MR. CHANDLER:**

15 Q Barely good morning, Ms. Nelson. How are you
16 doing?

17 A Good. Thank you.

18 Q Do you work at Clarendon Memorial Hospital still
19 now?

20 A Yes, I do.

21 Q Okay. And what is your job there, please ma'am?

22 A Right now I'm the night supervisor at the hospital.

23 Q We have been in here talking about a case that goes
24 back several years. And I believe you testified in at
25 trial in that case in the courthouse in Clarendon County.

Marsha Nelson - Direct Examination by Mr. Chandler

1 Am I correct about that?

2 A Yes, sir.

3 Q Okay. And that case involved a young African
4 American woman who came to the emergency room, and you were
5 there that night; is that correct?

6 A I was called in.

7 Q Okay. And exactly why would you have been called
8 in?

9 A At the time, I was the manager of the emergency
10 department, and they could not find anybody else to come in
11 and do the rape kit.

12 Q Okay.

13 A And so they called and asked me to come in and do
14 it.

15 Q And you are experienced in that endeavor, are you?

16 A Yes, sir.

17 Q Okay.

18 A I am not a SANE -- I don't know where somebody
19 picked up that acronym. I am not that, but I am qualified
20 to take evidence. We frequently do that.

21 Q All right. And there are a set of medical records
22 in front of you which I believe are marked as Petitioner's
23 Exhibit 17.

24 Would you do me a favor and look at those records
25 and see if you can, please ma'am, identify them? Am I

Marsha Nelson - Direct Examination by Mr. Chandler

1 wrong?

2 MR. SPENCER: Is that something that's already --
3 If it's already in evidence, that's fine.

4 MR. CHANDLER: Okay.

5 MR. SPENCER: Okay.

6 MR. CHANDLER: I didn't know whether it was in
7 evidence or not.

8 MR. SPENCER: That's fine.

9 BY MR. CHANDLER:

10 Q I want you to see whether or not you prepared those
11 records and did an examination on this young woman that
12 day?

13 MR. SPENCER: And Your Honor, if I could just
14 intervene?

15 THE COURT: Okay.

16 MR. SPENCER: As I understand, I don't think either
17 party is going to need Judge Land anymore. So I was going
18 to ask if she could be released from her subpoena from both
19 sides.

20 THE COURT: Of course not. Of course she may be
21 excused if we don't need her; is that correct, Mr.
22 Chandler.

23 MR. CHANDLER: Let the record reflect that I
24 released her earlier.

25 THE COURT: Is that -- is it all right if she be

Marsha Nelson - Direct Examination by Mr. Chandler

1 released?

2 MR. CHANDLER: No objection.

3 THE COURT: Thank you. Thank you for being with us
4 today, Ms. Land.

5 JUDGE LAND: Thank you, Judge.

6 THE COURT: Yes, ma'am.

7 MR. CHANDLER: Thank you, Counselor. I'm glad we
8 did that.

9 THE COURT: Now, I have Plaintiff's 17, or
10 Petitioner's 17 as a subpoena to Clarendon County Hospital.

11 MR. CHANDLER: Yes, sir.

12 THE COURT: Are the records attached to it?

13 MR. JENNINGS: That's correct, Your Honor.

14 MR. CHANDLER: Yes, sir. That's the subpoena for
15 those records.

16 THE COURT: All right. All right. Thank you.
17 Thank you very much.

18 MR. CHANDLER: Is it into evidence, Your Honor.

19 THE COURT: I have Petitioner's 17 in evidence.
20 Do you have that, Brenda.

21 THE COURT REPORTER: Yes, sir.

22 MR. CHANDLER: Thank you. Thank you so much.

23 THE COURT: All right.

24 BY MR. CHANDLER:

25 Q Would you look at that -- those records and

Marsha Nelson - Direct Examination by Mr. Chandler

1 determine if those Petitioner's 17 on Sheila A. Summers'
2 general examination and statement that's attached thereto,
3 was that prepared by you, ma'am, in the course of your
4 employment at Clarendon Memorial Hospital?

5 A Yes, sir.

6 Q Okay. I don't want to be so disjointed with that,
7 but I am going to ask you to thumb through until you get to
8 page 3.

9 A Page 3.

10 MR. CHANDLER: Your Honor, do you have a copy of?
11 This.

12 THE COURT: I do not.

13 (A copy was handed to the Court.)

14 THE COURT: Thank you. Thank you.

15 BY MR. CHANDLER:

16 Q Now, the page 3 that I have, ma'am, appears to be
17 the torso of a female; is that correct?

18 A I'm sorry.

19 Q It appears to be the torso of a female.

20 A Oh, okay. Page 3 of the -- All right. I got you.

21 Q I knew I was going to confuse you before this was
22 over with.

23 A Yes, sir.

24 Q You got it?

25 A Yes, sir.

Marsha Nelson - Direct Examination by Mr. Chandler

- 1 Q Okay. Now it appears to be the torso, the
2 full-body torso of a female, front and back; is that
3 correct.
- 4 A Yes, sir.
- 5 Q Would you tell the Court what your objective is in
6 taking the physical evidence and marking it down on this
7 torso?
- 8 A When --
- 9 Q What are you looking for? What are you trying to
10 show and record?
- 11 A Oh. Any scratches, bruises, cuts, anything.
- 12 Q No matter how small?
- 13 A Yes, sir.
- 14 Q Okay. You would put them down there?
- 15 A Yes, sir.
- 16 Q And after all of these years, from your own memory,
17 can you recall that body before you?
- 18 A Only by looking at it. I'm sorry. I just -- I
19 don't recall her at all. I'm sorry.
- 20 Q Fair to say that that's what these records are for;
21 is that right?
- 22 A Yes, sir.
- 23 Q Okay. Now, what do you note there on the record as
24 to the chest, abdomen, legs, and arms on that torso? Is
25 there any marking at all?

Marsha Nelson - Direct Examination by Mr. Chandler

1 A No.

2 Q Okay. Is there a marking on the neck?

3 A Yes, sir.

4 THE COURT: Excuse me just a moment.

5 (There was a brief pause in the proceeding.)

6 THE COURT: Excuse me.

7 All right. You may proceed.

8 MR. CHANDLER: Thank you, sir.

9 BY MR. CHANDLER:

10 Q Did you have the opportunity, then, to inventory
11 this female's body and prepare that document?

12 A Yes, sir.

13 Q Did you also prepare a checklist that is provided
14 in there --

15 A Yes, sir.

16 Q -- that identifies each part of the body and gives
17 you a set of check-offs that are a yes, no, and a
18 description thereof? And that's two of three, and that's
19 the Clarendon Memorial Emergency Department Data Assessment
20 Record.

21 A That was collect -- that was collected by someone
22 else. That was not collected by myself. But they -- let
23 me see if I can find it. I have it in front of me.

24 And what was your question?

25 Q And my question to come was, is that checklist

Marsha Nelson - Direct Examination by Mr. Chandler

1 consistent with what you found?

2 A I'm not quite sure what you're -- which checklist
3 we're talking about.

4 Q Skin trauma. Excuse me. There's a checklist there
5 of skin trauma. So we're looking at the torso of the lady
6 front and back, which you did.

7 A Okay. We're looking --

8 Q Is that right?

9 A Yeah.

10 Q Okay. You got it now?

11 A I will. Yes, sir.

12 Q What I'm asking -- and maybe I'm not doing it
13 well -- but this checklist seems to indicate to me that the
14 skin was moist, there was no swelling, deformity, numbness,
15 abrasion, laceration, burn. No visual trauma to face, arm,
16 or leg; is that correct?

17 A That's correct.

18 Q Okay. And the skin appeared to be normal; is that
19 right?

20 A That's correct.

21 Q But there was a small scratch on the top of the
22 foot?

23 A That's correct.

24 Q And there was, as the record indicates, a small red
25 spot, an abrasion, on the neck; is that right?

Marsha Nelson - Direct Examination by Mr. Chandler

1 A Yes, sir.

2 Q Okay. Would that be your testimony based upon the
3 records and your examination that night? That what you
4 found on that woman was a small red spot on the neck and a
5 scratch on the foot?

6 A Yes, sir.

7 Q Okay. Now, you noticed that her hair was messed
8 up; is that correct?

9 A Yes.

10 Q Based upon giving these examinations, someone
11 testified that, I was dragged through the woods by a man by
12 my hair. Would there be something for you to observe as a
13 result of that particular trauma to that area?

14 A Well, she might have some hair missing. I don't
15 quite remember if she did or not. But I documented that
16 her hair, her hair was unkempt, that she was disheveled.
17 She had no shirt on.

18 Q Her hair was unkempt, but she never mentioned
19 anything about her hair or head?

20 A No, sir.

21 Q Never mentioned being dragged --

22 A But --

23 Q -- through the woods by a man by her hair only?

24 A Not that I recall.

25 Q Never mentioned to you that she was raped in the

Marsha Nelson - Direct Examination by Mr. Chandler

1 woods by this man who ran her down?

2 A I only wrote down what I heard from her when she
3 was talking to the victim's advocate and myself.

4 Q Correct. Did you have any indication in what you
5 wrote down that this woman was sexually assaulted anywhere
6 but the motor vehicle in which she was riding and owner of?

7 A I'm assuming that it was the car. I would have
8 said specifically if she had told me it was out in the
9 woods.

10 Q But she didn't tell you that. Did she?

11 A No, sir.

12 Q Well, basically what she said in this, and correct
13 me if I'm wrong. Follow me. That she was on a dirt road,
14 and he told her --

15 MR. SPENCER: Your Honor, I object to the leading.

16 MR. CHANDLER: It isn't --

17 THE COURT: I'll allow it in this case. The
18 records are in evidence, so you may continue, Mr. Chandler.

19 BY MR. CHANDLER:

20 Q -- that he told her to get out of the car and
21 strip; is that right?

22 A Yes.

23 Q Then she ran, correct?

24 A That's what she said.

25 Q After she'd stripped? He took her back to the

Marsha Nelson - Direct Examination by Mr. Chandler

1 car --

2 A (Witness nodded.)

3 THE COURT: Is that a yes, Ms. Nelson? I'm sorry.

4 THE WITNESS: Yes, I'm sorry.

5 THE COURT: All right. That's all right. That's
6 all right. I just wanted to make sure.

7 THE WITNESS: I'm sorry.

8 BY MR. CHANDLER:

9 Q All right. And so then she said he ripped off her
10 underwear, and the rest of the sex that she alleges took
11 place in the car; is that correct?

12 A That's what -- that's what she told me. That's
13 what's written. I can't remember word for word exactly
14 that night, but if it was any different, I would've, I
15 would've noted it in the chart.

16 Q Yes, ma'am. Now, he indicates that she, that this
17 man, on two occasions, raped her by inserting his penis
18 into her; is that right?

19 A That's correct.

20 Q And she indicates that he ejaculated; is that
21 correct?

22 A That's correct.

23 Q And he indicated that he ejaculated on her chest,
24 stomach, and arm; is that correct?

25 A That's correct.

Marsha Nelson - Direct Examination by Mr. Chandler

1 Q And she indicated that she had not showered; is
2 that correct?

3 A That's correct.

4 Q But she indicated that that assault took place at
5 2100 hours, 11 o'clock that night; is that correct?

6 THE COURT: Nine o'clock.

7 THE WITNESS: Nine o'clock.

8 BY MR. CHANDLER:

9 Q Nine o'clock.

10 A Nine o'clock.

11 MR. CHANDLER: I'm sorry, Judge. 2400 would have
12 been nine. My four years in the military, wasted.

13 THE COURT: I know. Just totally --

14 BY MR. CHANDLER:

15 Q At nine o'clock that night; is that correct?

16 A That's correct.

17 Q Okay. Now, when the test on that --

18 THE COURT: That's a snafu. It's a snafu, right?

19 MR. CHANDLER: Yes, sir. It's known as a snafu.

20 It's a dumb --

21 THE COURT: You may continue.

22 BY MR. CHANDLER:

23 Q I'll get some composure in a second.

24 The medical records indicate no trauma to her
25 vaginal area; isn't that right?

Marsha Nelson - Cross-Examination by Mr. Spencer

1 A She was -- I do all of the collection of evidence.
2 The physician in this case did the vaginal exam.

3 Q The record you have in front of you?

4 A The record in front of me shows no. Everything
5 looks, he wrote, normal.

6 Q Thank you.

7 MR. CHANDLER: I have no other questions, Your
8 Honor.

9 THE COURT: All right. Mr. Spencer?

10 MR. SPENCER: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. SPENCER:

13 Q Ms. Nelson, wouldn't you agree that when you
14 originally testified, it was at the trial in October of
15 2008?

16 A If you say -- yes. I --

17 Q You wouldn't disagree with me?

18 A No. I don't remember what the date was. But, yes,
19 sir. I know I did.

20 Q And you examined the victim in this case in 2006;
21 is that correct?

22 A That's correct.

23 Q All right. And would you agree with me your
24 recollection of that examination -- you would -- your
25 recollection would've been better in 2008 than it would be

Marsha Nelson - Cross-Examination by Mr. Spencer

1 today?

2 A Well, it would've been two -- it would've been many
3 years closer to what the date was that it actually
4 happened.

5 Q And it should have been --

6 A And I think probably I remembered her. I mean, I
7 couldn't pick her out if she was sitting here. I really
8 don't remember her.

9 Q And, let me characterize it this way. Is it fair
10 to say that you would probably have at least as good a
11 recollection of events when you testified in 2008 than
12 today?

13 A Probably. Yes.

14 MR. SPENCER: I beg the Court's indulgence.

15 THE COURT: Yes, sir.

16 (There was a brief pause in the proceeding.)

17 BY MR. SPENCER:

18 Q And, Ms. Nelson, I'm going to hand you the trial
19 transcript. If you could read -- I'm on page 155. If you
20 could, read lines 19 through 24 to yourself.

21 A It says, yes. I actually remembered when I wrote
22 this. Actually after I saw it, I remembered it. She said
23 he had tried to choke her. She had red marks, visible
24 marks, on her neck. And that she was forced down. She had
25 abrasion, scrapes on her left leg, on her left leg.

Marsha Nelson - Cross-Examination by Mr. Spencer

1 Q Okay. So it indicates more than just one scratch;
2 is that true? Do you want to look at the statement, your
3 testimony, again?

4 A She had scrapes on her leg.

5 Q So it's --

6 A On her left leg.

7 Q So it'd be more than just on scratch?

8 A I don't remember. I'm sorry. I really don't
9 remember.

10 Q I understand. I understand. Please just testify
11 as to what you remember. I appreciate that.

12 A Okay.

13 Q Okay. And I'm just going to hand you back the
14 transcript again. I apologize. This is page 157 now. And
15 if you could, look at lines 15 through 17.

16 A Okay. Do you want me to read them.

17 Q Oh, no. I was just asking you to read them to
18 yourself.

19 A Okay. Okay.

20 Q So concerning the marks on her neck, you had
21 testified that they were consistent with somebody
22 attempting to choke her; is that correct?

23 A That's correct.

24 Q And I wanted to ask about --

25 MR. SPENCER: I beg the Court's indulgence as I

Marsha Nelson - Cross-Examination by Mr. Spencer

1 cross this witness.

2 THE COURT: Yes, sir.

3 (There was a brief pause in the proceeding.)

4 BY MR. SPENCER:

5 Q Thank you. And this is the narrative portion.

6 A Yes, sir.

7 Q I see you have it right in front of you.

8 A Yes, sir.

9 Q And is that your handwriting?

10 A Yes, sir.

11 Q Okay. And you would've taken down -- explain to me
12 how you would have taken this statement from the victim.

13 Were you taking it down as she was talking to you?

14 A As she was talking, yes, sir.

15 Q Okay. What was her demeanor like at the time she
16 was talking.

17 A I believe that she was -- I said that she was
18 crying, depressed.

19 Q And --

20 A Upset.

21 Q Do I recall you testifying at trial that she was
22 hysterical? Is that consistent with your memory? Or --

23 A I don't remember. I truly don't remember.

24 Q But definitely what your recollection and your
25 records indicate was she was very upset, and she was

Marsha Nelson - Cross-Examination by Mr. Spencer

1 crying?

2 A Yes, sir.

3 Q And basically you're trying to take down this
4 statement as she explains it to you?

5 A Uh-huh.

6 Q All right. When you're done writing the statement,
7 would you have asked her any follow-up questions to clarify
8 any points?

9 A I did not. I'm sorry. I did not.

10 Q Okay. When you are complete writing the statement,
11 do you show it back to her to try and make sure it's
12 exactly what she means?

13 A I did not. I don't think I did.

14 Q Okay. And --

15 A So I apologize. I don't think I did.

16 Q No, ma'am. No, ma'am. As a matter of fact, I
17 wanted to ask you -- my next question was going to be is
18 what's the purpose of taking this narrative?

19 A The purpose of taking the narrative?

20 Q Right.

21 A To figure out what she said, what to look for. I
22 mean, you know, if she said that she, you know, had been
23 pushed down or that he had ejaculated on her and that she
24 had sex and how many times, that would definitely be what
25 we would look for.

Marsha Nelson - Cross-Examination by Mr. Spencer

1 Q And when you say look for, what do you mean by
2 that?

3 A What findings we find as compared to what she says.

4 Q I understand. And so that's to let the -- so you
5 use this narrative to determine if you need to look for
6 semen; is that right?

7 A Yes.

8 Q For instance, or --

9 A Well, you do look for semen. It's one of the --
10 you go through the checklist. There is a kit, and there's
11 a checklist. And part of the checklist is that when you
12 have them undress, you take a black light, and you go over
13 the body so that you can -- semen gets highlighted if
14 there's semen on the body.

15 Q And the additional information -- basically the
16 purpose of taking this narrative is also to decide what
17 else you need to look for, what else you or the doctor --

18 A That's correct.

19 Q -- or anyone else would need to look for.

20 A That's correct.

21 Q Is it intended to be -- let me rephrase. In terms
22 of looking for any evidence outside of the victim's person
23 or getting any evidence from the victim or her belongings
24 or anything like that, is it intended to be a guide as to
25 how to find any evidence outside of the hospital?

Marsha Nelson - Cross-Examination by Mr. Spencer

1 A No. No, sir.

2 Q Is it --

3 A Define evidence out -- I'm not quite sure what you
4 mean, but when they're taken in and undressed, they're
5 undressed on a sheet of paper. It's a white sheet of paper
6 that gets folded back up and gets sent in the rape kit so
7 that anything that would fall off the person would fall
8 onto that sheet.

9 Q Correct. So I mean, it would be -- it would, you
10 know, what you're looking for --

11 A But this is not --

12 Q -- is --

13 A Right.

14 Q I'm sorry. I didn't mean to interrupt you. What
15 you're looking for is information as to how to examine her
16 or whether perhaps her clothes should be examined or
17 something like that. Is that fair to say?

18 A Her clothes. Well, I just collect evidence.

19 Q Okay. Thank you. I think that's what I was
20 looking for. In terms of like any follow-up questions or
21 information that would be needed from the victim after this
22 exam is done, would you leave that to law enforcement?

23 A Yes, sir.

24 MR. SPENCER: I beg the Court's indulgence.

25 (There was a brief pause in the proceeding.)

Marsha Nelson - Redirect Examination by Mr. Chandler

1 MR. SPENCER: I have no further questions.

2 THE COURT: Thank you. Thank you, Mr. Spencer.

3 Mr. Chandler.

4 MR. CHANDLER: Very, very briefly. Thank you, Your
5 Honor.

6 **REDIRECT EXAMINATION**

7 BY MR. CHANDLER:

8 Q Counsel, was asking you about when was the best
9 time for you to remember those things. Do you recall that
10 question?

11 A Yes, sir.

12 Q The best time to remember those things would be
13 when you wrote them down and saw them that night; is that
14 right?

15 A That's correct.

16 Q The best of the best is when you were --

17 A The best of the best time would've been that night.

18 Q -- right in front of her, right?

19 A Yes, sir.

20 Q Laying on that sheet -- laying on that sheet of
21 paper. Right? Right? With the black light?

22 A Oh. The black light goes on the patient. Yes.

23 Q The black light. CSI black light. Right? CSI
24 black light goes all the way up and down this woman.

25 A Yes, sir. Front and back.

Marsha Nelson - Redirect Examination by Mr. Chandler

1 Q Okay. Front and back?

2 A Yes, sir.

3 Q Arms? Stomach?

4 A Absolutely.

5 Q Everywhere?

6 A Absolutely.

7 Q And so Counsel asked you, what you're looking for
8 is reports to find if what she's saying is backed up by
9 what you see medically, right?

10 A Yes, sir.

11 Q And if she has said, I had semen all over me. I
12 had sperm on my stomach, my leg. This man came all over
13 me. Your report would be, I didn't find a thing, right?

14 A I can assume that I didn't because everything was
15 negative.

16 Q Yes, ma'am. But that would've been your report
17 that could've been used by someone else if they wanted to
18 investigate the case?

19 A Oh, yes, sir.

20 Q Right. Whether it was law enforcement or a defense
21 lawyer?

22 A Yes, sir.

23 Q And somebody could've come to you, and they
24 could've said, Ms. Nelson, I'm a defense lawyer in this
25 case. Can I go over the medical records in this with you?

Marsha Nelson - Redirect Examination by Mr. Chandler

1 They could do that, right?

2 A Uh-huh.

3 Q Did any soul come to you and discuss this case, Ms.
4 Nelson, before you testified in trial?

5 A Not that I'm aware of.

6 Q This woman right there, did she walk in your
7 office, make an appointment to come and look and talk to
8 you about this compelling evidence before she
9 cross-examined you?

10 MR. SPENCER: Your Honor, I object to the form of
11 the question.

12 THE COURT: I'd overrule the objection. You may
13 answer the question.

14 BY MR. CHANDLER:

15 Q Excuse me.

16 A No, sir.

17 Q Would you be telling her, if she had asked that,
18 the same thing you're telling this judge today?

19 A Yes, sir.

20 MR. CHANDLER: I don't have anything else.

21 THE COURT: Mr. Attorney General? Mr. Spencer?

22 MR. SPENCER: No further questions, Your Honor.

23 THE COURT: Thank you. Thank you very much, Ms.
24 Nelson.

25 THE WITNESS: Thank you..

1 THE COURT: You may step down.

2 THE WITNESS: Thank you.

3 THE COURT: Thank you for being with us.

4 MR. CHANDLER: Nothing else, Your Honor.

5 THE COURT: All right. Thank you. Thank you very
6 much.

7 All right. Mr. Spencer.

8 MR. SPENCER: Your Honor, I wouldn't have any
9 witnesses to present. And I actually would ask that Ms.
10 Butcher be allowed to be released from her subpoena. I
11 would like the opportunity to briefly close.

12 THE COURT: All right. Certainly.

13 All right. You may be released, Ms. Butcher.

14 Mr. Chandler, Mr. Jennings, I'd be glad to hear --

15 MR. SPENCER: Oh.

16 THE COURT: -- from either one of y'all.

17 Yes, Mr. Spencer. Anything further? Anything
18 further.

19 MR. SPENCER: I'm sorry, Your Honor.

20 THE COURT: Anything further?

21 MR. SPENCER: No. Just the opportunity to close.

22 THE COURT: Yes, sir. I'm all right on that.

23 Mr. Jennings.

24 CLOSING ARGUMENTS

25 MR. JENNINGS: Thank you, Your Honor. May it

1 please the Court. You know, from our petition, we've made
2 several allegations: Ineffective assistance of counsel,
3 which is obviously Mr. Woods's right under the 6th and 14th
4 Amendment as well as the U.S. and State Constitutions under
5 Article 1-7-14; also the violation of his due process
6 rights in both the failure of counsel's investigation and
7 work on this case, as well as the failure to disclose the
8 medical evidence by the solicitor's office.

9 And I think what's the key analysis for Your Honor
10 is obviously this is going to fall under the Strickland
11 standard. The first prong of that being that Ms. Butcher
12 violated her duty to conduct a reasonable investigation
13 were errors made.

14 And then the second, we have to show that there's a
15 reasonable probability that, but for Counsel's
16 unprofessional errors, the result of the proceeding
17 would've been different. Our supreme court has defined
18 that reasonable probability as a probability sufficient to
19 undermine the confidence in the outcome of the trial.

20 What we have, and Your Honor has the transcript,
21 we've got a trial that was based completely on the alleged
22 victim's testimony. It was her identification of Mr. Woods
23 and her rendition of the facts as to what happened that was
24 the basis of the verdict. It believe as Ms. Butcher
25 testified, the jury told her they believed every word that

1 she said, which makes what happened with this investigation
2 and what was not presented at the trial, critical. And I
3 don't -- I respectfully submit to the Court, I don't think
4 we have confidence in the outcome of that trial when it was
5 based completely on the alleged victim's testimony.

6 What we know from today that could've been
7 presented to contradict her testimony were that there were
8 three statements that she gave with all differing facts her
9 trial testimony which stated that the two assaults took
10 place, one was in the woods, the first was in the woods,
11 the second was in the vehicle. We know from Ms. Nelson
12 that the first rendition that she gave at the hospital was
13 that they both occurred in the car. Your Honor will have
14 those records.

15 I respectfully disagree with Ms. Butcher. I don't
16 think there's any other reasonable explanation for that
17 report and that statement other than that both of the
18 sexual assaults took place in the car.

19 You also have Detective Avant's testimony at the
20 trial that decisions that he made in his investigation were
21 based on the information he received from the victim in her
22 interview, and that those decisions such as not processing
23 the interior of the car were made because it was his
24 understanding that all of the assaults had happened in the
25 woods. So you have three contrasting stories, and the jury

1 had none of that information. Based on what the jury went
2 back to their room to deliberate, there was only one story.
3 And that was what the young lady testified to at trial.
4 They had none of this other information.

5 In addition, we've got this wealth of information
6 from the medical records that was never presented to the
7 jury. The findings that there was no genital trauma, there
8 was no bruising around where her underwear would've been,
9 and she testified at trial that he ripped her underwear
10 off. No physical findings consistent with that. No semen
11 found on a visual inspection. No semen found at SLED. Not
12 only was the DNA negative, but there was no semen found.
13 Completely inconsistent with her testimony at the trial and
14 the facts that were disclosed.

15 Frankly, I think when you look at those records,
16 there's zero physical evidence showing that she had even
17 had sex that night. And while certainly there are
18 explanations as to why those findings may not have been
19 made, one critical explanation is that she may not have
20 been being entirely truthful. And for her testimony not to
21 be vetted and not to be challenged in any way with these
22 facts, I don't see how we can have faith in this verdict
23 when the jury did not have this information to base its
24 decision.

25 That was the job of Ms. Land, was to make all those

1 explanations, that it could've come off from sweat. They
2 made the findings that she didn't shower; she didn't
3 urinate. They had the piece of paper to collect anything
4 that fell off of her.

5 The fact that that evidence was not presented, I
6 submit to Your Honor Ms. Butcher did not have the records
7 in time to have sufficiently prepared for the trial. She
8 wasn't intimately knowledgeable of the facts that were in
9 there to cross-examine the witnesses and to bring out --
10 adduce that positive evidence that could have certainly
11 created a reasonable doubt as to the testimony that the
12 young lady gave at the trial, and not to mention the
13 inconsistent statements.

14 Ms. Butcher said it was a trial decision. That she
15 didn't want to put those records in, and she didn't want to
16 cross the victim. Well, she never had to cross the victim.
17 All of that evidence was there to be taken from independent
18 witnesses. The victim had testified. She could have
19 easily cross-examined Ms. Nelson, could've cross-examined
20 Detective Avant, had gotten that information into the
21 record, and then would've had ample evidence. You know,
22 the jury would've known those facts, would've known of the
23 prior inconsistent statements, and would've had that for
24 closing argument.

25 I just -- our belief and our position, Your Honor,

1 is that Mr. Woods is entitled to a new trial. This
2 testimony was completely unvetted, was completely
3 unchallenged. And the jury did not have, not only all the
4 facts, but didn't have even half the facts on which to base
5 their verdict. And we think, in order for his
6 constitutional rights to have been protected, all that
7 information should've come in before the jury on the
8 record.

9 THE COURT: Thank you. Thank you very much, Mr.
10 Jennings.

11 Mr. Spencer.

12 MR. SPENCER: Thank you, Your Honor. Just -- I
13 want to speak as to Brady first because this is clearly not
14 a Brady case. Ms. Butcher had the information. She was
15 able to get it independently, and she wasn't dependent on
16 the State for the information. Brady gets thrown around a
17 lot -- too much lately. I think it's a little fashionable
18 to try and bash the State. But there was no showing,
19 despite these Brady allegations, that the records, that Ms.
20 Land or the prosecution had the same set of full set of
21 records that Ms. Butcher did. No showing. I don't think
22 Brady's involved at all whether or not she had them. But
23 there's been no showing that the prosecution actually had
24 custody of these records which I actually don't think are
25 terribly exculpatory at all.

1 Moving on, this is a straight -- and I agree with
2 Mr. Jennings on this part, this is a straight Strickland
3 case. The question is whether Ms. Butcher's performance
4 fell below professional norms, whether her decisions were
5 made out of valid trial strategy, and her trial strategy's
6 set out very well in that first paragraph of her closing
7 argument, a time she gets to talk and nobody gets to
8 respond. No witnesses get to respond.

9 And it's a very good closing argument. I would ask
10 that you look at it because, frankly, when I read it, I was
11 following right with her. I was like, yeah. They didn't
12 try. Where's the -- you know, the officer didn't try to
13 get the DNA evidence from the car. The nurse didn't
14 remember -- at the trial she didn't remember if she found
15 anything with the Woods lamp or not. In my view, I would
16 rather you prove that they tried and didn't get it. I like
17 that answer better if I'm defense counsel because the
18 answer is, she doesn't even remember. This very important
19 piece of information which is consistent with the defense
20 that the law enforcement wasn't trying.

21 It was a very good closing argument. It was a very
22 well-executed closing argument, trial strategy. Certainly
23 it's the best she could do when she has a client that can't
24 decide on the version of events that occurred who doesn't
25 feel like he has time to testify, as is reflected in the

1 record. And, you know, she has to deal with the client
2 she's been handed. I think she did that very well.

3 Going to the actual medical records, I disagree
4 with Mr. Jennings. I agree with Ms. Butcher. This is far
5 more consistent than inconsistent. I think -- and I
6 attempted to elicit testimony from Nurse Nelson which
7 established that her purpose in taking this narrative, it's
8 not the same as if a police officer was taking the
9 statement. Even police officers' statements, there's
10 usually some inconsistency. And, you know, that may be as
11 much as to how the officer takes it down as to actually
12 what the witness is saying.

13 And in my opinion, and Your Honor, actually I know
14 you have law enforcement experience to evaluate that. And
15 I don't mean it as a dig on law enforcement. I just think
16 when you're taking a statement from one person to another,
17 you may not get the essence of what that person is saying
18 all the time, and law enforcement does that better than
19 anybody else.

20 And the purpose of the nurse taking the statement,
21 she said, was to figure how to go about the examination
22 basically, as I understand it. What to look for, is her
23 terms. And it's not the situation where she's going to
24 take down that statement and show it to the victim.
25 Certainly, I wouldn't expect a victim to be in any state of

1 mind to want to parse out each and every little word in
2 there as, perhaps, a defendant might when they're giving a
3 statement to law enforcement.

4 All the same, the statement's remarkably
5 consistent. Any more consistent, and as Ms. Butcher would
6 say, it would become suspicious. What I have down is, the
7 reason for her stopping at her friend's house was to pick
8 something up that was left. She testified in trial it was
9 a phone charger. Both statement and testimony, she
10 testified the defendant asked to take her to the store. On
11 the way home, that's when he grabs his arm and the wheel.
12 And the statement says arm and hair, which is pretty darn
13 close. She testified and said in that statement to the
14 nurse that she ended up on a dirt road. The car got stuck.
15 She -- I -- they tried to get it unstuck.

16 She testified, you know, to some of the important
17 details, which is he took her phone; he asked her to strip;
18 and also took her wallet. And of course that is a pretty
19 big piece of evidence because they find this wallet, with
20 her social security number right on top, abandoned in the
21 early morning hours at the end of this dirt road.

22 And to try and minimize that or say it's consistent
23 with a consensual episode, it's not terribly consistent
24 with a consensual episode, plus we don't have a defendant
25 who's got the time to get on the stand and say whether or

1 not it's a consensual episode.

2 Just going down the line here. She talks about
3 being told to strip, talks about trying to run away, says
4 he threatened to kill her if she didn't do what he wanted.
5 And this is all, you know, this is all evidence. There was
6 one thing, and I tried to look at this very closely, one
7 almost inconsistency, if you will, is in trial testimony
8 she testified that she was raped further down the road in
9 the back seat. This is the time it occurred in the car.
10 And she mentioned that he stopped at a pathway to the left,
11 and the statement says pulled in a driveway, and I assume
12 that's just the nurse's understanding of the statement. So
13 pathway or driveway, I mean that's about one of the most
14 major inconsistencies, if you will, in here. And it's not
15 even an inconsistency.

16 She testified about him putting hands around the
17 neck. Well, she testified that she was choked. And the
18 statement says hands around the neck. She talked about, in
19 this statement and in trial testimony, about a car
20 approaching. I don't see where she testified -- I didn't
21 mark down where she testified that her underwear was
22 ripped. But ripped underwear could merely mean just taking
23 off.

24 It ends with him driving back down the dirt road,
25 him talking crazy, which is consistent -- which is what she

1 testified to at trial also, and then him getting out and
2 running away, getting out of the car and running away. And
3 that's how that ended. It is far more consistent than
4 inconsistent.

5 I think Ms. Butcher's judgment in that regard was
6 good. Of course, if you bring a statement in, if you try
7 and impeach her with this statement, she just gets the next
8 opportunity to explain. And we really don't know what her
9 explanation would have been at the time. But certainly
10 these are not major inconsistencies that you would expect
11 to have really helped very much on cross-examination or
12 have gotten a lot of mileage from.

13 In regards to using that statement to refresh the
14 nurse's testimony, I think in terms of the injuries
15 themselves, her trial testimony made it sound like there
16 were some pretty good injuries. And she certainly would've
17 had a better recollection in 2008 than she would in 2013,
18 whether or not she was shown that chart. But certainly the
19 one major consistency, the one that is very strong, is
20 testimony at trial and the report that shows the marks
21 around the neck which were consistent with choking, which
22 would be the major injury we would expect to see based on
23 the victim's version of events.

24 Regarding the SLED report, whether or not she
25 should've just let that come in instead of objecting to it,

1 I think that was a marvelous bit of trial strategy. First
2 of all, she got Ms. Land -- I think she got Ms. Land
3 off-balance with that whole chain objection. Ms. Land, I
4 think, just gave up and, you know, gave up trying to put it
5 in. And that SLED report doesn't find anything. It's a
6 big negative. But the important thing that it would've
7 shown is that law enforcement was trying, and that's
8 counter to her, I think, well-executed closing argument
9 that they weren't trying.

10 Unfortunately, this may have not been law
11 enforcement's best case to put forward. Unfortunately, the
12 victim -- fortunately, I mean, the victim was very
13 credible. But I think we can feel pretty safe that this
14 was a just result. This was a well-trying case from Ms.
15 Butcher's perspective, especially under the circumstances,
16 especially with the client she had and evidence she had to
17 face. I don't think her -- I think her trial strategy's
18 reasonable. I just don't think that in any regard that her
19 performance ever fell below professional norms. And I also
20 don't think that, if there was any deficiency to have been
21 found, that it would've been prejudicial in light of this
22 record.

23 And again that's something I pointed out before.
24 His own first cousin was testifying about how upset and
25 hysterical this victim was. Everybody was saying that this

1 victim was upset and hysterical. And it sure didn't
2 look -- It sure looked like something happened to her. And
3 really the statement given to the nurse doesn't show any
4 differently than that. And at the end of the day, the
5 applicant wasn't prejudiced by any deficiency that this
6 Court may possibly find. I would ask that this application
7 be denied. Thank you, Your Honor.

8 THE COURT: Thank you, Mr. Spencer.

9 MR. CHANDLER: Very briefly.

10 THE COURT: Mr. Chandler? Yes, sir.

11 MR. CHANDLER: Very briefly, Your Honor.

12 THE COURT: Yes, sir. Certainly.

13 MR. CHANDLER: I've never met counsel, but he's
14 tried a great case. I'm not sure he's trying the same case
15 that I am. In this situation, we've got -- I don't care
16 what kind of defendant she's got. We have defendants --
17 I've been doing this forty-two years.

18 THE COURT: I agree. The Constitution doesn't
19 slide up and down.

20 MR. CHANDLER: Absolutely. The Constitution
21 doesn't say if you're a complete ass or if you're a
22 Jesus --

23 THE COURT: And that goes for lawyers too, of
24 course.

25 MR. CHANDLER: That's right. And I don't care.

1 And so for a defense lawyer to get up here and say, my
2 client was a jerk who didn't give me any help, is offensive
3 to me. The truth of the matter is, is what we've got to
4 deal with are facts. And in this case, the facts don't
5 sock (phonetic). If you look at this first -- the
6 statement that she gave at the hospital, the fresh
7 complaint, you could say, man this is not real good. It's
8 not backed-up by the physical evidence, but it don't look
9 real good.

10 Here's the manila, though. She comes in and lies
11 on the freaking stand. She gets up and tells a completely
12 different story than she tells. And if anybody in this
13 room cannot see that being pulled by the hair, pulled down
14 and raped violently in the woods, and dragged back to the
15 car, is not different from what she told, it's amazing.
16 But here's the whole point. The whole point is, she got up
17 and wanted somebody convicted so badly, that she said, I
18 had scratches and bruises and stuff all over me, on my
19 chest on my stomach, on my arms and my legs. I had bruises
20 on the small of my back. They weren't there. They were
21 never there.

22 And the way to cross-examine this sweet lady who
23 was the nurse was to take her medical record and rub her
24 professional nose in it because it was the truth. And to
25 say, oh she couldn't remember, and that is the greatest

1 defense move of all time, frightens me. Because not
2 remember leaves the door open for both sides. And we don't
3 need to leave the door open for both sides.

4 If we are sitting there and being beaten up by a
5 credible, believable person, who is telling the jury
6 credibly and believably a fake story, I don't care what car
7 came up and down the road. I don't care whether it was a
8 path or a driveway. I don't care if it was in the front or
9 the backseat. I don't care what they did. I care that the
10 medical evidence made this woman a liar. And if the
11 standard with the judge is, when you do it, if the facts,
12 any of the facts, are such that cause you to hesitate, then
13 there is reasonable doubt.

14 So here's what Ms. Butcher does: She knows that
15 the statement is inconsistent. She hears it. She's at
16 least had somebody look at these medical records, and this
17 woman is talking about, I've got scratches all over. I've
18 got them on my back, I'm all over, I'm torn up. You know
19 what Ms. Butcher does in her brilliant cross-examination?
20 She asked her twelve questions. So you had scratches on
21 your front? Yes, ma'am. So you had scratches on your
22 stomach? Yes, ma'am. So you had bruises on your legs?
23 Yes, ma'am. So you had a bruise on your back? Yes, ma'am.
24 Okay.

25 She set it up and freaking walked away from it when

1 it was staring her in the face. And she says this. I've
2 never heard a defense lawyer in my life argue more for the
3 negative and what the prosecution has said and could've
4 said and we could've done that and we could not have done
5 that. This man was on trial for his life, and you had to
6 go at it 150 percent. And it was given to you on a silver
7 platter, and unfortunately you weren't prepared. And
8 that's why we're here. Thank you for hearing this.

9 THE COURT: Thank you, Mr. Chandler.

10 Anything briefly in response, Mr. Attorney General.

11 MR. SPENCER: Yes, Your Honor. Very briefly. I
12 believe on page 226, which is her closing, she does bring
13 up all about the scratches on the chest, scratches on the
14 arm. And she mentions she is the only one who testified
15 about the scratches on the back and scratches on the arm.
16 She certainly brought it up in closing.

17 Certainly I disagree with the idea that the victim
18 was lying or, you know, that kind of boldface assertion.
19 Ms. Butcher, of course, has the best -- had the best view
20 of her credibility of anybody that's spoken today because
21 she was the only one that was there. But frankly to say
22 she's lying because of what might be minor inconsistencies
23 between statements that she gave while she was upset, that
24 she was never shown by the nurse, comparing it to trial
25 testimony that's almost nearly consistent.

1 I don't think that's a fair characterization at
2 all. I understand they've got to try and make their case,
3 but that is just not a fair characterization at all. I
4 would just stand by my previous argument. I think Ms.
5 Butcher did a fine job with what she had. And yes, it
6 matters what you're client's telling you. Yes, it matters
7 what your client's demeanor is like during trial. And yes,
8 it matters your trial strategy when you have someone who's
9 going to undermine you by -- depending by making a decision
10 to testify on whether or not it's lunch time, I guess.
11 With that, Your Honor, I appreciate your indulgence. But
12 that would be all from the State.

13 THE COURT: Thank you. Thank you.

14 MR. CHANDLER: Thank you, sir.

15 THE COURT: Thank very much. All right. If y'all
16 would both submit proposed orders within fifteen days?
17 Y'all know how busy you are.

18 MR. SPENCER: Your Honor, just to be safe, I'd
19 appreciate thirty.

20 THE COURT: Thirty days.

21 MR. JENNINGS: Yes, sir.

22 THE COURT: To my law clerk. He manages -- send it
23 to his e-mail address because when they both come in, then
24 he gets them to me. Okay? All right. Thank you. Thank
25 you, very much.

1 MR. JENNINGS: Thank you.

2 MR. SPENCER: Thank you, Your Honor.

3 THE COURT: Good luck to you, Mr. Woods. Thank you
4 for being with us today, Ms. Butcher.

5

6 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)

2 County of Aiken)

Certificate of Reporter

3
4
5
6 I, THE UNDERSIGNED, Brenda J. Sigwald,
7 Official Court Reporter for the Eleventh Judicial Circuit
8 of the State of South Carolina, do hereby certify that I
9 reported the proceedings in the captioned case in the Court
10 of Common Pleas in and for the State of South Carolina on
11 the 30th day of September, 2013.

12 I FURTHER CERTIFY that the foregoing pages,
13 constitute a true, accurate and complete transcript of said
14 hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 seal at Aiken County, this 18th day of May 2015.

19
20
21 *Brenda J. Sigwald*

22 _____
23 Brenda J. Sigwald,
24 Court Reporter and Notary Public
25 For the State of South Carolina
My commission expires
January 4, 2020

ARREST WARRANT

J-121801

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

THE STATE

against

DONNELL WOODS

Address: _____

ALCOLU SC 29001

Date of Birth: _____ SSN: _____

Sex: M Race: B Height: 6-0 Weight: 175

State: _____ DL#: _____

DOB: _____ Agency ORI#: SC0140000

Prosecuting Agency: CLARENDON COUNTY SHERIFF'S

Prosecuting Officer: INV R.T. AVANT

Offense: CRIMINAL SEXUAL CONDUCT 1ST

DEGREE Offense Code: 0160

Del/Ordinance Sec. 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

The accused

to be arrested and brought before me to be
dealt with according to law.

Signature of Judge

(L.S.)

Date: _____

RETURN

Copy of this arrest warrant was delivered to

Defendant DONNELL WOODS

Date: 6-29-07

Signature of Constable/Law Enforcement Officer

Signature of Constable/Law Enforcement Officer

TURN WARRANT TO:

Judge P.B. HARVIN, JR.

2 SOUTH MILL STREET

P.O. BOX 371

MANNING, SC 29102

PETITIONER'S
EXHIBITWords
9-3-13

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 28, 1980
SCCA 618

Personally appeared before me the affiant INV R.T. AVANT

who

being duly sworn deposes and says that defendant DONNELL WOODS

did within this county and state on 06/23/2006 to 06/24/2006 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CLARENDON

in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0652 / CRIMINAL SEXUAL CONDUCT 1ST DEGREE

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:ON 06-23-2006, NEAR THE AREA OF TEARCOAT ROAD AND BROGDON ROAD, ALCOLU, CLARENDON COUNTY, THE
DEFENDANT, DONNELLE WOODS DID FORCIBLY RAPE THE VICTIM WHILE HOLDING HER AGAINST HER WILL. THE
DEFENDANT CAUGHT A RIDE WITH THE VICTIM TO ALCOLU. HE THEN GRABBED HER BY THE NECK AND FORCED HER TO
DRIVE TO A SECLUDED AREA WHERE HE THEN FORCED HER TO PERFORM ORAL SEX ON HIM, THE VICTIM THEN
ATTEMPTED TO FLEE AND THE DEFENDANT RAN HER DOWN AND RAPED HER. THE VICTIM IDENTIFIED THE DEFENDANT
AS BEING THE ONE WHO RAPED HER. AFFIANT, ALONG WITH OTHERS IS WITNESS TO PROVE. CCSO CASE # 06-06-3324.

Signature of Affiant

Affiant's Address 217 COMMERCE STREET

MANNING SC 29102

Affiant's Telephone 803-435-4414

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 06/23/2006 defendant DONNELL WOODS

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of CLARENDON) as set forth below:

DESCRIPTION OF OFFENSE: SEX / CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 06/26/2006

Signature of Issuing Judge (L.S.)

Signature of Issuing Judge

Judge Code: 955

Judge's Address P. O. BOX 371

MANNING SC 29102

Judge's Telephone 435-2670

Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit

Case: J-121801

ORIGINAL

404

ARREST WARRANT

J-121803

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

THE STATE

against

DONNELL WOODS

Address:

COLU SC 29001

Date: / SSN: /

Sex: M Race: B Height: 6-0 Weight: 175

State: DL#:

B: Agency ORI#: SC0140000

Securing Agency: CLARENDON COUNTY SHERIFF'S

Securing Officer: INV R.T. AVANT

Offense: STRONG ARM ROBBERY

Offense Code: 0137

Ordinance Sec. 16-11-0325

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
It with according to law.

Signature of Judge

(L.S.)

RETURN

A copy of this arrest warrant was delivered to
defendant DONNELL WOODS

6-29-07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JUDGE P.B. HARVIN, JR.

SOUTH MILL STREET

P.O. BOX 371

MANNING, SC 29102

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

Personally appeared before me the affiant INV R.T. AVANT who

being duly sworn deposes and says that defendant DONNELL WOODS

did within this county and state on 06/23/2006 to 06/24/2006

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CLARENDON)

in the following particulars:

DESCRIPTION OF OFFENSE: 16-11-0325 / STRONG ARM ROBBERY

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:ON 06-23-2006, IN THE ALCOLU AREA OF CLARENDON COUNTY, SC, THE DEFENDANT, DONNELLE WOODS ROBBED THE
VICTIM BY TAKING HER WALLET AND TAKING THE MONEY FROM IT. THIS OFFENSE OCCURRED WHILE IN COMMISSION OF
A KIDNAPPING AND CSC 1ST DEGREE. AFTER TAKING THE MONEY FROM THE WALLET, THE DEFENDANT THREW IT OUT
AND THE WALLET WAS RECOVERED BY LAW ENFORCEMENT. VICTIM IDENTIFIED THE DEFENDANT. AFFIANT, ALONG
WITH OTHERS IS WITNESS TO PROVE. CCSO CASE # 06-06-3324.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

Affiant's Address 217 COMMERCE STREET

MANNING SC 29102

Affiant's Telephone 803-435-4414

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 06/23/2006 defendant DONNELL WOODS

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of CLARENDON) as set forth below:

DESCRIPTION OF OFFENSE: ROBBERY / COMMON LAW ROBBERY, STRONG ARM ROBBERY

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 06/26/2006

Signature of Issuing Judge

(L.S.)

Judge's Address P. O. BOX 371

MANNING SC 29102

Judge's Telephone 435-2670

Judge Code: 955

Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit

ORIGINAL

Case: J-121803

Form Approved by
S.C. Attorney General
July 28, 1990
SCCA 518JUL 20 PM 3:52
CLARENDON COUNTY SC

405

ARREST WARRANT

J-121802

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

THE STATE

against

DONNELL WOODS

Address: _____

ALCOLU SC 29001

Date: _____ SSN: _____

c: M Race: B Height: 6-0 Weight: 175

State: _____ DL#: _____

B: _____ Agency ORI#: SC0140000Secuting Agency: CLARENDON COUNTY SHERIFF'SSecuting Officer: INV R.T. AVANTOffense: KIDNAPPINGOffense Code: 0095Offense/Ordinance Sec. 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of _____

The accused

is to be arrested and brought before me to be dealt with according to law.

Signature of Judge _____ (L.S.)

e: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DONNELL WOODS6-29-07

Signature of Constable/Law Enforcement Officer _____

RETURN WARRANT TO:

JUDGE P.B. HARVIN, JR.

2 SOUTH MILL STREET

P.O. BOX 371

MANNING, SC 29102

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 26, 1990
SCCA 518

Personally appeared before me the affiant INV R.T. AVANT who
being duly sworn deposes and says that defendant DONNELL WOODS
did within this county and state on 06/23/2006 to 06/24/2006 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CLARENDON)
in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0910 / KIDNAPPING

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

ON 06-23-2006, NEAR THE AREA OF TEARCOAT ROAD AND BROGDON ROAD, ALCOLU, CLARENDON COUNTY, THE
DEFENDANT, DONNELLE WOODS DID FORCIBLY RAPE THE VICTIM WHILE HOLDING HER AGAINST HER WILL. THE
DEFENDANT CAUGHT A RIDE WITH THE VICTIM TO ALCOLU. HE THEN GRABBED HER BY THE NECK AND FORCED HER TO
DRIVE TO A SECLUDED AREA WHERE HE THEN FORCED HER TO PERFORM ORAL SEX ON HIM, THE VICTIM THEN
ATTEMPTED TO FLEE AND THE DEFENDANT RAN HER DOWN AND RAPED HER. THE VICTIM IDENTIFIED THE DEFENDANT
AS BEING THE ONE WHO RAPED HER. AFFIANT, ALONG WITH OTHERS IS WITNESS TO PROVE. CCSO CASE # 06-06-0324.

20 PM 3:52

CLARENDON COUNTY SC

Signature of Affiant INV R.T. AVANT

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

CLARENDON

Affiant's Address 217 COMMERCE STREETMANNING SC 29102Affiant's Telephone 803-435-4414

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 06/23/2006 defendant DONNELL WOODS

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of CLARENDON) as set forth below:DESCRIPTION OF OFFENSE: KIDNAPPING / KIDNAPPING

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me _____)

on 06/25/2006 _____)

Signature of Issuing Judge _____ (L.S.)

Judge Code: 955Judge's Address P. O. BOX 371MANNING SC 29102Judge's Telephone 435-2670Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit

Case: J-121802

ORIGINAL

406

dA#08-363

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)

AFFIDAVIT OF INDIGENCY
 AND
 APPLICATION FOR COUNSEL

249

STATE VS Donnic WoodsCRIMINAL CASE # 51218035121801721802CHARGE(S) CSC, Strong Arm RobberyKidnappingRACE/SEX D.O.B. SSN ADDRESS Sumter S.C. 29450TELEPHONE # DOA CO-DEFENDANT(S) 1.) Are you presently employed? Yes No ✓a.) If "Yes", give name and address of employer and your wages. b.) If "No" where did you last work; when did you stop work there; what were your wages? c.) Single ✓ Divorce or Separated Married Is your spouse employed? Yes No If "Yes" where? Income? d.) What is the combined income for all working members of your household? N/A2.) How many people (children, etc.) are dependent on you for support? N/AHow much do you spend weekly for their support? 3.) List any money you have received in the past twelve months, which has not already been listed, and the source of the money, such as: self-employment, gifts, inheritances, insurance benefits. 4.) Do you have any cash money, a checking or savings account? Yes No ✓If "Yes", how much? 5.) Do you own any real estate or valuable personal property? Yes No ✓If "Yes", describe the property and the value of the property. 6.) Do you own an automobile? Yes No ✓ Is it paid for? Yes No If "Yes", Make and Model . If not, what are the payments? 7.) List the amount of all debts you owe, and to whom they are owed. N/A

PETITIONER'S
 EXHIBIT

Woods
 9-30-12

2

30

Law Office of Deborah J. Koon, LLC.
Attorney at Law
Post Office Box 1
Manning, South Carolina 29102
803-460-8705

July 26, 2007

Clarendon County Solicitor's Office
Amy Land, Esquire
Post Office Drawer 700
Manning, South Carolina 29102

RE: State of South Carolina vs. Luther Spigner IV
 State of South Carolina vs. Johnny Gladden
 State of South Carolina vs. Jasmaine Brunson
 State of South Carolina vs. Herbert Mitchum
 State of South Carolina vs. Donniel Woods
 State of South Carolina vs. Jonathan Randolph
 State of South Carolina vs. Bernell Brock

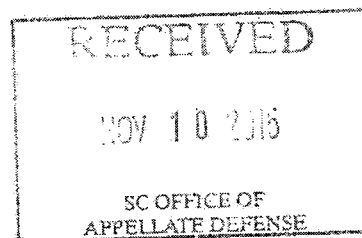
Motion for Discovery and Inspection and Motions for Brady and Other
Favorable Material and Incorporated Memorandum of Law

Dear Amy:

I have been appointed to represent the above named individuals in connection with the charges currently pending against them here in Clarendon County. Accordingly, enclosed herewith, please find a copy of the Motion for Discovery and Inspection and Motion for Brady and Other Favorable Material and Incorporated Memorandum of Law.

With warm regard,

Deborah J. Koon



STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE OF SOUTH CAROLINA,

VS.

Donniel Woods,

DEFENDANT.

IN THE COURT GENERAL SESSIONS
FOR THE THIRD JUDICIAL CIRCUITCERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE 7/30/07

Basil B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

MOTION FOR DISCOVERY AND INSPECTION

NOW COMES the Defendant, by and through his undersigned counsel of record, pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure, and moves prosecution to permit Defendant to inspect and copy or photograph, within thirty (30) days of service of this Motion, and at least within ten (10) days prior to trial, including but not limited to, the following, with the express provision that the duty of disclosure be a continuing one in the event that any such materials come into existence or become available after initial disclosures:

A. Any written or recorded statements made by the Defendant, or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution;

B. The substance of any oral statement which the prosecution intends to offer into evidence at the trial made by the Defendant, whether before or after arrest, in response to interrogation by any person then known to the Defendant to be a prosecution agent;

C. A copy of the Defendant's prior criminal record, if any, as if within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise by due diligence may become known, to the attorney for the prosecution;

D. All books, papers, documents, photographs, tangible objects, buildings or places, or copies or prosecution, the existence of which is known, or control of the prosecution, and which are material to the defense, or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the Defendant;

E. All results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody and control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution, and which are material to the preparation of the defense and are intended for use by the prosecution as evidence in chief at the trial;

F. The statement of any witness or prospective prosecution witness, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; and

G. The criminal history of any witness to be called by the prosecution to testify in this case.

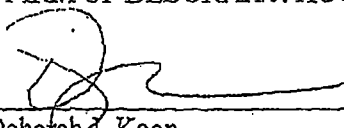
The Defendant further moves that compliance with the foregoing request be made within ten (10) days from the service of this motion, and upon failure of the prosecution to so comply, the Defendant will move before the Presiding Judge for an Order prohibiting the prosecution from introducing at trial evidence not disclosed, and if the foregoing is denied, an Order

permitting the

discovery and inspection requested, or a continuance of the trial, or such Order as the Court in its discretion deems just under the circumstances.

For purposes of this Motion, the Defendant asserts that any item requested in Paragraphs (a), (b), (c), (d), (e), (f) and (g) above is material to the preparation of the defense in this case.

LAW FIRM OF DEBORAH J. KOON, LLC

By 

Deborah J. Koon
Attorney for the Defendant
Post Office Box 1
Manning, SC 29102
(803) 460-8705

July 30, 2007

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE OF SOUTH CAROLINA,

VS.

Donniel Woods,

DEFENDANT.

IN THE COURT GENERAL SESSIONS
FOR THE THIRD JUDICIAL CIRCUIT

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 7/30/07
Brenda A. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

**MOTION FOR BRADY AND OTHER FAVORABLE MATERIAL
AND INCORPORATED MEMORANDUM OF LAW**

COMES NOW the Defendant, by and through undersigned counsel, and files this Motion for Brady and other favorable material and incorporated Memorandum of Law requiring the production of material to the Defendant within thirty days of the receipt of this request or at least ten (10) days prior to trial. As grounds therefore, the undersigned would show as follows:

1. Under the United States Supreme Court Decision in Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963), the Solicitor has an obligation to produce all Brady material for the Defendant well in advance of the scheduled trial date.

2. Defendant claims under Brady and is progeny, as well as the language and spirit of Giglio v. United States, 405 U.S. 105, 92 S.Ct. 763 (1972); United States v. Tashman, 478 F.2d 129 (5th Cir. 1973); and Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173 (1959); Alconta v. Texas, 355 U.S. 28 (1957); Mooney v. Hallibam, 294 U.S. 103 (1935); and Moore v. Illinois, 408 U.S. 786 (1962); that he/she is entitled to any and all records, memoranda and documents, as well as a statement of the Circuit Solicitor and all appropriate state, federal and local law agencies as to:

- a. All statements by the Defendant, whether oral or written; if written, whether signed or unsigned.
 - b. All handwritten notes made by police or other investigating officers of their interview or conversation with the Defendant or any other witness.
 - c. Any oral, written or recorded statements made by any person to the Solicitor's office, Grand Jury or any law enforcement agency in connection with this case.
 - d. A copy of all tape recordings, audio or video, made by a Defendant, witness or any other person in connection with this case. If these tape recordings have been transcribed, then a copy of the transcribed conversation is also requested.
3. Any and all investigation reports, information or material which tends to establish the Defendant's innocence, to mitigate punishment, or to impeach, discredit, or contradict the testimony of any witness whom the State will or may call at trial. Giles v. Maryland, 386 U.S. 66, 87 S.Ct. 793 (1967); Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173 (1959); Giglio v. U.S., supra.
4. The names and addresses of all witnesses interviewed by the Solicitor's office or any other law enforcement agency who might establish the Defendant's innocence, mitigate punishment, or impeach, discredit, or contradict the testimony of any witness of the State whether or not the witness may testify at trial.
5. Any and all photographs taken of the Defendant or any portion of his body.
6. Any and all photographs taken at the scene of the alleged crime and/or the alleged victim or prosecuting witness.
7. Any photographs that have been exhibited to any person for the purpose of establishing the identity of the perpetrator of the crime charged and the name and current address of the person or persons to whom the photographs were shown.

8. Any scientific or medical report which tends to establish the Defendant's innocence, to mitigate punishment or to impeach, discredit, or contradict the testimony of any witness whom the State may call at trial. Ashley v. Texas, 319 F.2d 80 (5th cir.), cert. denied, 375 U.S. 931, 84 S. Ct. 331 (1963). This request shall include any reports by or to the State Law Enforcement Division (SLED) criminalistic laboratory, Federal Bureau of Investigation laboratories, County Sheriff's Department laboratory, Medical University of South Carolina laboratory, or any other law enforcement laboratory concerning any examination made by said laboratories and/or personnel thereof, of any physical, photographic, oral or written evidence concerning the investigation of this case.

9. All reports from the State Law Enforcement Division (SLED), Sheriff's Department, or any other law enforcement agency, including the Federal Bureau of Investigation, concerning fingerprints checked in connection with this case.

10. All records or arrests or criminal convictions of the Defendant or any co-defendant and all State's witnesses in relation to this case. Giglio v. U.S., *supra*.

11. All "inconsistent" statements made by a particular witness or between witnesses, whether written or oral, that is known to the Solicitor's Office or any other law enforcement agency.

12. Any statement or admission by a witness for or on behalf of the State with respect to the witness' memory or loss thereof.

13. Whether or not any witness called before the Grand Jury, or who was or will give testimony to any investigative agency or at trial has ever been psychiatrically hospitalized or undergone psychiatric treatment, examination, mental status examination or care, and if so, a list

of names and addresses of the psychiatrists, hospitals and copies of any and all relevant records and reports.

14. All notes or memoranda by psychiatrists or other medical or mental health examiners of their conversations with the Defendant.

15. Any and all plea bargains, promises, rewards, reductions, dismissals, agreements not to bring criminal charges or any other inducements made to any witness herein, whether or not they have testified before any State or Federal Grand Jury, or other investigative agency, and regardless of whether or not they will testify at trial.

16. Any offers or grants of immunity to any witness from loss of property, fine, forfeiture, prosecution or punishment in this case or any other case, related or otherwise.

17. In addition, Defendant requests copies of any and all memoranda, reports and correspondence to and from the various law enforcement agencies of the United States and all state, county, municipal and local law enforcement agencies regarding the investigation herein.

18. Any and all physical or tangible items in the possession, custody or control of or which could reasonably be brought within the possession, custody or control of the Solicitor's Office, State, Federal or local law enforcement agency.

19. Defendant contends that this Court should specifically direct the Government in the spirit of fairness and equity, seek and produce for the Defendant the documents, letters, records and other items sought, irrespective of the State's determination of whether or not a witness' statement or a particular letter or exhibit can "help" the Defendant. The Defendant and his/her attorney, not the Solicitor, should be the judge of his/her defense and the documents relevant thereto and necessary in support of same.

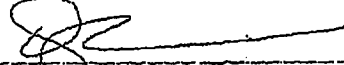
20. To the extent the Defendant is specifically required to demonstrate the materiality of the requested information, the Defendant submits that this requirement is satisfied in this motion. United States v. Agurs, 427 U.S. 97 (1976).

21. Recognizing the Brady v. Maryland, supra, and other authorities cited require that information favorable to the Defendant be made available, and further recognizing that a genuine disagreement may arise as to whether or not a particular item of evidence is favorable, it will be requested that the Court provide for an in-camera inspection of the items sought to be discovered should you feel such items are not favorable to the Defendant. By permitting the Court to examine the items requested, the legitimate interest of the State will be protected in that no disclosure in excess of Brady, et al. will occur. Further it will be requested of the Court that said Order will be a continuing one, and if, prior to or during trial, the prosecution discovers additional evidence or material requested, the prosecution is hereby requested promptly to notify counsel for the Defendant of the existence of the additional evidence or material.

It is further requested that the prosecution promptly respond to the within request by notifying counsel for the Defendant of the existence and availability of the information requested herein within thirty days of this motion and at least ten (10) days prior to trial.

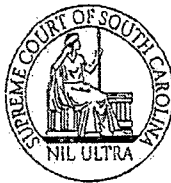
WHEREFORE, the undersigned prays for such Order requiring production of the above listed materials and for that which is just and proper.

LAW FIRM OF DEBORAH J. KOON, LLC

By 

Deborah J. Koon
Attorney for the Defendant
Post Office Box 1
Manning, SC 29102
(803) 460-8705

July 30, 2007



The Supreme Court of South Carolina

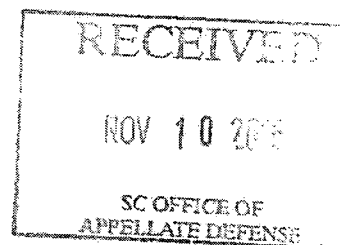
DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

July 21, 2008

Deborah Johnson Koon, Esquire
Law Office of Deborah J. Koon, LLC
P.O. Box 1
Manning, SC 29102

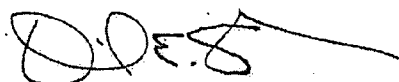


RE: State v. David Woods, Warrant Nos. J121803, etc.

Dear Ms. Koon:

Enclosed is correspondence received from Mr. David Woods Harrison. Since you apparently represent him in this matter, no action will be taken on this pro se filing. Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989). Assuming that it is appropriate to seek any relief from this Court,¹ that request will have to be made by you as his counsel.

Sincerely,


Daniel E. Shearouse

Enclosure

cc: Mr. Donnie Woods, #77951
Clarendon County Detention Center
P.O. Box 730
Manning, SC 29102

The Honorable C. Kelly Jackson
Solicitor, Third Circuit
Courthouse
Sumter, SC 29150



Woods
9-30-08 4 m

¹ Under Rule 229, SCACR, relief must generally be sought in a lower court rather than in this Court.

RECEIVED

JUL 21 2008

STATE

STATE OF SOUTH CAROLINA

SUPREME COURT

County of CLarendon

OF

SOUTH CAROLINA

STATE OF SOUTH CAROLINA

VS.

MOTION FOR

Donniel Woods

JUDICIAL REVIEW

RECEIVED

Defendant

JUL 21 2008

TO: HONORABLE JUSTICE

TO: DISTRICT ATTORNEY

S.C. SUPREME COURT

Comes now, the Defendant Donniel Woods pro se, and makes this motion for judicial review pursuant to Amendments to the U.S. Constitution and the S.C. Constitution rules of Criminal Procedures. I Defendant Donniel Woods having been incarcerated since JUNE 26, 2006 over (2) TWO now consecutive years and remain awaiting trial at the Clarendon County Detention Center County of Clarendon City of Manning IN THE COURT OF General Sessions THIRD JUDICIAL CIRCUIT. I Defendant is sure Counsel one MS. DEBORAH KOON Esquire, Public Defender, moved on my behalf in filing the following: MOTION FOR Bond, MOTION FOR FAST and Speedy Trial ETC... I Defendant Donniel Woods also filed motions for same, for I found it paramount to move forward to prove my Innocence. I Defendant file this motion for judicial review because the Honorable Court of the Third Judicial Circuit did not respond to any of Counsel one MS. DEBORAH

Koon nor I. Defendant Donniel Woods Motions

AS Grounds therefore the Defendant would Show AS Follows;

- 1.) That the 5th, 6th, 8th, 9th and 14th Amendments to the U.S. Constitution have been Violated and is currently in violation being construed by Law.
 - 2.) I Defendant Donniel Woods has been Incarcerated since JUNE 26, 2006 over (2) TWO years under Warrant Numbers J-121801, J-121802, J-121803 and J-123559, and has yet to receive A Bond I have yet to be confronted by witnesses during Preliminary HEARINGS NOR Questions by ANY STATE LAW ENFORCEMENT or INVESTIGATOR.
 - 3.) I Defendant Donniel Woods has been Incarcerated over (2) TWO years currently being hold At the CLarendon County Detention CENTER Facility, P.O. BOX 730 MANKING S.C. 29102 and believes my 5th, 6th, 8th, 9th and 14th Amendments to the Constitution has been Violated and continues to be in violation. THE 180 day rule SET FORTH by the Supreme Court IS IN VIOLATION ALREADY (FACT). Fact is Cruel and UNUSUAL Punishment has been committed that should CALL FOR IMMEDIATE JUDICIAL REVIEW.
 - 4.) I Defendant Donniel Woods has yet to be presented with AN INDICTMENT OF the GRAND JURY And REMAIN INCARCERATED which is WITHIN direct VIOLATION OF RULE 3 CRIMINAL LAW indictment PROCEDURES.
- ALL ARGUMENTS based on the U.S. CONSTITUTION Bill of RIGHTS, LAWS OF the LAND and VIOLATIONS ETC., AS FOLLOWS:

1.) V. Amendment Rights of Due Process of Law, no person shall be held to answer for a crime unless on presentment or an indictment of a Grand Jury, Argument: I Defendant Donnell Woods have been incarcerated since June 26, 2006 over (2) TWO years and there have been no indictments presented to Defendant which is unjust and inhumane in direct violation of DUE PROCESS. This has deprived me of life, liberty and property without due process of the law.

2.) VI. Amendment Rights to a Fair Trial, The accused shall enjoy the right to a speedy and public trial. Argument: I the Defendant have been incarcerated over (2) TWO years and the 180 day rule set forth by the SUPREME COURT OF SOUTH CAROLINA has been violated.

3.) XIII Amendment Equal Protection and DUE PROCESS OF THE LAW, Argument: I Defendant has endured all these illegal procedures based on A POLICE INCIDENT REPORT. This is not proper procedure or Probable Cause to have this CASE heard IN General Sessions Court. I Defendant is still awaiting AN INDICTMENT, WITNESSES, WOODS OR ANY other evidence obtained by STATE LAW OFFICIALS. I Defendant Donnell Woods pray for justice in this matter, and AS that the HONORABLE JUSTICE OF THE STATE SUPREME COURT APPROVE this MOTION FOR JUDICIAL REVIEW.

Kindest Regards

ENCLOSED: COPIES OF MOTIONS FILED

x Donnell Woods

Donnell Woods, DEFENDANT

P.O. Box 730

MANNING, S.C. 29102

DANIEL WOODS # 77951

Return address: PO Box 730

Monning, SC 29102

JUNE 30, 2008

TO: Beulah Roberts

EA: Motion For Bond, Motion For Speedy Trial

cc:

MRS. Roberts please put the above on file. I would also like for you to make
pics for my files

In kindest regard,

x Daniel Woods

JUN 30 1 51 PM '08

MSC

cc: please return copies for the defendant

PETITIONER'S
EXHIBITWoods
9-38-30

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100

STATE OF South Carolina	In The Court of General Sessions Of The Third Judicial Circuit
County of Clarendon	
State of South Carolina	Notice of Motion AND Motion for A Speedy Trial
VS.	
Donniel Woods	WARRANT: # ^s J-121803, ETC.
Defendant	

I defendant along with Counsel will move before the Court as soon as this matter may be heard, to set date certain for the trial of this matter. This motion is based upon the following facts: I Defendant is Charge with CSC, kidnapping, and Strong Arm Robbery. I Defendant was arrested on June 23, 2006 I Defendant was served with this warrant on June 29, 2007 I Defendant remain incarcerated. I Defendant asserts my rights to a Speedy or public Trial and asks that the Court either set a date certain for the trial of this case or dismiss this action with prejudice. I Defendant along with Counsel makes this motion pursuant to the 6th and 14th amendments to the U.S. Constitution, the S.C. Constitution Art. I, 3, 14, *Dogette v. U.S.* 112 S. Ct. 2636 (U.S. 1992 as Amended) and the 180-day Rule issued by the S.C. Supreme Court.

Respectfully submitted

By Donniel Woods

Donniel Woods #77951

WARRANT #^s J-121803, ETC.

STATE OF SOUTH CAROLINA

V.S

Donniel Woods

Defendant

IN The Court of General Sessions
OF The Third Judicial Circuit

Motion For Bond

County Of Clarendon

State of South Carolina

Comes Now the Defendant, Donniel Woods, along with Counsel, who would move this Honorable Court for an order setting bond I Defendant is Charge with CSC, kidnapping, strong Arm Robbery, and Threatening public official I Defendant is presently incarcerated at the Clarendon County Detention Center. I Defendant along with Counsel would show that I Defendant does not pose a flight risk nor does I Defendant pose a threat to the community.

Respectfully Submitted

By: Donniel Woods

Donniel Woods #77951

Warrants # J-123559, J-121823, ETC.

Deborah Koon

From: Deborah Koon
Sent: Wednesday, August 06, 2008 2:53 PM
To:
Subject: pleas

Amy this is my email address from now on.

Donell Woods--- he was one I saw way back when I first started---he informed me he had a private attorney so I assumed he did. I did not realize that he did not until the end of June 2008. I received that letter from the SC also--- I understand he is not indicted yet. In other words he has been in jail a long time and looks like he fell through the cracks on both our ends. Are you going to indict ?????

These people want to plea-what will you offer?

Lindell Jones
Fredrick Nelson

These people need a bond hearing:
Lindell Jones
Jason Roberson

PETITIONER'S
EXHIBIT

Woods

9-30-13

6

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WITNESSES

Todd Avant-CCSO

ARREST WARRANT NUMBER

J121801

J121802

J121803

ACTION OF GRAND JURY

*True Bill**Carlane L. Hill*
Foreperson of Grand JuryDate: *08/21/08*

VERDICT

*Guilty as charged all 3
Counts**William W. Gardner*
Foreperson of Petit JuryDate: *10-16-08*DOCKET NO. 2008-GS-14- *0365*

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

AUGUST TERM 2008

THE STATE

vs.

DONNELL WOODS

Indictment for

CRIMINAL SEXUAL CONDUCT FIRST DEGREE
KIDNAPPING
STRONG ARM ROBBERY

C. KELLY JACKSON, SOLICITOR

PETITIONER'S
EXHIBIT
Woods
9-30-13

m

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)

INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT FIRST DEGREE
 KIDNAPPING
 STRONG ARM ROBBERY

At a Court of General Sessions, convened on August 21, 2008, the Grand Jurors
 of CLARENDON COUNTY present upon their oath:

COUNT ONE - CRIMINAL SEXUAL CONDUCT FIRST DEGREE

That DONNELL WOODS did in Clarendon County between June 23, 2006, and June 24, 2006, violate Section 16-3-652 of the Code of Laws of South Carolina (1976), as amended, in that the said Donnell Woods did engage in, or attempt to engage in, a sexual battery in and upon Sheila Summers by using aggravated force and aggravated coercion upon her and assaulting her with the intent to engage sexual battery with the said Sheila Summers.

COUNT TWO - KIDNAPPING

That DONNELL WOODS did in Clarendon County between June 23, 2006, and June 24, 2006, violate Section 16-3-910 of the Code of Laws of South Carolina (1976), as amended, in that he did unlawfully seize, confine, abduct, and carry away, without the authority of law, and by the use of force Sheila Summers.

COUNT THREE - STRONG ARM ROBBERY

That DONNELL WOODS did in Clarendon County between June 23, 2006, and June 24, 2006, feloniously or unlawfully take from the person by means of force or intimidation goods or monies of the said Sheila Summers, such goods or monies being described: money and personal belongings.

Against the peace and dignity of the state, and contrary to the statute in such case made and provided.

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 3/20/12
Beverly H. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

C. Kelly Jacobson
 SOLICITOR

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) THIRD JUDICIAL CIRCUIT
 COUNTY OF SUMTER) WARRANT #s: J-12180-3, 9 12180, J 121802

State of South Carolina,)
 :

Plaintiff,)
 :

vs.)
 :

Donell Woods,)
 :

Defendant.)
 :

**MOTION FOR A SPEEDY TRIAL
 AND MOTION FOR RELEASE ON
 PERSONAL RECOGNIZANCE**

TO: AMY LAND, SOLICITOR, THIRD JUDICIAL CIRCUIT:

YOU WILL PLEASE TAKE NOTICE that Deborah J. Butcher, attorney for the above named Defendant, moves for and/or renews a Motion for a Speedy Trial pursuant to the rights given to the Defendant pursuant to State and Federal Constitutions.

Please take note that the Defendant also herewith moves the Court for Orders granting the Defendant a personal Recognizance Bond or an Order of dismissal on all charges pending before the Court (and an Order lifting any bench warrants that may have been imposed on him) if the Defendant has not been tried within two (2) terms of the first day of the term of Court immediately following the date of this Motion for a Speedy Trial.

Defendant herewith requests and moves that this Motion for a bond reduction, requested Orders and/or dismissal be granted forthwith for the Defendant upon the expiration of the second term of Court by the Court, pursuant to §17-23-90 of the South Carolina Code of Laws, as amended.

**CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE**

DATE

3/20/12

Beulah M. Roberts

CLERK OF COURT
 CLARENDON COUNTY, SC

[Signature]
 DEBORAH J. BUTCHER

Attorney for Defendant

141 North Main Street, Room 100

Post Office Box 2444

Sumter, SC 29151-2444

803-436-2424/803-436-2423 (fax)

**PETITIONER'S
 EXHIBIT**

August 22, 2008.

Woods

9-30-15 9

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STATE OF SOUTH CAROLINA)

IN THE GENERAL SESSIONS
COURT OF MANNING

CASE NO.: 2008-GS-14-0365

COUNTY OF CLARENDON)

STATE OF SOUTH CAROLINA)

PLAINTIFF,)

-VS-)

TRANSCRIPT OF RECORD

DONNIEL WOODS)

DEFENDANT.)

AUGUST 26, 2008
MANNING, SOUTH CAROLINA

B E F O R E:

HONORABLE HOWARD KING, JUDGE

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

MS. AMY LAND
ASSISTANT SOLICITOR
THIRD JUDICIAL CIRCUIT
FOR THE PLAINTIFFMS. JANET T. BUTCHER
ATTORNEY AT LAW
CAMDEN, SOUTH CAROLINA
FOR THE DEFENDANTWANDA NELSON
OFFICIAL COURT REPORTER
SIXTEEN JUDICIAL CIRCUIT
AT-LARGE

ORIGINAL

PETITIONER'S
EXHIBIT

Woods

938-B

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1 THE COURT: Okay, Ms. Land.

2 MS. LAND: Your Honor, this is Donniel Woods
3 Indictment Number 2008-GS-14-365 he is indicted for
4 criminal sexual conduct in the 1st Degree, Kidnapping and
5 Strong Armed Robbery. He's here with his attorney Deborah
6 Koon and wishes to make a motion.

7 THE COURT: All right, Ms. Koon, Ms. Butcher.

8 MS. BUTCHER: Thank you, your Honor.

9 MS. LAND: I'm sorry.

10 MS. BUTCHER: Your Honor, Mr. Woods has been in jail
11 on these charges since July the 22nd 2006. He has not come
12 to trial as of yet. Your Honor, I would like to say I am
13 just now making a motion for speedy trial. Mr. Woods and I
14 did have a little misunderstanding about who was
15 representing him and just to explain why I am now making a
16 motion for a speedy trial - -

17 THE COURT: How long did you say that he has been
18 jail?

19 MS. BUTCHER: Since July 22nd 2006, over two years.

20 THE COURT: The information and I'm not doubting you
21 - -

22 THE SOLICITOR: He was arrested June 29th of '07.

23 THE COURT: That's right. I'm not doubting that
24 except that the information I have from the jail is June
25 the 29th of 2007 about thirteen months.

1 MS. BUTCHER: Your Honor, when probation because of
2 his charges kicked him back and revoked some of his
3 probation and that was on July the 22nd of 2006. So then
4 when he got out off probation he went straight into jail
5 for these charges.

6 THE COURT: But he was revoked on probation and got
7 credit for the time -- from the time that he was arrested
8 in '06 up until his time on his probation violation was
9 over with which would have been 6/29/07 so he wouldn't be
10 getting credit for both if he were pleading guilty would
11 he? Do you see what I'm saying?

12 MS. BUTCHER: I see what you're saying. I guess my
13 point is that these charges on the kidnapping and CSC 1st
14 - - -

15 THE COURT: He's been continuously incarcerated.

16 MS. BUTCHER: - - - while he was put in the jail or
17 one of the reasons they put him back in jail back July 22nd.
18 That's why I'm calculating the time - -

19 THE COURT: He's been continuously incarcerated since
20 July of '06?

21 MS. BUTCHER: Correct.

22 THE COURT: Okay.

23 MS. BUTCHER: And, your Honor, I have filed Brady
24 which has not been answered back on July 30th of '07. Your
25 Honor, I'm just here today and a letter - -

1 MS. LAND: This is '08.

2 MS. BUTCHER: This is '07 originally where it was
3 filed.

4 THE COURT: All right talk to me. Go ahead.

5 MS. BUTCHER: Your Honor, I'll be glad to pass this
6 up. This is a letter dated that I represent Mr. Woods July
7 of '07 and the Brady signed by the court of when I filed it
8 of '07. Your Honor, I'd be more than happy to pass those
9 up. Your Honor, we are here today asking for a bond to be
10 set a reasonable bond. I understand he was just indicted
11 the last time that the grand jury met so basically your
12 Honor he sat in jail for two years without being indicted.

13 THE COURT: All right.

14 MS. BUTCHER: I think may have refilled a Brady.

15 THE COURT: All right. All right so the situation as
16 I understand it where we are now with this matter is he is
17 charged with what, Ms. Land?

18 MS. LAND: Your Honor, he's charged with criminal
19 sexual conduct in the 1st Degree; Kidnapping and Strong
20 Armed Robbery.

21 THE COURT: All right and he was originally arrested
22 on these charges in July of what '06?

23 MS. LAND: Well I don't know about the probation. My
24 records reflect that he was arrested on this charge June
25 29th of '07.

1 THE COURT: Okay. And tell me about presentment to
2 the Grand Jury, Ms. Land?

3 MS. LAND: Your Honor, I received the last analysis
4 that I needed from SLED on June 20th of 2008. It was
5 submitted to the Grand Jury in August and I told Ms. Koon
6 yesterday that I would be willing to try this on October
7 the 14th. And honestly, your Honor, we talked about this
8 term next week. I have an assault and battery with intent
9 to kill a serious case and unless we try it this week
10 October 14th is the first date that I have available.

11 THE COURT: Okay. As you well know Ms. Land and Ms.
12 Butcher and those of you that have peripheral contact with
13 the differentiated case management and it should not even
14 be that way because we shouldn't have to be in the case
15 management on the administrative order Rule 3 A requires
16 indictments to be presented to the Grand Jury within ninety
17 days unless permission is obtained from the Administrative
18 Judge to go beyond that ninety day period for good cause
19 shown. It's always been my position that it is not
20 necessary to wait on all of the forensic evidence to come
21 in before the indictment is presented to the grand jury.
22 It might be necessary before a case goes to trial but
23 there's no reason for not going on and presenting cases to
24 the Grand Jury in a timely fashion and that does cause me
25 some concern. I'm curious about this though that - Okay

1 so the case number then is an '08 number, is that right?

2 MS. BUTCHER: That's correct, Judge.

3 THE COURT: That's very misleading as to the length of
4 the age of this case.

5 MS. LAND: Well the number that it's given corresponds
6 to the year that it's presented to the Grand Jury.

7 THE COURT: I know it. That's what I say that's very
8 misleading as to the age of the case. When you look at the
9 number presentment to the Grand Jury as '08 on a case that
10 the arrest is made in '06. I'm not sure what the actual
11 date of the incident was but at least the arrest was made
12 in July -- well at least June of '06. According if you use
13 you numbers your figures June 29th of '06.

14 MS. LAND: '07.

15 THE COURT: Okay '07. Okay still thirteen months
16 before the indictment was presented to the Grand Jury.

17 MS. BUTCHER: Your Honor, if I may just state as far
18 as flight risk and risk to the community just to let you
19 know Your Honor, Mr. Woods has lived in Manning basically
20 all of his life. He moved to Sumter in the year 2000. He
21 has a wife and children there. His father lives in
22 Applewood his brother and sister in Applewood also. It's
23 my understanding that his criminal history reflects no
24 major crimes. And, Your Honor, it's a little concerning to
25 me that these allegations are very serious and the crime

1 has been two years old and the victim hasn't made sure that
2 this went forward either.

3 THE COURT: Well it's not the victim's call.

4 MS. BUTCHER: I'm aware of that, your Honor, but your
5 Honor I would just submit that he is not a flight risk.

6 THE COURT: Does he have any kind of bond now or was
7 bonded out.

8 MS. BUTCHER: I believe it was denied at that time by
9 the magistrate.

10 THE COURT: So at the original bond hearings bond has
11 been denied and he's been held without bond since since at
12 least June the 29th of '07. Okay.

13 Yes, Ms. Land.

14 MS. LAND: Your Honor, I did want to comment on his
15 prior record, in my opinion it's significant. He has a
16 resisting arrest in 1998; an assaulting a police officer
17 while resisting arrest in 1999 and a DUS 3rd or more in
18 1999, a possession of a stolen vehicle and failure to stop
19 for a blue light in 1999; a criminal domestic violence of a
20 high and aggravated nature in 2003; another criminal
21 domestic violence of a high and aggravated nature in 2004
22 and a driving under the influence 2nd offense; assaulting a
23 police officer while resisting arrest and malicious injury
24 to property in 2005; a driving under the influence and
25 malicious injury to property again in 2005. And these

1 charges -- and then there is some out of state charges with
2 no disposition which leaves me to believe he's got ties to
3 another state and your Honor I would consider that record
4 pretty significant.

5 THE COURT: Tell me what the State's intentions are
6 with regard to the disposition of this matter?

7 MS. LAND: Your Honor, we intend to go forward and I
8 apologize for the delay in indicting the case. I will tell
9 you that this case was a Sheriff's office case; is a
10 Sheriff's case with an investigator Todd Advant who left
11 the Sheriff's office at some point. All of his cases had
12 to be taken over by another investigator; that investigator
13 did that and learned that this DNA that we needed had not
14 yet been taken to SLED. I communicated in that period with
15 the officer. We finally got it back from SLED like I said
16 on June 20th of 2008. I then got a letter from Ms. Butcher
17 saying that she did not believe that she was the attorney
18 but then got with him in June of 2008 and realized that she
19 was. As of June of 2008 we had no record of any attorney.
20 And of course that doesn't excuse it being taking so long
21 to get indicted. Also as you know during that period the
22 case management system came into play. I have always been
23 told not to indict anything until I have all of the
24 evidence. Of course that rule has changed some and until
25 told differently - -

1 THE COURT: That rule hasn't changed since 1988. That
2 rule has been in effect - Rule 3 has been in effect - the
3 rules of criminal procedure have been in effect since 1988
4 that specify that indictments will be presented to the
5 Grand Jury within ninety days. And I know that's been the
6 policy of the Solicitor's office but it hasn't changed not
7 as a result of any change in the rules. That rule has
8 simply been incorporated into the case management.

 9 MS. LAND: And I apologize your Honor. I hope you can
10 see my position that I'm stuck between the law and what my
11 boss tells me to do.

12 THE COURT: I understand.

13 MS. LAND: At any rate I can try it October the 14th
14 and I think that he is a threat to the community and a
15 flight risk and we are willing to move it to the beginning
16 to the top of the stack.

17 THE COURT: All right. Just one moment.

18 Your motion is for what, Ms. Butcher?

19 MS. BUTCHER: Your Honor, I would like a reasonable
20 bond set. And just to clarify what Ms. Land said I
21 asserted that I was the attorney back in 2007. I never
22 told her anything different. My issue was Mr. Woods led me
23 to believe which was a misunderstanding between the two of
24 us.

25 THE COURT: These types of misunderstandings are

1 exactly what we are trying to avoid by case management in
2 having first appearances where the defendant's have got to
3 come into court and the question of representation is to be
4 decided at first appearance so we won't have these kind of
5 misunderstandings and that's exactly one of the things that
6 we're trying to do.

7 MS. LAND: And your Honor it's my position that he is
8 entitled to a bond. He's been in jail for over two years
9 in relation to these charges. We as citizens value our
10 freedom greatly and to be incarcerated until October -- you
11 know just to say no he's been in jail for two years what's
12 a few more months? I think that is a great violation of
13 his constitutional rights just to say well we'll try him
14 soon.

15 THE COURT: Well this is the first time the motion is
16 before the court though.

17 MS. BUTCHER: Yes, your Honor.

18 THE COURT: Okay. All right under our laws the
19 defendant in a criminal case is entitled to a bond unless
20 it can be shown that his presence in court to answer to the
21 charges cannot be reasonably expected or he is a danger to
22 the community. Those are the factors that I consider not
23 the question of guilt or innocence at a bond hearing. It's
24 my understanding this defendant was arrested and is charged
25 with very serious offenses of criminal sexual conduct 1st,

1 kidnapping and strong armed robbery. Those in and of
2 themselves do make him somewhat of a risk of flight plus
3 the fact with the charges and the seriousness of the
4 charges and also his prior record I think that he is a
5 danger to the community. However at this stage having been
6 in jail for these charges at least thirteen months if not
7 longer he is entitled to a bond but it's going to be a
8 substantial bond at this time. And also with regard to the
9 motion for a speedy trial I am going to require the State
10 to go forward within a certain length of time. So the
11 order of the court is that the defendant's bond is set in
12 these matters at one hundred thousand dollars surety on
13 these charges. Further that the State with regard to the
14 motion for a speedy trial the State must call the case
15 within one hundred and twenty days which would be by the
16 end of this year. And if they have not done it by the end
17 of this year then the defendant will be entitled to a
18 reconsideration of bond without any further showing other
19 than the fact that further showing of a change of
20 circumstances other than the fact that another four months
21 has elapsed. So that would be the ruling of the court a
22 hundred thousand dollar surety bond; trial by - within a
23 hundred and twenty days which will be at the end of this
24 year and if that has not been taken of Ms. Butcher then the
25 defense may move for a reconsideration of the bond that has

1 been set.

2 MS. BUTCHER: Thank you very much.

3 MR. WOODS: Your Honor, may I speak?

4 THE COURT: No, sir, you have to speak through your
5 attorney.

6 -- END OF TRANSCRIPT --

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STATE OF SOUTH CAROLINA

)

)

C-E-R-T-I-F-I-C-A-T-E

)

COUNTY OF YORK

)

I, WANDA NELSON, OFFICIAL COURT REPORTER, CERTIFIED VERBATIM REPORTER AND NOTARY PUBLIC, DO HERBY CERTIFY THE FOREGOING HEARING WAS HEARD AND TRANSCRIBED UNDER MY SUPERVISION AND THAT THE FOREGOING TWELVE (12) PAGES CONSTITUTE A VERBATIM TRANSCRIPTION OF THE PROCEEDING HEREIN.

I DO FUTHER CERTIFY THAT I AM NOT OF COUNSEL FOR OR IN THE EMPLOYMENT OF ANY OF THE PARTIES TO THIS ACTION, NOR DO I HAVE ANY INTEREST, FINANCIAL OR OTHERWISE, IN THE OUTCOME HEREOF.

IN WITNESS THEREOF, I HAVE HEREUNTO
SUBSCRIBED MY NAME, THIS 27^H DAY OF MARCH, 2009

Wanda Nelson
WANDA NELSON
OFFICIAL COURT REPORTER
CERTIFIED VERBATIM REPORTER
AND NOTARY PUBLIC IN AND FOR
THE STATE OF SOUTH CAROLINA.

MY COMMISSION EXPIRES:
12/06/2010

STATE OF SOUTH CAROLINA)

COUNTY OF CLARENDON)

STATE OF SOUTH CAROLINA)

VS.)

DONNELL WOODS)
_____)IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a copy of RULE 5 DISCLOSURE AND MOTION FOR
 RECIPROCAL DISCOVERY AND DISCLOSURE OF EVIDENCE was this date served
 upon the following, by mailing a copy thereof, properly addressed, as follows:

DEBORAH J. BUTCHER, ATTORNEY
 PUBLIC DEFENDER'S OFFICE
 SUMTER COUNTY COURTHOUSE
 141 NORTH MAIN STREET
 SUMTER, SC 29150

This 12th day of September, 2008

Anne M. Prescott
 Anne M. Prescott
 Clarendon County Solicitor's Office
 P. O. Drawer 70
 Manning, South Carolina, 29102
 (803) 435-4071

PETITIONER'S
 EXHIBIT

Wood
 9-30-13

11

b2

The State of South Carolina



C. Kelly Jackson
Solicitor

SOLICITOR
Clarendon County Courthouse
West Boyce Street, 3rd Floor
Post Office Drawer 70
Manning, South Carolina 29102

Phone: (803)435-4071
Fax: (803)435-5434

September 12, 2008

Deborah J. Butcher, Attorney
Public Defender's Office
Sumter County Courthouse
141 North Main Street
Sumter, SC 29150

Re: Donnell Woods
Indictment # 2008-GS-14-0365

Dear Debbie:

The above-referenced case will be tried on October 14, 2008.

Sincerely,

Amy A. Land
Amy A. Land
Assistant Solicitor

AAL:ap

Enclosures

PETITIONER'S
EXHIBIT

Wood
9-30-11

12 m

Please sign and return to the Clarendon County Solicitor's Office.

On this the _____ day of _____, 2008, I acknowledge receipt
of _____.

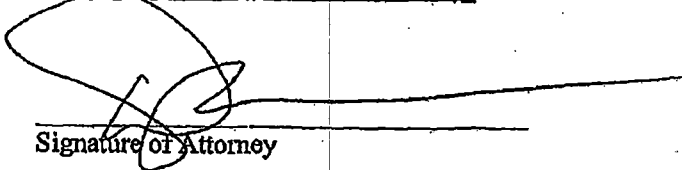
Signature of Attorney

Print Attorney Name

File BK
Oct 2

Please sign and return to the Clarendon County Solicitor's Office.

On this the 2 day of Oct, 2008, I acknowledge receipt
of Donniel Woods (2008-GS-14-0365).



Signature of Attorney

Deborah J. Butcher
Print Attorney Name

PETITIONER'S
EXHIBIT

Woods
9-30-08

13

hoo

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
WARRANT #s: J121801; J121802; J121803

State of South Carolina,
Plaintiff,

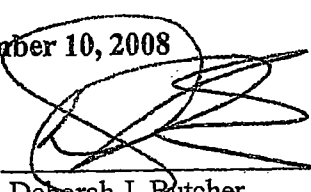
vs.

WOODS, DONNIEL,
Defendant.

PETITION AND
MOTION FOR FUNDS

Now comes the Defendant, by and through counsel, pursuant to §17-3-50 (B) South Carolina Code of Laws as amended, and petitions the Court to approve certain fees for the purpose of **Private Investigator** for the charge(s) of **Csc 1st; Kidnapping; Robbery** which have been brought by the State against the Defendant. It is anticipated that the combined cost(s) of these services will not exceed **\$1500.00**. The Defendant asserts, based upon the estimated cost as submitted by the investigator and the severity of the charge and the fact the Defendant faces **fourty-eight years** that the funding is reasonable and necessary in order to insure the effective assistance of counsel, investigate, and properly pursue the Defendants defense; that the limitation of \$500.00 should be exceeded pursuant to §17-3-50 C, up to **\$1500.00**; and that this money should be advanced by the Office of Indigent Defense prior to the conclusion of the trial.

Date: September 10, 2008 September 10, 2008


Deborah J. Butcher
Attorney for the Defendant
141 North Main Street, Room 102
Sumter, S.C. 29151-2444

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE 3/20/12
Josh B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

PETITIONER'S
EXHIBIT

Woods
9-20-11

14

ms

2008 OCT -7 PM 3:01

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON
J121801; J121802; J121803

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
WARRANT #s: J121801; J121802; J121803

State of South Carolina,
Plaintiff,

vs.

WOODS, DONNIEL
Defendant.

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE

3/20/12
Beulah H. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

2008 OCT -7 PM 3:01

BEULAH H. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC

This matter is before the Court on an Ex Parte proceeding as authorized by §17-3-50 (B) South Carolina Code of Laws as amended, requesting the Court to authorize Defendant's attorney to retain the services of Global Investigative Bureau for the purpose of private investigation for the charge(s) of Csc 1st; Kidnapping; Robbery which have been brought by the State against the Defendant, as well as court reporting services. It is anticipated that the combined costs of these services will not exceed \$1500.00. The Defendant asserts that, based upon the charges, the funding is reasonable and necessary in order to ensure the effective assistance of counsel, to investigate and properly pursue the Defendants defense and that the limitation of \$500.00 should be exceeded pursuant to §17-3-50 (C), up to \$1500.00.

Upon consideration of the attached petition, the Court believes that the services requested are reasonable, necessary and proper in the preparation of the Defendant's defense and that this money should be paid by the Office of Indigent Defense prior to the conclusion of the trial upon the submission of the proper paperwork without further Order of the Court.

Therefore it is hereby,

Ordered, that the Defendant's attorney is authorized to engage the services of up to a

183 9/10/12

PETITIONER'S
EXHIBIT

Words
4-3-13

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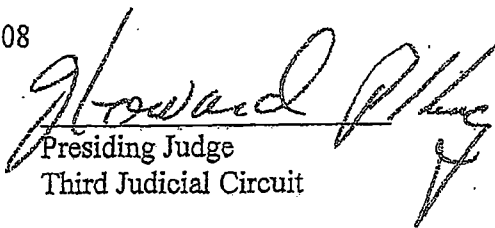
total of the sum of \$1500.00; it is further

Ordered, that to the extent that §17-3-50 (B) is viewed as a statutory limit on expenses, it is specifically found that these expenses are reasonably and necessarily incurred to insure the effective assistance of counsel and that the limitation of \$500.00 may be exceeded pursuant to 17-3-50 (C), up to \$1500.00; and it is further

Ordered, that this money should be paid by the Office of Indigent Defense prior to the conclusion of the trial upon the submission of the proper paperwork without further Order of the Court.

AND IT IS SO ORDERED.

Date: September 24, 2008


Presiding Judge
Third Judicial Circuit

293

ESTIMATED COST FOR INVESTIGATIVE WORK ON STATE VS DONELL WOODS

Find and interview 4 persons	12 hours
Review medical records	1.5 hours
Review RAP sheet of 2 witness	2 hour
Review phone records	1 hour
Review cable records	1 hour

17.5 hours at \$50/hour= \$875

Plus milage

Estimate cost \$1250.00

Submitted by, John J. Phoen
Hobart West Brown

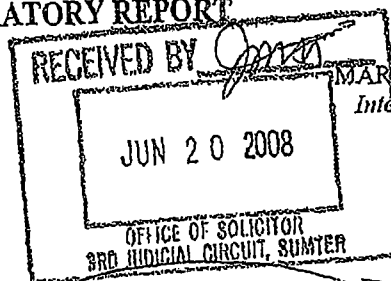
383

7/24

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

MARK SANFORD
Governor



MARK A. KEEL
Interim Chief

Lt. Thomas Burgess
Clarendon County Sheriff's Office
P.O. Box 1289
Manning, SC 29102

March 6th 2008

DNA ANALYSIS

June 18, 2008

SLED LAB: L07-18177

Your Case No: 06063324

Incident Date: 6/23/2006

[S] Donnelle Woods

[V] Sheila Summers

Dec. 12th 07

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Interim Chief
South Carolina Law Enforcement Division

SEROLOGY ANALYSIS

Items Submitted:

Results of Examinations:

- 1 Sexual Assault Evidence Collection Kit from Sheila Summers
- 1.2 Blood standard
- 1.3 Saliva
- 1.4 Smears (vaginal, oral, rectal)
- 1.5 Vaginal swabs
- 1.6 Oral swabs
- 1.7 Rectal swabs

- 1.2 See DNA analysis.
- 1.3 No analysis performed.
- 1.4 No spermatozoa identified.
- 1.5 No semen identified.
- 1.6 No semen identified.
- 1.7 No semen identified.

PETITIONER'S EXHIBIT

*Woods
930-3*

16

no



June 18, 2008

Items Submitted:

1.8 Suspected semen
1.9.1 Fingernail scrapings - right
1.9.2 Fingernail scrapings - left
1.11 Known head hairs
1.12 Known pubic hairs
1.13 Pubic hair combings
1.14 Miscellaneous materials

Results of Examinations:

1.8 No semen identified.
1.9.1 See DNA analysis.
1.9.2 See DNA analysis.
1.11 No analysis performed.
1.12 No analysis performed.
1.13 See DNA analysis.
1.14 No hairs suitable for STR PCR DNA analysis.

DNA ANALYSISITEMS ANALYZED:

1.2 Blood standard from Sheila Summers
1.9.1 Fingernail scrapings - right
1.9.2 Fingernail scrapings - left
1.13 Pubic hair combings

EXAMINATIONS

DNA analysis was performed on the items above. The results of Short Tandem Repeat (STR) PCR DNA analysis are shown in Table 1.

RESULTS

No human DNA was obtained from items 1.9.1, 1.9.2 and 1.13.



SLED LAB No. L07-18177
June 18, 2008

Note: Any remaining evidence and/or packaging will be returned to the requesting agency.

Laura H. Mills
Laura H. Mills, Ph.D.
Forensic Scientist

cc: Clarendon County Solicitor's Office



June 18, 2008

Table 1 - Identifier

Items	D8S1179	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	vWA	TPOX	D18S51	D5S818	FGA	Amelo- genin
12 Summers	13,14	31.2,33.2	8	12,14	14,18	7,8	12,13	10,12	19,21	12.2,14.2	15,19	9,11	16,17	13,15	23,26	X



SUBPOENA IN A CRIMINAL CASE

SOUTH CAROLINA COURT		COUNTY <i>Clarendon</i>
<i>State</i> v. <i>Danwell Woods</i>		CASE NO. <i>75</i>
		SUBPOENA FOR ☒ PERSON ☐ DOCUMENT(S) OR OBJECT(S)
TO: <i>Records Custodian CMH.</i>		
☐ YOU ARE HEREBY COMMANDED to appear in the above-named court at the place, date, and time specified below to testify in the above-entitled case.		
PLACE CLARENDON COUNTY COURTHOUSE	COURTROOM 1	DATE AND TIME <i>10-14-08 thru 10-18-08</i>
☒ YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s). LIST DOCUMENT(S) OR OBJECT(S) <i>Medical files for Shila Sammons</i>		
This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.		
CLERK OF COURT <i>Beriah B. Roberts</i>	DATE <i>10/14/08</i>	
(BY) DEPUTY CLERK		
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☐ SOLICITOR ☒ DEFENDANT	ATTORNEY'S NAME AND ADDRESS Deborah J. Butcher Sumter County Courthouse 141 N. Main Street, Room 100 Sumter, SC 29150	

H.R. O.P. S.D.S. AMB. O.R.

H.R. O.P. S.D.S. AMB. O.R.

DIAGNOSIS CODE	SURGICAL CODE	DATE	TIME	W	SERVICE	SERVICE CODE	CHARGES

QUANTITY	UNIT	DESCRIPTION	DATE	TIME	STATUS	REMARKS
1	NO	NO	70			

Sheraton	8-16	105	105	DRUGS		
				X-RAY		

LAB

CHIEF BY PHYSICIAN
AM PM
LAB ENG

[Handwritten signature]

Rt Docks	TOTAL CHARGE	175
	STAFF	

Overall ✓ 2 tabs now, 2 TABs in 12 hrs	PAYMENT		

	MEDICATIONS	TIME	SIT

[illegible]

72252779;			

DIAGNOSIS: *Alfred Saxial #326*

PATIENT	☐ STAMM, FRANKLIN, BOWERS	☐ PRIOR INFLAMMATORY BOWEL	☐ BACK & NECK PAIN	☐ ERYTHELEMA	I HAVE READ AND UNDERSTAND THE LIMITATIONS GIVEN TO ME.
	☐ DYSPNOEA	☐ TENDR GAPS	☐ GELD INJURY	☐ URINARY TRACT INFECTION	

ADDITIONAL INFORMATION: *See PM*

RETURN TO PERSONAL PHYSICIAN IN _____ DAYS.	PHYSICIAN'S _____

Boman Enterprises Inc. Fax: 9198947761+
Oct 13 2008 07:42pm P002

SUMMERS SHEILA A

DOB -

MR#

AR# 377936

ADMIT DATE: 6/24/06

CLARENDON MEMORIAL HOSPITAL
MANNING, SOUTH CAROLINA

AUTHORIZATION FOR EMERGENCY TREATMENT

1. The undersigned has been informed of the emergency treatment considered necessary for the patient whose name appears on the reverse hereof and that the treatment and procedures will be performed by physicians, members of the house staff and employees of the hospital. Authorization is hereby granted for such treatment and procedures.
2. **MEDICARE - MEDICAID PATIENT'S CERTIFICATION:** Authorization to release information and payment request. I certify that the information given by me in applying for payment under Titles XVIII and XIX of the Social Security Act is correct. I authorize release of all records required to act on this request. I request that payment of authorized benefits be made on my behalf.
3. **ASSIGNMENT OF INSURANCE BENEFITS:** I hereby authorize payment directly to Clarendon Memorial Hospital of hospital benefits otherwise payable to me including major medical insurance and payment of surgical or medical benefits, including major medical, directly to the attending physician but not to exceed regular charges for these services. I understand that I am financially responsible to the hospital and physician for charges not covered by this assignment.
4. **AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION:** The hospital and attending physician are authorized to furnish any medical information requested by insurance companies with whom I have coverage or any public agency which may be assisting in payment for my care.
5. **REFUND OF INSURANCE BENEFITS:** I authorize the refund of overpaid insurance benefits in accordance with my insurance policy conditions where my coverages are subject to a coordination of benefits clause.
6. I understand that health care services paid under Medicare, Medicaid, and maternal and child health programs are subject to review by the Professional Standards Review Organization.

6/24/06 [Signature] [Signature]
 Date Witness Patient

 Date Witness Responsible Party Relationship to Patient

456

CLARENDON MEMORIAL HOSPITAL
10 HOSPITAL ST.
MANNING, SC 29102
8034358463

5 PATIENT COMPANY NO. 377936001632
131

7 COV. 8 N.O.D. 9 C.D. 10 L.R.D. 11
576001305 062406 062406

2 PATIENT NAME

13 PATIENT ADDRESS

SUMMERS, SHEILA A

ST GEORGE, SC 29477

4 BIRTHDATE

21 D.H.P. 22 STAT 23 MEDICAL RECORD NO.

F U 062406 02 9 7 06 01

06 062306

2 REV. CD	43 DESCRIPTION	44 HOPS/RATES	45 SERV. DATE	46 SERV. UNITS	47 TOTAL CHARGES	48 NON-COVERED CHARGES	49
250	PHARMACY		062406	3	284.00	284.00	
301	CHEMISTRY	80101	062406	7	231.00	231.00	
302	IMMUNOLOGY	86592	062406	1	19.00	19.00	
306	BACTERIOLOGY AND MICROBI	87590	062406	1	157.00	157.00	
307	UROLOGY	81001	062406	1	30.00	30.00	
309	OTHER PATHOLOGICAL LABOR	36415	062406	1	11.00	11.00	
450	EMERGENCY ROOM	90772	062406	1	89.00	89.00	
001	TOTAL			22	2,110.00	2,110.00	

50 PAYER

51 PROVIDER NO.

54 PRIOR PAYMENTS

55 EST. AMOUNT DUE

632 SC STATE VICTIMS &

576001305

Y Y

57

DUE FROM PATIENT

58 INSURED'S NAME

59 CERT. - SSN - HIC. ID NO.

61 GROUP NAME

62 INSURANCE GROUP NO.

SUMMERS, SHEILA A

18

632 SC STATE V

63 TREATMENT AUTHORIZATION CODES

65 EMPLOYER NAME

66 EMPLOYER LOCATION

67 PRIN. DIAG. CO.

78 ACQ. DIAG. CO.

V71.5

V71.5

78 P.C. 80

PRINCIPAL PROCEDURE CODE

G26904

9

CHANDLER, MICHAEL

64 REMARKS 632 SC STATE VICTIMS &
1205 PENDLETON ST # 401

COLUMBIA, SC 29201

42

H576001305 00987220 063006

OPTIONAL

1205 PENDLETON ST STE 401

UNIFORM BILL: NOTICE: ANYONE WHO MISREPRESENTS OR FALSIFIES ESSENTIAL INFORMATION REQUESTED BY THIS FORM MAY UPON CONVICTION BE SUBJ. TO FINE AND IMPRISONMENT UNDER FEDERAL AND OR STATE LAW.

Certifications relevant to the Bill and Information Shown on the Face Hereof: Signatures on the face hereof incorporate the following certifications or verifications where pertinent to this Bill:

1. If third party benefits are indicated as being assigned or in participation status, on the face thereof, appropriate assignments by the insured/beneficiary and signature of patient or parent or legal guardian covering authorization to release information are on file. Determinations as to the release of medical and financial information should be guided by the particular terms of the release forms that were executed by the patient or the patient's legal representative. The hospital agrees to save harmless, indemnify and defend any insurer who makes payment in reliance upon this certification, from and against any claim to the insurance proceeds when in fact no valid assignment of benefits to the hospital was made.
2. If patient occupied a private room or required private nursing for medical necessity, any required certifications are on file.
3. Physician's certifications and re-certifications, if required by contract or Federal regulations, are on file.
4. For Christian Science Sanitoriums, verifications and if necessary re-verifications of the patient's need for sanatorium services are on file.
5. Signature of patient or his representative on certifications, authorization to release information, and payment request, as required by Federal law and regulations (42 USC 1935f, 42 CFR 424.36, 10 USC 1071 thru 1086, 32 CFR 199) and, any other applicable contract regulations, is on file.
6. This claim, to the best of my knowledge, is correct and complete and is in conformance with the Civil Rights Act of 1964 as amended. Records adequately disclosing services will be maintained and necessary information will be furnished to such governmental agencies as required by applicable law.
7. For Medicare purposes:

If patient has indicated that other health insurance or a state medical assistance agency, will pay part of his medical expenses and he wants information about his claim released to them upon their request, necessary authorization is on file. The patient's signature on the provider's request to bill Medicare authorizes any holder of medical and other information to release to Medicare medical and non-medical information, including employment status, and whether the person has employer group health insurance, liability, no-fault, workers' compensation, or other insurance which is responsible to pay for the services for which this Medicare claim is made.

8. For Medicaid purposes:

This is to certify that the foregoing information is true, accurate, and complete.

I understand that payment and satisfaction of this claim will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State Laws.

9. For CHAMPUS purposes:

This is to certify that:

- (a) the information submitted as a part of this claim is true, accurate and complete, and, the services shown on this form were medically indicated and necessary for the health of the patient;
- (b) the patient has represented that by a reported residential address outside a military treatment center catchment area he or she does not live within the catchment area of a U.S. military or U.S. Public Health Service medical facility, or if the patient resides within a catchment area of such a facility, a copy of a Non-Availability Statement (DD Form 1251) is on file, or the physician has certified to a medical emergency in any instance where a copy of a Non-Availability Statement is not on file;
- (c) the patient or the patient's parent or guardian has responded directly to the provider's request to identify all health insurance coverages, and that all such coverages are identified on the face of the claim except those that are exclusively supplemental payments to CHAMPUS-determined benefits;
- (d) the amount billed to CHAMPUS has been billed after all such coverages have been billed and paid, excluding Medicaid and the amount billed to CHAMPUS is that remaining claimed against CHAMPUS benefits;
- (e) the beneficiary's cost share has not been waived by consent or failure to exercise generally accepted billing and collection efforts; and,
- (f) any hospital-based physician under contract, the cost of whose services are allocated in the charges included in this bill, is not an employee or member of the Uniformed Services. For purposes of this certification, an employee of the Uniformed Services is an employee, appointed in civil service (refer to 5 USC 2105), including part-time or intermittent but excluding contract surgeons or other personnel employed by the Uniformed Services through personal service contracts. Similarly, member of the Uniformed Services does not apply to reserve members of the Uniformed Services not on active duty.
- (g) based on the Consolidated Omnibus Budget Reconciliation Act of 1986, all providers participating in Medicare must also participate in CHAMPUS for inpatient hospital services provided pursuant to admissions to hospitals occurring on or after January 1, 1987.
- (h) If CHAMPUS benefits are to be paid in a participating status, I agree to submit this claim to the appropriate CHAMPUS claims processor as a participating provider. I agree to accept the CHAMPUS-determined reasonable charge as the total charge for the medical services or supplies listed on the claim form. I will accept the CHAMPUS-determined reasonable charge even if it is less than the billed amount, and also agree to accept the amount paid by CHAMPUS, combined with the cost-share amount and deductible amount, if any, paid by or on behalf of the patient as full payment for the listed medical services or supplies. I will make no attempt to collect from the patient (or his or her parent or guardian) amounts over the CHAMPUS-determined reasonable charge. CHAMPUS will make any benefits payable directly to me, if I submit this claim as a participating provider.

ESTIMATED CONTRACT BENEFITS

1205 BENDLETON ST STE 401
COLUMBIA SC 29201-3751



LabCorp Burlington
1447 York Court, Burlington, NC 27215-2230

Phone: 888-200-5439

SPECIMEN	TYPE	PRIMARY LAB	REPORT STATUS	Page #:
175-326-0008-0	S	BN	COMPLETE	1

ADDITIONAL INFORMATION				SS#:
377936	ER	FASTING: N	DOB:	
PATIENT NAME		SEX	AGE(YR./MOS.)	
SUMMERS, SHEILA		F	22 / 3	
PT. ADD.:				
DATE OF COLLECTION TIME	DATE RECEIVED	DATE REPORTED	TIME	SS
6/24/2006	5:10	6/24/2006	6/26/2006	17:35
				88

CLINICAL INFORMATION	
CD- 20120344000	
PHYSICIAN ID. CHANDLER M	PATIENT ID.
ACCOUNT: Clarendon Memorial Hospital	
Attn: Laboratory	
PO Box 550	
Manning SC 29102-0000	
ACCOUNT NUMBER: 39708795	

TEST	RESULT	LIMITS	LAB

Panel 083824

HIV-1 Abs-EIA

HIV-1 Abs-O.D. Ratio <1.00 <1.00 BN

O.D. Ratio: Specimen absorbance value relative to the negative cutoff.

HIV-1 Abs, Qual Non Reactive Non Reactive BN

RPR, Rfx Qn RPR/Confirm TP-PA

RPR Non Reactive Non Reactive BN

LAB: BN LabCorp Burlington DIRECTOR: Frank Hancock MD
1447 York Court, Burlington, NC 27215-2230

Pat Name: SUMMERS, SHEILA	Pat ID: 249577978	Spec #: 175-326-0008-0	Seq #: 88

Results are Flagged in Accordance with Age Dependent Reference Ranges
Last Page of Report



LabCorp Burlington
1447 York Court, Burlington, NC 27215-2230

Phone: 888-200-5439

SPECIMEN 175-326-0014-0	TYPE S	PRIMARY LAB BN	REPORT STATUS PARTIAL	Page# 1
ADDITIONAL INFORMATION SS#: 377936 FASTING: N SRC:ED ER DOB: 3/11/1984				
PATIENT NAME SUMMERS, SHEILA		SEX F	AGE(YR/MOS.) 22 / 3	
PT. ADD.:				
DATE OF COLLECTION TIME 6/24/2006 4:50	DATE RECEIVED 6/24/2006	DATE REPORTED 6/27/2006	TIME 11:36	131

CLINICAL INFORMATION CD- 20120344002	
PHYSICIAN ID. CHANDLER M	PATIENT ID.
ACCOUNT: Clarendon Memorial Hospital Attn: Laboratory PO Box 550 Manning SC 29102-0000	
ACCOUNT NUMBER: 39708795	

~~STATUS REPORT~~

~~*** WILL FOLLOW ***~~

Chlamydia/GC, DNA Probe
 Chlamydia, DNA Probe Negative Negative BN
 N gonorrhoeae, DNA Probe Negative Negative BN
 Test valid for male urethral and female endocervical specimens only.

LAB: BN LabCorp Burlington
1447 York Court, Burlington, NC 27215-2230

DIRECTOR: Frank Hancock MD

Pat Name: SUMMERS, SHEILA	Pat ID: 249577978	Spec #: 175-326-0014-0	Seq #: 131

Results are Flagged in Accordance with Age Dependent Reference Ranges
Last Page of Report



LabCorp Burlington
1447 York Court, Burlington, NC 27215-2230

Phone: 888-200-5439

SPECIMEN	TYPE	PRIMARY LAB	REPORT STATUS	Page #:
175-326-0014-0	S	BN	COMPLETE	1

ADDITIONAL INFORMATION SS#:				
377936	FASTING: N			
SRC:ED ER	DOB: 3/11/1984			
PATIENT NAME	SEX	AGE(YR./MON.)		
SUMMERS, SHEILA	F	22 / 3		
PT. ADD.:				
DATE OF COLLECTION TIME	DATE RECEIVED	DATE REPORTED	TIME	
6/24/2006 4:50	6/24/2006	6/27/2006	13:35	140

CLINICAL INFORMATION	
CD- 20120344002	
PHYSICIAN ID.	PATIENT ID
CHANDLER M	
ACCOUNT: Clarendon Memorial Hospital	
Attn: Laboratory	
PO Box 550	
Manning SC 29102-0000	
ACCOUNT NUMBER: 39708795	

TEST	RESULT	LIMITS	LAB

Chlamydia/GC, DNA Probe

Chlamydia, DNA Probe

Negative

Negative

BN

N gonorrhoeae, DNA Probe

Negative

Negative

BN

Test valid for male urethral and female endocervical specimens only.

LAB: BN LabCorp Burlington
1447 York Court, Burlington, NC 27215-2230

DIRECTOR: Frank Hancock MD

Pat Name: SUMMERS, SHEILA	Pat ID: 249577978	Spec #: 175-326-0014-0	Seq #: 140

Results are Flagged in Accordance with Age Dependent Reference Ranges

Last Page of Report

ARENDON MEMORIAL HOSPITAL

10 HOSPITAL STREET

MANNING, SC 29102

---PATIENT NAME--- SEX AGE BIRTH-DT ADMIT M/R# PHYSICIAN 377936 E.R.
 SUMMERS SHEILA A F 22 6/24/06 CHANDLER M ROOM: ED04
 PAT. PHONE: -----

=====

---PROCEDURE---	PREG, URINE QUAL	---	REC'D---	RESULTED---	ORDER # 84831
---ORDERED---	COLLECTED---	---	---	---	---VERIFIED---
6/24/06 0510	6/24/06 0510	---	6/24/06 0520	6/24/06 0522	6/24/06 0522
WGB	MN	---	CMR	CMR	CMR

=====

(HCG QL URINE NEGATIVE (NORMAL: NEGATIVE)

ARENDON MEMORIAL HOSPITAL

10 HOSPITAL STREET

MANNING, SC 29102

---PATIENT NAME--- SEX AGE BIRTH-DT ADMIT M/D# PHYSICIAN 377936 E.R.
 SUMMERS SHEILA A F 22 6/24/06 CHANDLER M ROOM: ED04
 PAT. PHONE:

 ---PROCEDURE--- URINALYSIS COMPLETE ORDER # 84830
 ---ORDERED--- ---COLLECTED--- ---REC'D--- ---RESULTED--- ---VERIFIED---
 6/24/06 0510 6/24/06 0510 6/24/06 0520 6/24/06 0526 6/24/06 0526
 WGB MN CMR CMR CMR

URINALYSIS

()	COLOR	Yellow	(NORMAL: STRAW-YELLOW)
()	CHARACTER	Clear	(NORMAL: CLEAR)
(GL)	GLUCOSE	Negative	(NORMAL: NEGATIVE)
(BI)	BILIRUBIN	Negative	(NORMAL: NEGATIVE)
(KE)	KETONES	Trace	(NORMAL: NEGATIVE)
(SG)	SP. GRAVITY	1.025	
(PH)	pH	7.0	(NORMAL: 5.5-6.5)
(PR)	PROTEIN	Trace	(NORMAL: NEGATIVE)
(UR)	UROBILINOGEN	0.2	(NORMAL: 0.1-1.0mg/dL)
(NI)	NITRITE	Negative	(NORMAL: NEGATIVE)
(BL)	BLOOD	Negative	(NORMAL: NEGATIVE)
(LE)	LEUKOCYTE	Negative	(NORMAL: NEGATIVE)

MICROSCOPIC

()	WBC	5-8	
()	RBC		
()	EPI. CELLS	5-8	
()	CASTS		(NORMAL: NONE SEEN)
()	BACTERIA	Trace	(NORMAL: NONE SEEN)
()	MUCOUS	3+	(NORMAL: NONE SEEN)
()	CRYSTALS		(NORMAL: NONE SEEN)
()	YEAST		(NORMAL: NONE SEEN)
()	AMORPHOUS		(NORMAL: NONE SEEN)
()	TRICHOMONAS		(NORMAL: NONE SEEN)
()	CULTURE		

ARENDON MEMORIAL HOSPITAL

10 HOSPITAL STREET

MANNING, SC 29102

---PATIENT NAME--- SEX AGE BIRTH-DATE ADMIT M/R# PHYSICIAN 377936 E.R.
 SUMMERS SHEILA A F 22 6/24/06 CHANDLER M ROOM: ED04
 PAT: PHONE:

=====

PROCEDURE	URINE DRUG SCREEN INHOUSE	ORDER # 84832
ORDERED	COLLECTED	REC'D
6/24/06 0510	6/24/06 0510	6/24/06 0520
6/24/06 0527	6/24/06 0527	6/24/06 0527
WGB	MM	CMR

=====

URINE DRUG SCREEN

{	PHENCYCLIDINE	NEGATIVE	(NORMAL: NEGATIVE)
{	BENZODIAZEPINE	NEGATIVE	(NORMAL: NEGATIVE)
{	COCAINE	NEGATIVE	(NORMAL: NEGATIVE)
{	AMPHETAMINES	NEGATIVE	(NORMAL: NEGATIVE)
{	TETRAHYDROCANNABINOL	POSITIVE	(NORMAL: NEGATIVE)
{	OPIATES	NEGATIVE	(NORMAL: NEGATIVE)
{	BARBITURATES	NEGATIVE	(NORMAL: NEGATIVE)

377936 RM- ED04 F/T-S.R.
 SUMMERS SHELIA A F 22
 VE ST GEORGE SC
 CHANDLER M
 NON STAFF 06/24/06 B/D

377936 RM- ED04 F/T-S.R.
 SUMMERS SHELIA A F 22
 ST GEORGE SC
 CHANDLER M
 NON STAFF 06/24/06 B/D
 IPITAL
 CHARGE
 CAL NOTES

Service Requested: _____

Diagnosis: _____

Date	Initial Report:
6/24/06	~~SHE WAS~~ Error MN
0830	Shelia states she went to friends house (Aunt's) to pick up something she left. An acquaintance was there. asked her to take him to Exxon Store on way home perp grabbed her arm & hair told her to keep driving states she was on dirt road and car got stuck. Perp told her to get out of car. pt. got scared grabbed wallet + cell phone + ran away. Tried to call but perp reached her & pushed her down, grabbed wallet's cell phone. Perp told her he would kill her if she did not do what he asked. Took her back to car - another car came down dirt road, pt tried to scream but perp. pushed her down in car, put hands around her neck and once again told her he would kill her. He then ripped her underwear off. had "foreplay then sex" he "raped" me. After that he got out of car - asked pt to "pop the trunk" - perp didn't get anything out. He then tried to push car out of "rut" he drove down dirt road - was talking "crazy" using threats. He pulled into "drive way" and "raped" me again, in the back seat. He then drove car onto paved road - got out and told pt not to tell anyone or he would "kill" her. <i>Melissa Nelson</i>



377936 RM- ED04 P/T-B.R.
SUMMERS SHEILA A 22
ST GEORGE, SC

CHANDLER M
NON STAFF 06/24/06 B/D



377936 RM- ED04 P/T-B.R. SPITAL
SUMMERS SHEILA A 22 DISCHARGE
ST GEORGE, SC CAL NOTES

CHANDLER M
NON STAFF 06/24/06 B/D

Service Requested: _____

Diagnosis: _____

Date	Initial Report:
	~~CONFIDENTIAL~~ Error
	Shelia states she went to friends house (^{Friends} Aunt)
	to pick up something she left. An acquaintance was there
	asked her to take him to Exxon Store on way home
	perp grabbed her arm & hair told her to keep driving
	States she was on dirt road and car got stuck. Perp told her to get
	out of car. ^{"wrist rip"} pt. got scared grabbed wallet + cell phone + ran away.
	Tried to call but perp reached her + pushed her down, grabbed
	wallet's cell phone. Perp told her he would kill her if she did not do
	what he asked. Took her back to car - another car came
	down dirt road, pt tried to scream but perp. pushed
	her down in car, put hands around her neck and once again
	told her he would kill her. He then ripped her underwear off
	had "foreplay then sex" he "raped" me. After that
	he got out of car - asked pt to "pop the trunk" - perp
	didn't get anything out. He then tried to push car out of
	"rut" he drove down dirt road - was talking "crazy"
	using threats. He pulled into "drive away" and
	"raped" me again, in the back seat. He then drove
	car onto paved road - got out and told pt not to tell
	anyone or he would "kill" her.

**SEXUAL ASSAULT EXAMINATION PROTOCOL
STATE OF SOUTH CAROLINA
LAW ENFORCEMENT DIVISION
SOUTH CAROLINA HOSPITAL ASSOCIATION**

-Page 1-

ADULT VICTIM SEXUAL ASSAULT INFORMATION AND EXAMINATION FORM**NOTE**

If you should have any questions concerning the use of this kit, please call the Department of Forensic Serology and DNA Analysis, SLED Forensic Services Laboratory, at 896-7300 or after 5 p.m. 737-9000.

NAME OF HOSPITAL: Flamingo Memorial DATE: 10/29/06 TIME ADMITTED: 2:31
 NAME OF VICTIM: Nelda A. Summers DATE OF BIRTH: _____
 SEX: F RACE: B MARITAL STATUS: S SSN NO.: _____
 LAW ENFORCEMENT OFFICER: _____ BADGE NO.: 54957 1976
 AGENCY: _____

BRIEF SUMMARY OF ASSAULT—(Include Date, Time, Location, i.e. on bed in victim's or suspect's bedroom. Include, if possible, color of carpet in suspect's home or vehicle; and make/model of the vehicle and its interior/exterior colors.)

10/23/06 after 9pm drove home to store in my back
door. Made victim drive car to rd. A car 2 in white
with (blond) hair and white

SINCE ALLEGED ASSAULT HAS VICTIM:

☐ Douched ☐ Defecated ☐ Brushed Teeth
☐ Bathed/Showered ☐ Vomited ☐ Used Mouthwash
☐ Urinated ☐ Drank/Eaten ☐ Changed Clothes

DURING ALLEGED ASSAULT:

Did penis penetrate? ☒ Vulva ☒ Mouth ☐ Anus ☐ No ☐ Not Known
 Did assailant experience ejaculation? ☒ Yes ☐ No ☐ Not Known
 Did assailant wear condom? ☐ Yes ☐ No ☐ Not Known
 During alleged assault did subject state anything to indicate he had any sexually transmitted diseases?

☐ Yes ☒ No If yes, identify: _____

WERE ANY MEDICATIONS, SOCIAL DRUGS OR ALCOHOL TAKEN PRIOR TO OR AFTER ALLEGED ASSAULT?

☒ Yes ☐ No ☐ Not Known
 Type: 200 mg. Valium Amount: 1000 mg.
 Time: After 9pm Date: 10/23/06

WAS ANY COERCION USED?

☒ Verbal Threats ☐ Knife ☐ Gun ☒ Choke ☐ Fists
☐ Other _____

ASSAILANT(S): Number: 1 Age(s): 20 Race: Black

ASSAILANT(S) RELATIONSHIP TO VICTIM: ☒ Stranger ☐ Acquaintance ☐ Friend

☐ Relative (Specify): _____

If Relative, Address of Relative: _____

MEDICAL HISTORY:

Date of last Menses: May 31, 2006 Normal— ☒ Yes ☐ No
 Victim known to be pregnant? ☐ Yes ☒ No ☐ Gravida ☐ Parity
 Duration of pregnancy: _____
 Has victim had any past pelvic surgical procedures? ☐ Yes ☒ No
 If yes, date and reason: _____
 Has victim had sexual relations within the last 7 days? ☒ Yes ☐ No
 If yes, date: 10/23/06
 Condom used? ☐ Yes ☒ No
 Other type of contraception used? NONE

HOSPITAL - (White Copy)

SLED - (Yellow Copy)

LAW ENFORCEMENT - (Pink Copy)

DOVA VICTIM COMP - (Green Copy)

SCA1004

GENERAL EXAMINATION

Shirley A. Summers

-Page 2-

VICTIM'S NAME

DESCRIPTION OF OUTWARD APPEARANCE—(i.e. clothes obtained, torn or glass particles present from broken glass at scene):

disheveled - no shirt - hair matted up
lying

DESCRIPTION OF EMOTIONAL STATE—(i.e. crying, agitated, lethargic, frightened, shocked, depressed, etc.)

Depressed - crying

OUTER CLOTHING, UNDERPANTS AND DEBRIS COLLECTION

Note: 1. Wet or damp clothing should be air dried before packaging.

2. If victim is not wearing the clothing worn at the time of the alleged assault, collect only the items that are in direct contact with victim's genital area.
3. If victim changed clothing after assault, inform officer in charge so that the clothing worn at the time of the assault may be collected by the police.
4. Do not cut through any existing holes, rips or stains in victim's clothing.
5. Do not shake out victim's clothing or microscopic evidence will be lost.
6. If additional clothing bags are required, use only new, paper (grocery-type) bags.

Unfold and place a clean hospital bed sheet on floor. Remove paper sheet from Debris Collection bag, unfold and place over bed sheet. Instruct victim to stand in center of paper sheet and carefully disrobe. Collect each item of clothing as removed and place in the Outer Clothing bag. Collect victim's underpants and place in Underpants bag. Fill out all information requested in bag labels. Seal Debris Collection bag and place in the Outer Clothing bag, then seal Outer Clothing bag. Seal Underpants bag with a police evidence seal and return bag to kit box. Return bed sheet to hospital laundry.

MISCELLANEOUS MATERIALS — (For comparison with debris found at crime scene or on assailant's body)

Collect any debris found on victim's body (leaves, fibers, hair, etc.) and place in the Miscellaneous Materials envelope. Note location from which miscellaneous material(s) was taken on anatomical drawings on back of envelope. Seal and fill out all information requested on envelope.

KNOWN SALIVA — (For secretor status)

Without touching inner circle with your fingers, remove folded filter paper disk from envelope and place inner circle in victim's mouth. Instruct victim to thoroughly saturate inner circle with saliva. Allow disk to air dry, then return to Saliva Sample envelope. Seal and fill out all information requested on envelope. (Caution: Unless sample is completely air dried, the results of the analysis may be erroneous or inconclusive.)

KNOWN BLOOD STANDARD — (For SLED Toxicology and Serology/DNA)

Using normal hospital/lab procedure, draw samples from the victim using a lavender stoppered (EDTA) and a gray stoppered tube from hospital/lab stock. Immediately after collection, write the victim's name, date and time collected and your initials on the blood tube labels. Place the filled tubes into the bubble packs provided and then place in the appropriate ziplock bag. Seal the ziplock bag and fill out all information requested on bag.

Note: Any blood samples required by the hospital should be drawn at this time.

FINGERNAIL SCRAPINGS — (Collect only if victim scratched assailant's skin)

Left Hand: Remove folded paper labeled "L" and fingernail scraper provided in Fingernail Scrapings envelope, and unfold and place on flat surface. Hold victim's left hand over paper and scrape under all five fingernails, allowing any debris present to fall onto paper. Place used scraper in center of paper, refold paper to retain debris and scraper, tape closed and return to Fingernail Scrapings envelope.

Right Hand: Follow same procedure for right hand using folded paper labeled "R". Then, seal and fill out all information requested on envelope.

Scan Log

E-mail Sent

Date: Wednesday, 2013-09-04 18:52

To:

From:

Subject:

Message:

Attachments: image2013-09-04-185208.pdf

GENERAL EXAMINATION (cont.)Shelia A. Summers

—Page 3—

VICTIM'S NAME

☒ **SUSPECTED SEMEN** — (It is recommended that a Wood's (UV) lamp be used in the following procedure.)

Examine victim's body for crusted area(s). If found, moisten swab(s) with a saline solution. Then thoroughly swab the suspected area(s). Allow swab(s) to *thoroughly air dry*, then return swab(s) to the Suspected Semen envelope. Note location from which sample(s) was taken on the anatomical drawings on back of envelope. Seal and fill out all information requested on envelope.

☒ **PUBIC HAIR COMBINGS** — (To obtain pubic hairs shed by assailant during the assault.)

Remove paper towel and comb provided in Pubic Hair Combing's envelope. Place towel under victim's buttocks. Using comb provided, comb pubic hair in downward strokes so that any loose hairs and/or debris will fall onto paper towel. Refold in manner to retain both comb and any evidence present. Return to Pubic Hair Combing's envelope. Seal and fill out all information requested on envelope.

☒ **KNOWN PUBIC HAIRS** — (For comparison with hairs found at crime scene or on assailant's body.)

Pull, do not cut, 15-20 full-length pubic hairs from various locations and place in Known Pubic Hairs envelope. Seal and fill out all information requested on envelope.

☒ **KNOWN HEAD HAIRS** — (For comparison with hairs found at crime scene or on assailant's body.)

Remove folded paper bindles from envelope. Pull, do not cut, 3-5 full-length hairs from each of the following scalp locations: center, back, front, left side and right side and place in Known Pubic Hairs envelope. Seal and fill out all information requested on envelope.

☒ **BITE MARKS**

Using one (1) swab per collection site, moisten swab(s) with a saline solution. Then thoroughly swab the bite mark. Allow swab(s) to *thoroughly air dry*, then return swabs to envelope. Seal and fill out all information requested on envelope.

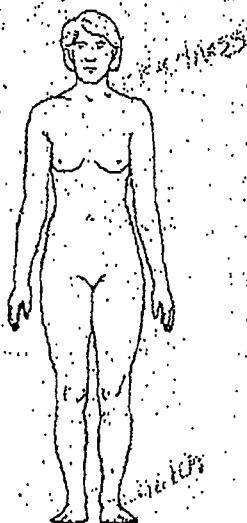
PHYSICAL EXAMINATION:

Describe all signs of trauma i.e. bruises, scratches, bite or stick marks or redness on any part of victim's body:

Redness - Small brown circular mark on neck

Scratch (abrasion) on back of neck

Indicate location of trauma described above on appropriate anatomical drawing(s).



Photographs taken?

☐ Yes ☒ No

Forensic Odontologist consulted?

☐ Yes ☒ No

HOSPITAL - (White Copy)

SLED - (Yellow Copy)

LAW ENFORCEMENT - (Pink Copy)

DOVA VICTIM COMP - (Green Copy)

SCA1004

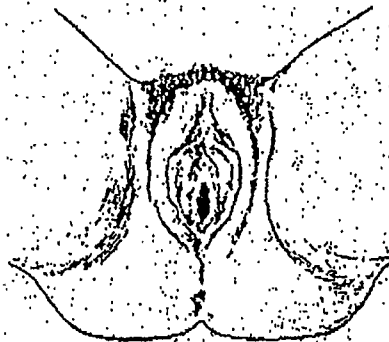
Shelia A. Summers

Page 4

VICTIM'S NAME

PELVIC EXAMINATION—(To be performed by qualified medical personnel.)
(Use a non-lubricated speculum.)

VULVA: Normal
INTROITUS: Normal
VAGINA: R/S
CERVIX: Normal
UTERUS: Normal
ADNEXA: Normal
HYMEN: Normal
RECTUM: Normal
ANUS: Normal
COMMENTS: _____



(Examiner)

Date

Time

SWABS AND SMEARS COLLECTION PROCEDURE

NOTE

- (A) Do Not moisten swabs prior to collection.
(B) Do Not stain or chemically fix smears.
(C) It is imperative that swabs and smears be completely air dried before re-packaging in the kit box.

- ☐ 1 Slide and 4 air-dried swabs from the vaginal area (including vulva and cervical areas) for semen analysis.
☒ 1 Slide and 2 air-dried swabs from rectum for semen analysis (if applicable)
☒ 1 Slide and 2 air-dried swabs from the mouth for semen analysis (if applicable)

LABORATORY TESTS TO BE PERFORMED BY HOSPITAL LAB

Wet mount for presence of:

Spermatozoa

Other

- ☐ Motile
☐ Non-Motile
☒ None Seen

- ☐ Trichomonas
☐ Gardnerella
☐ Candida

Please perform the following:

- ☐ Pap Smear
☐ GC Culture - Oral
☐ Other Culture (i.e. Herpes)

- ☒ Gravindex or HCG
☐ GC Culture - Vaginal
☒ HIV (with victim's consent)

- ☒ VDRL
☐ GC Culture - Rectal
☒ Urinalysis

HOSPITAL - (White Copy)

SLED - (Yellow Copy)

LAW ENFORCEMENT - (Pink Copy)

DOVA/VICTIM COMP - (Green Copy)

SCA1004

Sexual Assault

Page 5

VICTIM'S NAME

FOR USE WITH MALE SEXUALLY ABUSED VICTIMS

Note: The specimens listed below should be collected and treated in the same manner as in the female sexual assault protocol.

CHECKLIST FOR SPECIMENS FROM MALE VICTIMS

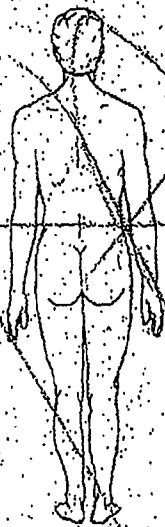
☐ Outer Clothing Bag	☐ Suspected Semen	☐ Bite Marks
☐ Debris Collection Bag	☐ Known Pubic Hair	☐ Rectal Swabs and Smears
☐ Known Blood Standard	☐ Known Head Hair	☐ Oral Swabs and Smears
☐ Fingernail Scrapings	☐ Known Saliva	☐ Miscellaneous Material
		☐ Underpants Bag

LABORATORY TESTS TO BE PERFORMED BY HOSPITAL LAB

- ☐ GC Cultures, VDRL and HIV (with victim's consent)

PHYSICAL EXAMINATION: Description of all signs of trauma — i.e. bruises, scratches, redness on any part of the body.

Indicate location of trauma described above on appropriate drawings



Photographs Taken? ☐ Yes ☐ No

Forensic Odontologist consulted? ☐ Yes ☐ No

EXTERNAL GENITALIA EXAMINATION —

(To be performed by qualified medical personnel)

Note all signs of trauma, i.e. bruises, petechiae, discharges, sphincter tone. Also note any traces of lubricants or rectal soiling.

PENIS: _____

SCROTUM: _____

MEATUS: _____

GLANS: _____

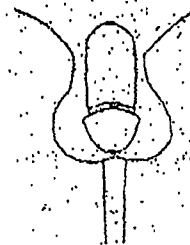
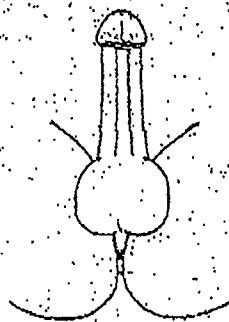
TESTICLES: _____

PERINEUM: _____

RECTUM: _____

ANUS: _____

COMMENTS: _____



(Examiner)

Date

Time

Sheila A. Summers

Page 6

TREATMENT RECORD

Was general surgical/laceration repair required?

☐ Yes☒ No

Describe in detail:

Was pelvic surgical/laceration repair required?

☐ Yes☒ No

Was victim given Tetanus Toxoid?

☐ Yes☐ NoWas victim given prophylactic antibiotic therapy?
(i.e. for venereal disease)☒ Yes☐ No

Specify drug and dosage:

Rocephin 250mg IM

Was victim given pregnancy prevention drug?

☒ Yes☐ No

If no, why not?

Was victim given any other medication?

☒ Yes☐ No

If yes, explain why:

Rx for doxycycline

DISPOSITION AND FOLLOW-UP

The victim was referred to:

PHYSICIAN: Dr. Westberry

DATE:

TIME:

am

COUNSELOR:

Grenhamess - Case # 06063329

DATE:

TIME:

am

pm

Follow-up appointment should be made with examining physician/examiner. Victim should be seen within 4-8 weeks for a repeat GC and VDRL, and in one month for repeat HIV.

Signature of Nurse:

Mansra Nelson RN

Request report sent for follow-up to:

(Physician/Examiner)

Dr. Michael Chandler

(Address)

(Examining Physician/Examiner)

FINAL INSTRUCTIONS

1. Make sure information on forms and evidence containers has been completely filled out and that all requested signatures and dates have been completed.
2. Separate forms.
3. Retain white copies of forms for hospital records, place yellow copies in kit box, hand investigating officer pink copies, and forward green copies to DOVA/Victim Compensation.
4. Place the following sealed evidence containers (used and unused) in the SEROLOGY SECTION Evidence Distribution Envelope, then seal envelope with an evidence seal: A) Known Saliva Envelope; B) Known Blood Ziplock Bag containing Lavender-Stoppered Blood Collection Tube; C) Suspected Semen Envelope; D) Bite Marks Envelope; E) Vaginal, Oral, and Rectal Slide Holder; F) Vaginal Swabs Envelope; G) Oral Swabs Envelope; H) Rectal Swabs Envelope; I) Fingernail Scrapings Envelope.
5. Place the following sealed evidence containers (used or unused) in the TRACE SECTION Evidence Distribution Envelope, then seal envelope with an evidence seal: A) Miscellaneous Materials Envelope; B) Pubic Hair Combing Envelope; C) Known Pubic Hairs Envelope; D) Known Head Hairs Envelope.
6. Place the following sealed evidence container (used or unused) in the TOXICOLOGY SECTION Evidence Distribution Envelope, then seal envelope with an evidence seal: A) Known Blood Ziplock Bag containing Gray-Stoppered Blood Collection Tube.
7. Place all sealed Evidence Distribution Envelopes in kit box along with sealed Underpants Bag.
8. Fill out all information requested on kit box top, then affix biohazard label where indicated.
9. Initial police evidence seals and affix where indicated on sides of box.
10. Make first entry on Chain of Custody label on bottom of kit box.
11. Transfer sealed kit and sealed Outer Clothing bag to investigating officer.

NOTE: If officer is not present at this time, place sealed kit and sealed Outer Clothing bag in secure and refrigerated area, and hold for pickup by investigating officer.

NOTE TO INVESTIGATING OFFICER

IF POSSIBLE, STORE KIT BOX IN REFRIGERATED AREA.
TRANSPORT EVIDENCE TO SLED FORENSIC SCIENCE LABORATORY.

HOSPITAL - (White Copy)

SLED - (Yellow Copy)

LAW ENFORCEMENT - (Pink Copy)

DOVA/VICTIM COMP - (Green Copy)

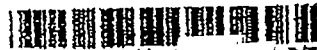
SCA1004

Oct 13 2008 07:57pm P028/032

Bowman Enterprises Inc. Fax: 919867761



377936 RH- ED04 P/T-B.R.
 SIMPSON SUTELA A P-22
 ST GEORGE , SC
 CHANDLER M
 NON STAFF 05/24/06 B/D



377936 RH- ED04 P/T-B.R.
 SIMPSON SUTELA A P-22
 ST GEORGE , SC
 CHANDLER M
 NON STAFF 05/24/06 B/D
 HOSPITAL
 CHARGE
 CAL NOTES

Service Requested: _____

Diagnosis: _____

Date	Initial Report:
	~~SIMPSON SUTELA A~~ Error
	Shelia states she went to Friends house (^{Friends} Aunt)
	to pick up something she left. An acquaintance was there
	asked her to take him to Exxon Store on way home
	perp grabbed her arm & hair told her to keep driving
	States she ~~was on dirt road and car got stuck~~ ^{on dirt road} Perp told her to get
	out of car. pt. got scared grabbed wallet + cell phone + ran away.
	Tried to call but perp reached her + pushed her down, grabbed
	wallet & cell phone. Perp told her he would kill her if she did not do
	what he asked. Took her back to car - another car came
	down dirt road, pt tried to scream but perp. pushed
	her down in car, put hands around her neck and once again
	told her he would kill her. He then ripped her underwear off
	had "foreplay then sex" he "raped" me. After that
	he got out of car - asked pt to "pop the trunk" - perp
	didn't get anything out. He then tried to push car out of
	"rut" he drove down dirt road - was talking "crazy"
	using threats. He pulled into "drive away" and
	"raped" me again, in the back seat. He then drove
	car onto paved road - got out and told pt not to tell
	anyone or he would "kill" her.

CLARENDON MEMORIAL HOSPITAL.

EMERGENCY DEPARTMENT
DATA ASSESSMENT RECORD

Page 1 of 3

377936 RM- ED04 P/T-E.R.
SUMMERS SHEILA A 22
ST GEORGE SC

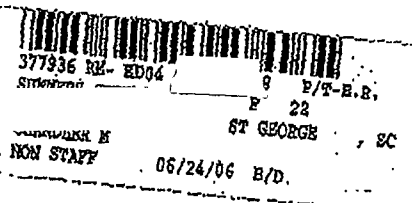
CHANDLER M
KON STAFF 06/24/06 B/D

[illegible]

CLARENDON MEMORIAL HOSPITAL

EMERGENCY DEPARTMENT
DATA ASSESSMENT RECORD

Page 2 of 3



PHYSICAL ASSESSMENT									
RESPIRATORY		CIRCULATORY		NEURO (GCS)		GI		GU	
☐ Cough	☒ Normal	☒ Normal	☒ Delayed	☒ LOC	☒ Verbal Response	☒ No Complaints	☒ Vomiting X 1	☒ No Complaints	☒ Flank Pain = L R
☐ Prod Color:	☒ Normal	☒ Heart Sounds	☒ RRR	☒ Duration	☒ 5 Oriented	☒ Nausea	☒ Diarrhea	☒ Frequency	☒ Burning
☐ Non Prod	☒ Normal	☒ Pain Scale 1-10	☒ RRR	☒ Unknown	☒ 4 Confused	☒ Other	☒ Bowel Sounds	☒ D/C color	☒ GYN
☒ SOB	☒ Normal	☒ Pulses	☒ RRR	☒ Weakness	☒ 3 Inappropriate Words	☒ Absent	☒ Present	☒ No Complaints	☒ Bleeding
☒ Normal	☒ Normal	☒ Radial	☒ RRR	☒ PERL	☒ 2 Incomprehensible Sounds	☒ Soft	☒ Abdomen	☒ # Pads in 1 hour	☒ Discharge Color
☒ Irregular	☒ Normal	☒ Pedal	☒ RRR	☒ HA 1-10	☒ 1 None	☒ Distended	☒ Guarding	☒ G	☒ P
☒ Shallow	☒ Normal	☒ Comments	☒ Comments	☒ Eye Opening	☒ 6 Follows Commands	☒ Rigid	☒ Tenderness	☒ A	☒ Pregnant / EDC
☒ ROSA TH SOUNDS	☒ Normal	☒ Comments	☒ Comments	☒ Spontaneous	☒ 4 Localizes Pain	☒ Location:	☒ FHT	☒ Mechanism of Injury	☒ Driver
☒ L R Clear	☒ Normal	☒ Comments	☒ Comments	☒ 3 To Voice	☒ 4 Withdraws Pain	☒ Ambulation	☒ Needs Assistance	☒ Front	☒ Back
☒ L R Crackles	☒ Normal	☒ Comments	☒ Comments	☒ 2 To Pain	☒ 3 Flexes Pain	☒ Wheel Chair	☒ Needs Assistance	☒ Est APH	☒ Other:
☒ L R Wheezing	☒ Normal	☒ Comments	☒ Comments	☒ 1 None	☒ 2 Extends Pain	☒ Walker	☒ Canine	☒ Injury Location	☒ Work
☒ L R Diminished	☒ Normal	☒ Comments	☒ Comments	☒ 1 None	☒ 1 None	☒ Pediatric Assessment	☒ Birth	☒ School	☒ Street
☒ COMMENTS	☒ COMMENTS	☒ COMMENTS	☒ COMMENTS	☒ 1 None	☒ 1 None	☒ Full Term	☒ Premature	☒ Residence	☒ Other:
☒ SKIN / TRAUMA	☒ Mucous Membranes	☒ PHOTOSOCIAL / EDUCATION	☒ Functional Assessment	☒ Mechanism of Injury	☒ Driver	☒ Passenger	☒ Front	☒ Back	☒ N/A
☒ Warm	☒ Moist	☒ Affect	☒ ADL	☒ Driver	☒ Passenger	☒ Front	☒ Back	☒ N/A	☒ N/A
☒ Cool	☒ Dry	☒ Behavior	☒ Independent	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ MAB	☒ Trauma	☒ Speech	☒ Needs Assistance	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:	☒ N/A
☒ Dry	☒ N/A	☒ Support System	☒ Ambulation	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ Diaphoretic	☒ pain	☒ Family/Significant Other	☒ Independent	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ Edema	☒ Swelling	☒ Lives Alone	☒ Needs Assistance	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ Absent	☒ Deformity	☒ Language Education	☒ Wheel Chair	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ Present	☒ Numbness	☒ Unable to read/write	☒ Walker	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ Location:	☒ Abrasion	☒ Patient or S/O can read/write	☒ Cane	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ Color	☒ Laceration	☒ Language other than English:	☒ Canine	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ Normal	☒ Burn	☒ Signature	☒ Pediatric Assessment	☒ Injury Location	☒ Work	☒ School	☒ Street	☒ Residence	☒ Other:
☒ Cyanotic	☒ Confusion	☒ Signature	☒ Birth	<					

CLARENDON MEMORIAL HOSPITAL

EMERGENCY DEPARTMENT
DATA ASSESSMENT RECORD

377936 RM- ED04 P/T-E.R.
SUMMERS SHEILA A. 22
ST GEORGE, SC
CHANDLER M
NON STAFF 06/24/06 B/D

Page 3 of 3

Time	Narrative Notes
0140	PT ambulated to ED by PT crying PT states I WAS RAPE IN ALCOH AFTER 2100 PM 2WT
0150	DISPATCH NOTIFIED OF NEED FOR COUNTY DEPUTY
0159	DEPUTY D. MARION of Clarendon County in ED TO SPEAK 2 WT
0209	INVESTIGATOR TOLD AUNT on phone 2 Deputy MARION 2WT
0212	Back to Work called unavailable FOR EXAM 2WT
0214	MARSHA NELSON called message left on Home phone + cell phone 2WT
0225	MARSHA NELSON called AGAIN will be in ER 2WT
0241	PT desired to call parents 2WT
0242	PT on phone with parents 2WT
0243	PT aware of wait FOR SAME NURSE TO arrive 2WT
0314	MARSHA NELSON SAME NURSE (EE Manager) in ER Dept 2WT
0320-0610	Assault kit done - PT to H & Pmd + Victims assistance office on Monday MA

☐ See additional notes attached.

Valuables			Disposition	
☒ Not Inventoried	☐ Money Amt.	☐ Clothes	Time: 0610	Via: ☐ W/C ☒ Amb ☐ Stretcher ☐ Carried
☐ Bracelet	☐ Earrings	☐ Dentures	☒ D/C Home ☐ LWT	☒ POV ☐ EMS/Ambulance
☐ Necklace	☐ Rings	☐ Glasses	☐ D/C	☒ Aftercare Instructions Given
☐ Watch	☐ Purse	☐ ID	☐ AMA	To: PT
☐ Wallet	☐ Keys		☐ Transfer to:	☐ School/ work Excuse
With Whom/Where _____			☐ Transfer Form	Date to return to school or work _____
			Completed	
			☐ POV ☐ EMS/Helicopter	
			☐ Admitted to:	Report to: _____
Initials	Signature	Title	Condition on Discharge:	Time: _____
W	Wanda J. ...	MD	☒ Stable	Admitting M.D. _____
MA	Marsha Nelson	RN	☐ Improved	
			☐ Unchanged	
			☐ Critical	
			Monitor ☐ Yes ☐ No ☐ N/A	
			IV ☐ Yes ☐ No ☐ N/A	
			O ₂ ☐ Yes ☐ No ☐ N/A	

**SEXUAL ASSAULT EXAMINATION PROTOCOL
STATE OF SOUTH CAROLINA
LAW ENFORCEMENT DIVISION
SOUTH CAROLINA HOSPITAL ASSOCIATION**

377936 RM- 22
SUMMERS SRHILL L. 22
1533 COMMUNITY DRIVE ST GEORGE, SC
CHANDLER H
NON STAFF 06/24/06 8/D 03/11/84

—Page 1—

ADULT VICTIM SEXUAL ASSAULT INFORMATION AND EXAMINATION FORM

NOTE

If you should have any questions concerning the use of this kit, please call the Department of Forensic Serology and DNA Analysis, SLED Forensic Services Laboratory, at 896-7300 or after 5 p.m. 737-9000.

NAME OF HOSPITAL: Clarendon Memorial DATE: 6/24/06 TIME ADMITTED: 02:31
NAME OF VICTIM: Shelia A. Summers DATE OF BIRTH: _____
SEX: F RACE: B MARITAL STATUS: S SSN NO.: _____
LAW ENFORCEMENT OFFICER: _____ BADGE NO.: 249571978
AGENCY: _____

BRIEF SUMMARY OF ASSAULT—(Include Date, Time, Location; i.e. on bed in victim's or suspect's bedroom. Include, if possible, color of carpet in suspect's home or vehicle; and make/model of the vehicle and its interior/exterior colors.)

6/23/06 after 9pm drove someone to store on way back
perp made victim drive onto dirt Rd. - raped x 2 in white
1997 Altima with tan interior

SINCE ALLEGED ASSAULT, HAS VICTIM:

☐ Douched ☐ Defecated ☐ Brushed Teeth
☐ Bathed/Showered ☒ Vomited ~ 1am ☐ Used Mouthwash
☐ Urinated ☐ Drank/Eaten ☐ Changed Clothes

DURING ALLEGED ASSAULT:

Did penis penetrate? ☒ Vulva ☒ Mouth ☐ Anus ☐ No ☐ Not Known
Did assailant experience ejaculation? ☒ Yes ☐ No ☐ Not Known
Did assailant wear condom? ☐ Yes ☒ No ☐ Not Known
During alleged assault did subject state anything to indicate he had any sexually transmitted diseases?

☐ Yes ☒ No If yes, identify: _____

WERE ANY MEDICATIONS, SOCIAL DRUGS OR ALCOHOL TAKEN PRIOR TO OR AFTER ALLEGED ASSAULT?

☒ Yes ☐ No ☐ Not Known
Type: perp "drinking a beer" Amount: Unknown
Time: after 9pm Date: 6/23/06

WAS ANY COERCION USED?

☒ Verbal Threats ☐ Knife ☐ Gun ☒ Choke ☐ Fists
☐ Other _____

ASSAILANT(S): Number: 1 Age(s): 30 Race: Black

ASSAILANT(S) - RELATIONSHIP TO VICTIM: ☒ Stranger ☐ Acquaintance ☐ Friend

☐ Relative (Specify): _____

If Relative, Address of Relative: _____

MEDICAL HISTORY:

Date of last Menses: May 31st, 2006 Normal— ☒ Yes ☐ No
Victim known to be pregnant? ☐ Yes ☒ No ☐ Gravida ☐ Parity
Duration of pregnancy: _____
Has victim had any past pelvic surgical procedures? ☐ Yes ☒ No
If yes, date and reason: _____
Has victim had sexual relations within the last 7 days? ☒ Yes ☐ No
If yes, date: Thursday June 22nd in AM
Condom used? ☐ Yes ☒ No
Other type of contraception used? NONE

GENERAL EXAMINATION

Shelia A. Summers

-Page 2-

VICTIM'S NAME

DESCRIPTION OF OUTWARD APPEARANCE—(i.e. clothes obtained, torn or glass particles present from broken glass at scene):

dishveled ~ no shirt ~ hair messed up
crying

DESCRIPTION OF EMOTIONAL STATE—(i.e. crying, agitated, lethargic, frightened, shocked, depressed, etc.)

Depressed - crying

☐ OUTER CLOTHING, UNDERPANTS AND DEBRIS COLLECTION

Note: 1. Wet or damp clothing should be air dried before packaging.

2. If victim is not wearing the clothing worn at the time of the alleged assault, collect only the items that are in direct contact with victim's genital area.
3. If victim changed clothing after assault, inform officer in charge so that the clothing worn at the time of the assault may be collected by the police.
4. Do not cut through any existing holes, rips or stains in victim's clothing.
5. Do not shake out victim's clothing or microscopic evidence will be lost.
6. If additional clothing bags are required, use only new, paper (grocery-type) bags.

Unfold and place a clean hospital bed sheet on floor. Remove paper sheet from Debris Collection bag, unfold and place over bed sheet. Instruct victim to stand in center of paper sheet and carefully disrobe. Collect each item of clothing as removed and place in the Outer Clothing bag. Collect victim's underpants and place in Underpants bag. Fill out all information requested in bag labels. Seal Debris Collection bag and place in the Outer Clothing bag, then seal Outer Clothing bag. Seal Underpants bag with a police evidence seal and return bag to kit box. Return bed sheet to hospital laundry.

☒ MISCELLANEOUS MATERIALS — (For comparison with debris found at crime scene or on assailant's body)

Collect any debris found on victim's body (leaves, fibers, hair, etc.) and place in the Miscellaneous Materials envelope. Note location from which miscellaneous material(s) was taken on anatomical drawings on back of envelope. Seal and fill out all information requested on envelope.

☒ KNOWN SALIVA — (For secretor status)

Without touching inner circle with your fingers, remove folded filter paper disk from envelope and place inner circle in victim's mouth. Instruct victim to thoroughly saturate inner circle with saliva. Allow disk to air dry, then return to Saliva Sample envelope. Seal and fill out all information requested on envelope. (Caution: Unless sample is completely air dried, the results of the analysis may be erroneous or inconclusive.)

☒ KNOWN BLOOD STANDARD — (For SLED Toxicology and Serology/DNA)

Using normal hospital/lab procedure, draw samples from the victim using a lavender stoppered (EDTA) and a gray stoppered tube from hospital/lab stock. Immediately after collection, write the victim's name, date and time collected and your initials on the blood tube labels. Place the filled tubes into the bubble packs provided and then place in the appropriate ziplock bag. Seal the ziplock bag and fill out all information requested on bag.

Note: Any blood samples required by the hospital should be drawn at this time.

☒ FINGERNAIL SCRAPINGS — (Collect only if victim scratched assailant's skin)

Left Hand: Remove folded paper labeled "L" and fingernail scraper provided in Fingernail Scrapings envelope, and unfold and place on flat surface. Hold victim's left hand over paper and scrape under all five fingernails, allowing any debris present to fall onto paper. Place used scraper in center of paper, refold paper to retain debris and scraper, tape closed and return to Fingernail Scrapings envelope.

Right Hand: Follow same procedure for right hand using folded paper labeled "R". Then, seal and fill out all information requested on envelope.

—Page 3—

GENERAL EXAMINATION (cont.)Shelia A. Summers

VICTIM'S NAME

☒ SUSPECTED SEMEN — (It is recommended that a Wood's (UV) lamp be used in the following procedure.)

Examine victim's body for crusted area(s). If found, moisten swab(s) with a saline solution. Then thoroughly swab the suspected area(s). Allow swab(s) to *thoroughly air dry*, then return swab(s) to the Suspected Semen envelope. Note location from which sample(s) was taken on the anatomical drawings on back of envelope. Seal and fill out all information requested on envelope.

☒ PUBIC HAIR COMBINGS — (To obtain pubic hairs shed by assailant during the assault.)

Remove paper towel and comb provided in Pubic Hair Combing envelope. Place towel under victim's buttocks. Using comb provided, comb pubic hair in downward strokes so that any loose hairs and/or debris will fall onto paper towel. Refold in manner to retain both comb and any evidence present. Return to Pubic Hair Combing envelope. Seal and fill out all information requested on envelope.

☒ KNOWN PUBIC HAIRS — (For comparison with hairs found at crime scene or on assailant's body.)

Pull, do not cut, 15-20 full-length pubic hairs from various locations and place in Known Pubic Hairs envelope. Seal and fill out all information requested on envelope.

☒ KNOWN HEAD HAIRS — (For comparison with hairs found at crime scene or on assailant's body.)

Remove folded paper bindles from envelope. Pull, do not cut, 3-5 full length hairs from each of the following scalp locations: center, back, front, left side and right side and place in Known Pubic Hairs envelope. Seal and fill out all information requested on envelope.

☒ BITE MARKS

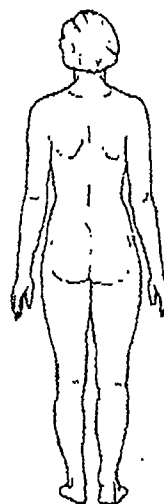
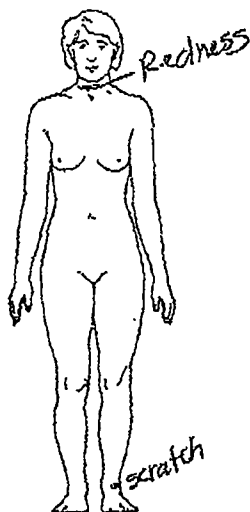
Using one (1) swab per collection site, moisten swab(s) with a saline solution. Then thoroughly swab the bite mark. Allow swab(s) to *thoroughly air dry*, then return swabs to envelope. Seal and fill out all information requested on envelope.

PHYSICAL EXAMINATION:

Describe all signs of trauma i.e. bruises, scratches, bite or suck marks or redness on any part of victim's body.

Redness ? small abrasion around front neck
scratch (abrasion) (L) lower leg

Indicate location of trauma described above on appropriate anatomical drawing(s).



Photographs taken?

☐ Yes☒ No

Forensic Odontologist consulted?

☐ Yes☒ No

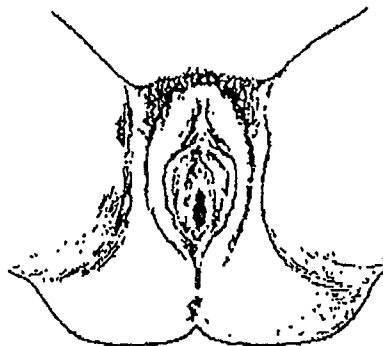
Shelia A. Summers

—Page 4—

VICTIM'S NAME

PELVIC EXAMINATION—(To be performed by qualified medical personnel.)
(Use a non-lubricated speculum.)

VULVA: NMC
 INTROITUS: NMC
 VAGINA: NMC
 CERVIX: NMC
 UTERUS: ---
 ADNEXA: ---
 HYMEN: NMC
 RECTUM: NMC
 ANUS: NMC
 COMMENTS: _____



[Signature]
(Examiner)

6/24/6
Date

5 A.M.
Time

SWABS AND SMEARS COLLECTION PROCEDURE

NOTE

- (A) *Do Not* moisten swabs prior to collection.
 (B) *Do Not* stain or chemically fix smears.
 (C) It is imperative that swabs and smears be *completely air dried* before re-packaging in the kit box.

- ☒ 1 Slide and 4 air dried swabs from the vaginal area (including vulva and cervical areas) for semen analysis
☒ 1 Slide and 2 air-dried swabs from rectum for semen analysis (if applicable)
☒ 1 Slide and 2 air-dried swabs from the mouth for semen analysis (if applicable)

LABORATORY TESTS TO BE PERFORMED BY HOSPITAL LAB

Wet mount for presence of:

Spermatozoa
☐ Motile
☐ Non-Motile
☒ None Seen

Other

☐ Trichomonas
☐ Gardnerella
☐ Candida

Please perform the following:

☐ Pap Smear
☐ GC Culture - Oral
☐ Other Culture (i.e. Herpes)

☒ Gravindex or HCG
☒ GC Culture - Vaginal
☒ HIV (with victim's consent)

☒ VDRL
☐ GC Culture - Rectal
☒ Urinalysis

Shelia A Summers

—Page 5—

VICTIM'S NAME

FOR USE WITH MALE SEXUALLY ABUSED VICTIMS

Note: The specimens listed below should be collected and treated in the same manner as in the female sexual assault protocol.

CHECKLIST FOR SPECIMENS FROM MALE VICTIMS

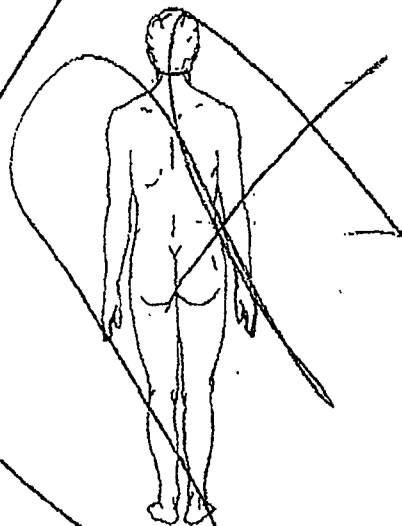
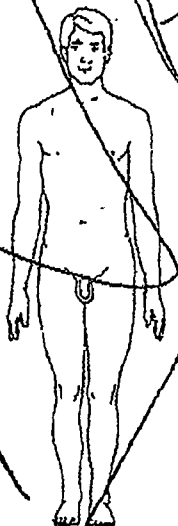
☐ Outer Clothing Bag	☐ Suspected Semen	☐ Bite Marks
☐ Debris Collection Bag	☐ Known Pubic Hair	☐ Rectal Swabs and Smears
☐ Known Blood Standard	☐ Known Head Hair	☐ Oral Swabs and Smears
☐ Fingernail Scrapings	☐ Known Saliva	☐ Miscellaneous Material
		☐ Underpants Bag

LABORATORY TESTS TO BE PERFORMED BY HOSPITAL LAB

- ☐ GC Cultures, VDRL and HIV (with victim's consent)

PHYSICAL EXAMINATION: Description of all signs of trauma — i.e. bruises, scratches, redness on any part of the body.

Indicate location of trauma described above on appropriate drawings



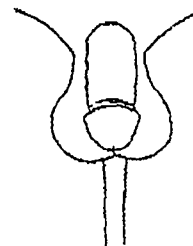
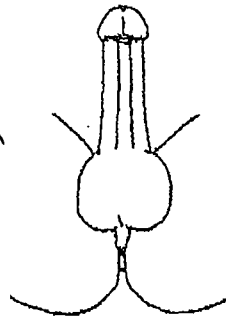
Photographs Taken? ☐ Yes ☐ No

Forensic Odontologist consulted? ☐ Yes ☐ No

EXTERNAL GENITALIA EXAMINATION —
(To be performed by qualified medical personnel)

Note all signs of trauma, i.e. bruises, petechiae, discharges, sphincter tone. Also note any traces of lubricants or rectal soiling.

PENIS: _____
 SCRÓTUM: _____
 MEATUS: _____
 GLANS: _____
 TESTICLES: _____
 PERINEUM: _____
 RECTUM: _____
 ANUS: _____
 COMMENTS: _____



(Examiner)

Date

Time

Shelia A Summers

-Page 6-

VICTIM'S NAME

TREATMENT RECORD

Was general surgical/laceration repair required?

☐ Yes☒ No

Describe in detail: _____

Was pelvic surgical/laceration repair required?

☐ Yes☒ No

Was victim given Tetanus Toxoid?

☐ Yes☒ No

Was victim given prophylactic antibiotic therapy?

☒ Yes☐ No

(i.e. for venereal disease)

Specify drug and dosage: Rocephin 250mg IM

Was victim given pregnancy prevention drug?

☒ Yes☐ No

If no, why not? _____

Was victim given any other medication?

☒ Yes☐ NoIf yes, explain why: Rx for doxycycline**DISPOSITION AND FOLLOW-UP:**

The victim was referred to:

PHYSICIAN: Dr. Westberry

DATE: _____

TIME: _____

am

COUNSELOR: given name's ~ case # 06063324

DATE: _____

TIME: _____

am

pm

Follow-up appointment should be made with examining physician/examiner. Victim should be seen within 4-6 weeks for a repeat GC and VDRL; and in one month for repeat HIV.

Signature of Nurse: Marsha Nelson RN

Requests report sent for follow-up to: _____

(Physician/Examiner)

Dr. Michael Chandler

(Examining Physician/Examiner)

(Address)

FINAL INSTRUCTIONS

1. Make sure information on forms and evidence containers has been completely filled out and that all requested signatures and dates have been completed.
2. Separate forms.
3. Retain white copies of forms for hospital records, place yellow copies in kit box, hand investigating officer pink copies, and forward green copies to DOVA/Victim Compensation.
4. Place the following sealed evidence containers (used and unused) in the SEROLOGY SECTION Evidence Distribution Envelope, then seal envelope with an evidence seal: A) Known Saliva Envelope; B) Known Blood Ziplock Bag containing Lavender-Stoppered Blood Collection Tube; C) Suspected Semen Envelope; D) Bite Marks Envelope; E) Vaginal, Oral, and Rectal Slide Holder; F) Vaginal Swabs Envelope; G) Oral Swabs Envelope; H) Rectal Swabs Envelope; I) Fingernail Scrapings Envelope.
5. Place the following sealed evidence containers (used or unused) in the TRACE SECTION Evidence Distribution Envelope, then seal envelope with an evidence seal: A) Miscellaneous Materials Envelope; B) Pubic Hair Combing Envelope; C) Known Pubic Hairs Envelope; D) Known Head Hairs Envelope.
6. Place the following sealed evidence container (used or unused) in the TOXICOLOGY SECTION Evidence Distribution Envelope, then seal envelope with an evidence seal: A) Known Blood Ziplock Bag containing Gray-Stoppered Blood Collection Tube.
7. Place all sealed Evidence Distribution Envelopes in kit box along with sealed Underpants Bag.
8. Fill out all information requested on kit box top, then affix biohazard label where indicated.
9. Initial police evidence seals and affix where indicated on sides of box.
10. Make first entry on Chain of Custody label on bottom of kit box.
11. Transfer sealed kit and sealed Outer Clothing bag to investigating officer.

NOTE: If officer is not present at this time, place sealed kit and sealed Outer Clothing bag in secure and refrigerated area, and hold for pickup by investigating officer.

NOTE TO INVESTIGATING OFFICER

IF POSSIBLE, STORE KIT BOX IN REFRIGERATED AREA.
TRANSPORT EVIDENCE TO SLED FORENSIC SCIENCE LABORATORY

HOSPITAL - (White Copy)

SLED - (Yellow Copy)

LAW ENFORCEMENT - (Pink Copy)

DOVA/VICTIM COMP - (Green Copy)

SCA1004

© 1996 - 2004 T-System, Inc. Circle or check affirmative, or backlash (-) negatives.

24

Clarendon Memorial Hospital
EMERGENCY PHYSICIAN RECORD
 General Adult (5)

TIME SEEN: 2:12 ROOM: _____ E/AS ArrivalHISTORIAN: patient spouse paramedics

HX / EXAM LIMITED BY: _____

HPIchief complaint: Alleged sexual
assaultstarted: 1 PM

time course:

still present
 better
 gone now
 worse

severity:

mild
 moderate
 severe

modifying factors:

none

context:

quality:

location:

Did not show
states she knows the person
Does not physical injuries
has informant notified

Similar symptoms previously

Recently seen / treated by doctor

377936 HK-
SUMMERS STRICK AF/T 22
ST GEORGE , SCCHANDLER M
NON STAFF

06/26/06 B/D

ROS

CONST

fever

subjective

chills

ENT

sore throat

nasal drainage / congestion

CVS / PULMONARY

cough

sputum

trouble breathing

chest pain

GI

abdominal pain

nausea / vomiting

diarrhea

black / bloody stools

URINARY

problems urinating

frequent urination

FEMALE GENITAL

abnormal bleeding

vaginitis

postmenstrual spotting

menstrual cramps

menstrual pain

menstrual irregularity

menstrual color

menstrual flow

menstrual odor

menstrual pain

menstrual cramps

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PAST HX

neurological problems

CVA seizure disorder

cardiac disease

heart attack (MI) angina
heart failure

high blood pressure

other problems

lung disease

asthma emphysema

diabetes

insulin-dependent diet-controlled
oral hypoglycemic

high cholesterol

Medications

ASA NSAID acetaminophen

Allergies

see nurses note

SOCIAL HX

alcohol (occasional / frequent / recent)

FAMILY HX

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF CLARENDON	)	INDICTMENT NO. 2008-GS-14-0365
	)	
The State,	)	
	)	
v.	)	RULE 5 DISCLOSURE AND
	)	MOTION FOR RECIPROCAL
DONNELL WOODS	)	DISCOVERY AND DISCLOSURE
	)	OF EVIDENCE
	)	
Defendant	)	

TO: DEBORAH J. BUTCHER, ATTORNEY FOR THE DEFENDANT:

In response to your request for Disclosure under Rule 5, the State provides the following:

1. Copy of incident report
2. Copy of warrants
3. Copy of Investigator's Case Check Sheet
4. Copy of Evidence Inventory Sheet (3 pages)
5. Copy of 3 Year Driver Record
6. Copy of Photographs (19 pages)
7. Copy of Investigator's Summary
8. Copy of Rap Sheet
9. Copy of SLED DNA Analysis
10. Copy of Photo Disc (2) *ap*

**PETITIONER'S
EXHIBIT**

Woods

9-3-08

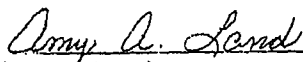
20

12

Having complied with the defendant's request, the State hereby requests the Information subject to disclosure under Rule 5(b)(1)(A)&(B).

The State hereby requests information subject to Rule 5(e)(1) Notice of Alibi; Rule 5(f) Notice of Insanity Defense or Plea of Guilty but Mentally Ill; and any intent of the defendant to rely upon the defenses of necessity or self-defense.

This Motion is pursuant to Circuit Rule 5, upon compliance by the prosecution with the defendant's previous Motion for Discovery and Disclosure based upon the same circuit court rule. The duty to make said disclosure is a continuing duty up to and during trial.


Amy A. Land
Assistant Solicitor
Third Judicial Circuit

Manning, South Carolina

September 12, 2008

STATE OF SOUTH CAROLINA)

COUNTY OF CLARENDON)

STATE,)

Plaintiff,)

vs.)

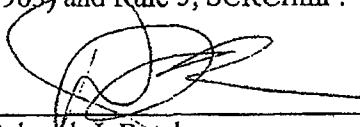
DONNELLE WOODS,)

Defendant.)

IN THE FAMILY COURT OF THE
THIRD JUDICIAL CIRCUIT**MOTION TO COMPEL**

TO: AMY LAND, ASSISTANT SOLICITOR THIRD JUDICIAL CIRCUIT:

YOU WILL PLEASE TAKE NOTICE that Defendant moves the Court for an order to compel the production of all medical records of the victim in the above referenced case from the hospital which the victim sought medical treatment after the alleged rape; any and all statements made by the victim to law enforcement whether oral or written and; the file of the State's victim's advocate. All of these items are in the hands of the state and have been requested pursuant to Brady v. Maryland, 373 U.S. 83 (1963) and Rule 5, SCRCrimP.


 Deborah J. Butcher
 Clarendon County Public Defender

10-10, 2008
 Clarendon County

**PETITIONER'S
 EXHIBIT**

 Woods
 9-30-13

21

120

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
Warrant #: J121801; J121802; J121803

State of South Carolina,

Plaintiff,

vs.

WOODS, DONNIEL,

Defendant.

EX PARTE ORDER
(Authorizing Payment
of Investigative Expenses)

This matter is before the Court upon the Ex Parte verbal motion of Deborah J. Butcher, appointed counsel for the above-named indigent Defendant. Mrs. Butcher has requested to satisfy the remaining bill of her investigator in connection with her representation of the aforesaid Defendant out of funds available to the Office of Indigent Defense.

On the basis of the representations of Mrs. Butcher, I make the following findings:

1. Although ex parte communications are generally prohibited, Section 17-3-50 (b) of the 1976 South Carolina Code of Laws (as amended), specifically provides for and authorizes ex parte communications and proceedings for the purpose of request on behalf of indigent Defendants for approval of funding for investigative, expert, and other services as are reasonably necessary for representation of such Defendants. Accordingly these matters are properly before this Court.
2. Mrs. Butcher was appointed to represent the above-named Defendant through the Public Defender Corporation of Clarendon County.
3. The Defendant, has been charged with the crimes of Criminal Sexual Conduct in the 1st degree; kidnapping and; strong armed robbery

**PETITIONER'S
EXHIBIT**

Woods
9-30-88

22 m

The Honorable Howard P. King authorized Mrs. Butcher to retain the services of an investigator by Order dated September 24, 2004.

4. Mrs. Butcher engaged the services of John Johnson in Sumter County. Mr. Johnson assisted Mrs. Butcher in the investigation of this case as well as the preparation for trial and sentencing in this case.

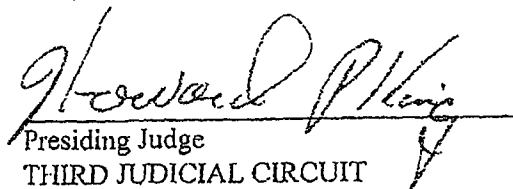
5. Mr. Johnson submitted a bill to Mrs. Butcher in the amount of One Thousand nine Hundred thirty-eight dollars and 40/100 (\$1938.40). The Honorable Judge King has already Ordered payment of One Thousand Dollars, five-hundred dollars and 00/100 through the Office of Indigent Defense.

6. This Court having reviewed the bill of Mr. Davis finds this amount of one thousand nine-hundred and thirty-eight and 40/100 to be reasonable and necessary. Accordingly, the Office of Indigent Defense is to pay John Johnson in the amount of one thousand nine-hundred and thirty-eight and 40/100 for the investigation of this case.

WHEREFORE, it is hereby:

ORDERED, that Mrs. Butcher, appointed counsel for Donnell Woods, is authorized for funds available from the Office of Indigent Defense in the amount of one thousand nine-hundred and thirty-eight and 40/100 as provided to satisfy the balance of the investigative services that were reasonable and necessary in connection with the defense of this case.

AND IT IS SO ORDERED.


Presiding Judge
THIRD JUDICIAL CIRCUIT

Sumter, South Carolina
November 19, 2008

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909 E. FORTWAY 261 SOUTH
PINEWOOD SC 29125

Trust.
Pd CK #
093

out part 22.5 @ 40.00 @ .56
in part 15.0 @ 50.00 per

Submitted By _____

18 Oct 68

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Donneil Woods, #272800,

Case No. 2012-CP-14-00210

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter is before this Court by way of an application for post-conviction relief (PCR) filed May 4, 2012. The State filed its return on August 31, 2012. A hearing into the matter was convened at the Sumter County Courthouse on September 30, 2013. Applicant was present and represented by Blair C. Jennings, Esquire and Raymond E. Chandler, Esquire. The State was represented by David Spencer of the South Carolina Office of the Attorney General.

Applicant called Deborah K. Butcher, Esquire, his trial counsel, and Marsha Nelson, the nurse that examined the victim in this case. This Court also had before it the pleadings from both parties, the transcript of Applicant's trial, the Clerk of Court's records regarding the subject convictions, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. Applicant was indicted during the August 2008 term of the Clarendon County Grand Jury for Criminal Sexual Conduct – First Degree, Kidnapping, and Strong Arm Robbery (2008-GS-14-0365). He was represented by Deborah Butcher, Esquire. Applicant proceeded to jury trial before the Honorable Clifton Newman on

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OF ORIGINAL FILED IN THIS OFFICE

DATE: 12/11/13

1 of 8

Beulah B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

October 14-16, 2008 and was found guilty as charged. Judge Newman sentenced Applicant to concurrent sentences of thirty years imprisonment for Criminal Sexual Conduct – First Degree, thirty years imprisonment for Kidnapping, and fifteen years imprisonment for Strong Arm Robbery.

A timely Notice of Appeal was filed, and following the submission of an Anders brief, the South Carolina Court of Appeals dismissed the appeal. State v. Woods, 2011-UP-487 (Ct. App. filed Oct. 31, 2011). The Remittitur was sent on January 11, 2012.

ALLEGATIONS

Applicant alleges he is being held in custody unlawfully because he received ineffective assistance of trial counsel. Specifically he alleges counsel was ineffective for failing to timely attain victim's medical records and for failing to move for the prosecution to disclose the same records pursuant to Brady v. Maryland, 373 U.S. 83 (1963). Applicant further maintains these records should have been admitted at trial because they were inconsistent with victim's trial testimony.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony presented at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The burden of proof is on the applicant in a PCR proceeding to prove the allegations in his application. Bell v. State, 321 S.C. 238, 467 S.E.2d 926 (1996); Rule 71.1(e), SCRPC.



For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996). In order to prove prejudice, an applicant must show that but for counsel's errors, there is a reasonable probability the result at trial would have been different. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Id. Where trial counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective assistance of counsel. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992).

Applicant alleges that his trial counsel was ineffective for failing to require the State to disclose medical records under Brady v. Maryland, 373 U.S. 83 (1963). However, Applicant failed to offer any proof that the medical records referred to during the hearing were in the State's possession. Further, Counsel testified she did not need to file a motion for the prosecution to disclose medical records because she was simply able to subpoena the hospital and attain the records on her own, which she did about four days before trial. Counsel testified she felt she was prepared for trial and did not need a continuance.

Further, counsel testified she had plenty of time to review the medical records and familiarize herself with them. Applicant, in particular, alleges a written narrative account of the incident that Nurse Nelson recorded was inconsistent with victim's trial testimony. In contrast, counsel testified she considered the narrative to mostly corroborate victim's testimony and the inconsistencies were



not material enough to justify admitting the record. Instead, she felt the medical records were more harmful than helpful because the nurse's narrative verified that victim was upset and crying when she was examined. Further, the medical records indicated that victim had scratches and redness that would serve to corroborate victim's version of events. Counsel testified that victim's testimony was compelling and credible. She also noted that despite her best efforts, Applicant's demeanor during trial was poor and prejudicial to his own case. Counsel testified that she focused her defense on challenging law enforcement's investigation of the case. This strategy becomes particularly evident in counsel's exemplary closing argument, chastising law enforcement for failing to take various steps in the investigation. See p. 225, lines 12-15 ("It's not that they didn't bring you any evidence. What's more appalling is they didn't even try to get you evidence."). Concerning the medical records, counsel argued the following:

One of the big things that I felt like was missing from this case is the medical records. Where were the medical records? They certainly could have been obtained. Was there anything in there that they did not want you to see? What is so scary, Ladies and Gentlemen, I do mean scary, the State is asking you to convict a man of very serious crimes. A horrible crime. And they refuse to even investigate the crime.

Tr. p. 227, lines 2-11.

Applicant alleges that counsel should have sought admission of medical records establishing victim had cannabis in her system. Counsel testified she did not think this was pertinent under the circumstances of the case, because the records would not establish that victim was high at the time as cannabis may remain in someone's system for about thirty days.

Applicant also argues counsel should not have objected to the admission of a SLED report indicating no semen was found and there was not a DNA match. Counsel testified that the jury was



well aware that no semen was found during the investigation and that there was not a DNA match. Keeping the report from being admitted into evidence furthered her strategy that law enforcement dropped the ball. See tr. pp. 225-226 (counsel's argument complaining about lack of DNA evidence and law enforcement's failure to collect DNA evidence).

This Court finds that counsel has expressed reasonable trial strategy as to all of these allegations. Victim's statement to Nurse Nelson mostly corroborates victim's trial testimony. At trial, as in the statement, victim indicated that she was stopping at a friend's house to pick up something (at trial she clarified a phone charger, Tr. p. 26). Applicant then asked victim to take him to the store and she did. Applicant went into the store and then on the way back to the friend's house, Applicant grabbed victim and made her drive down a dirt road. Tr. pp. 28-30; p. 32, lines 4-5. Both the statement and the testimony indicates that Applicant raped victim twice. The first time Applicant told victim to strip. Both the statement and testimony mention that the car became stuck on the dirt road, although the statement suggest Applicant may have pushed the car, while testimony indicated Applicant made victim push the car while Applicant drove to get it unstuck. Tr. pp. 35-36. The second rape occurred after Applicant drove further down the road and pulled the car over on either a driveway or path. Tr. p. 37. The statement corroborated victim's testimony that Applicant choked her. Tr. p. 38. Applicant complains that the statement varies from the testimony because Applicant testified she was raped the first time in the woods, while the statement seems to indicate the rape was outside the car. This Court does not believe that this proves victim was lying, as Applicant urges this Court to believe. This Court also does not believe this inconsistency undoes the efficacy of trial counsel's stated strategy.



Accordingly, this Court finds counsel's trial strategy reasonable, as the variances in the statement fail to rise to the level as to accuse victim of lying, as PCR counsel claims. It is not unusual to have some variance in a written statement and trial testimony, and in this case, the Court agrees with counsel that the statement tended to corroborate victim's trial testimony. Further, this Court finds counsel's investigation fell within professional norms and she had adequate time to review the medical records. For the same reason, this Court finds Applicant was not prejudiced. This Court does not believe cross-examination or admission of the statement would alter the outcome of trial.

This Court finds no merit in the assertion that a discovery violation of any type occurred in this case. Brady v. Maryland, 373 U.S. 83 (1963) is based on the requirement of due process. To succeed on a Brady claim, the defendant must show: 1) the evidence was favorable to the accused, 2) it was in possession of or known to the prosecution, 3) it was suppressed by the prosecution and 4) was material to the guilt or punishment. Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999).

This Court finds that Applicant failed to establish that the medical records in question were ever in the prosecution's possession and that the particular documents were known to the prosecution. State v. Gullede, 326 S.C. 220, 487 S.E.2d 590 (1997) (financial records were in possession of third party corporation that was the victim of defendant's breach of trust charge and not the prosecution's possession; therefore, there was no discovery violation). Accordingly, this Court agrees with counsel's determination that a motion to compel was unnecessary in the present case. Counsel's strategy of not making an unnecessary and meritless motion to compel was reasonable and Applicant was not prejudiced since counsel did attain the medical records in question.



Finally, the prosecution's failure to disclose medical records was not prejudicial to Applicant as counsel independently attained the records and had adequate time to review the records. For Brady purposes, the court's function is to determine whether the appellant's right to a fair trial has been impaired, when viewing the non-disclosed evidence in the context of the entire record. State v. Osborne, 291 S.C. 265, 353 S.E.2d 276 (1987); see Sheppard v. State, 357 S.C. 646, 594 S.E.2d 462, 470 (2004) (finding where the statement was made available to the defense at the end of the State's direct examination and the defense chose not to further impeach the State's witness with the statement, new trial on the basis of Brady was not warranted).

CONCLUSION

Based on the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this Application for Post-Conviction Relief must be denied and dismissed with prejudice.

This Court advises the parties that in order to secure the appropriate appellate review, notice of appeal must be served and filed within thirty (30) days after receipt by counsel of notice of entry of this order. See Rules 203 and 243 of the South Carolina Appellate Court Rules. This Court notes that post-conviction relief counsel must advise an applicant of the right to seek appellate review of a post-conviction relief order. State v. Bray, 366 S.C. 137, 620 S.E.2d 743 (2005). Also, pursuant to Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRPC, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on an applicant's behalf.



IT IS THEREFORE ORDERED:

1. The application for Post-Conviction Relief is denied with prejudice;
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 26 day of Nov, 2013.



R. Knox McMahon
Presiding Judge
3rd Judicial Circuit

 South Carolina.

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OF ORIGINAL FILED IN THIS OFFICE
DATE 12/11/13
Brenda H. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC